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

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

WASHINGTON, DC

WHEN: February 2 and March 5 at 9:00 a.m.

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC

RESERVATIONS: 202–523–4538

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Free Electronic Bulletin Board service for Public Law Numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

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FARM CREDIT ADMINISTRATION

12 CFR Part 601

RIN 3052–AB38

Employee Responsibilities and Conduct

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) by the Farm Credit Administration Board (Board) adopts a final rule amending 12 CFR part 601 (Employee Responsibilities and Conduct) that has been or will be superseded by Office of Personnel Management (OPM) and Office of Government Ethics (OGE) regulations on "Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees" and OGE "Standards of Ethical Conduct for Employees of the Executive Branch" to facilitate the issuance of uniform standards of ethical conduct for employees of the executive branch.

EFFECTIVE DATE: The regulations shall become effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Eric Howard, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or Wendy R. Laguarda, Senior Attorney and Deputy Ethics Official, Administrative Law and Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4234.

SUPPLEMENTARY INFORMATION: On April 7, 1992, OGE and OPM published an interim rule that revises the public and confidential financial disclosure systems for executive branch employees, including rules on qualified trusts and certificates of divestiture (57 FR 11800). This interim regulation, to be codified at 5 CFR part 2634, became effective in its entirety on October 5, 1992, and supersedes individual agency regulations issued pursuant to earlier financial disclosure rules, including the FCA's financial disclosure rules in §§ 601.170–178. The Ethics in Government Act of 1978 (Pub. L. 95–521, as amended) requires agencies to promulgate internal written procedures and guidelines for both the public and confidential filings. Accordingly, the FCA is removing §§ 601.170–178 (pertaining to financial disclosures) from its rules on employee responsibilities and conduct at 12 CFR part 601. Instructions and guidelines for filing financial disclosure reports will be published in the FCA's Policies and Procedures Manual.

OGE published final standards of ethical conduct regulations for executive branch employees on August 7, 1992 (57 FR 35006). These new regulations, to be codified at 5 CFR part 2635, become effective 180 days after publication, or by February 3, 1993. On that date, the new conduct regulations will supersede most of subparts A, B and C of 5 CFR part 735 (the current standards of conduct regulations) and agency regulations thereunder, as well as 5 CFR 2635.101. Accordingly, the FCA will revise 12 CFR part 601 by removing all sections except §§ 601.110(c), 601.110(e), 601.127, and 601.141 and redesignating the preserved sections as new §§ 601.100(a), 601.100(b), 601.101, and 601.102, respectively. Pursuant to the OGE, the preserved sections of the FCA standards of conduct regulations at 12 CFR part 601 will be in effect until February 3, 1994. By that date, the FCA must have issued, concurrently with OGE, supplemental agency regulations pertaining to prohibited holdings and activities and prior approval for outside employment. The FCA's supplemental regulations will be codified within 5 CFR part 2635.

In acting on the regulations, the Board determined that this final rule conforms the regulations to statutory changes and relates to agency management and personnel, and therefore, does not involve rulemaking as defined in 5 U.S.C. 553 (a)(2) and (b)(A). The purpose of the rulemaking requirements of the Administrative Procedure Act (APA) is to allow public participation in the promulgation of rules that have a substantial impact on those regulated. Because this rule contains nondiscretionary implementations of statutory changes and relates to agency management and personnel, no public participation is required under the APA nor would such participation serve a useful purpose.

List of Subjects in 12 CFR Part 601

Conflict of interests.

For the reasons stated in the preamble, part 601 of chapter VI, title 12 of the Code of Federal Regulations is revised to read as follows:

PART 601—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.

Authority: Secs. 5.9, 5.17 of the Farm Credit Act; 12 U.S.C. 2243, 2252.

§ 601.100 Prohibited holdings.

Except as specifically authorized by law or these regulations, no officer or employee of the Farm Credit Administration:

(a) Shall, directly or indirectly, purchase security obligations of the Farm Credit banks for personal investment;

(b) Shall acquire, directly or indirectly (including acquisition by membership in syndicates), any lands, or any interest therein, including mineral interests and interests as mortgagee or lessee, which are owned by or mortgaged to any corporation regulated by the Farm Credit Administration or which were thus owned or mortgaged at any time within the preceding 12 months. However, such lands, or interests therein, may be acquired by will or inheritance or upon the written approval of the Chairman subject to such conditions as the Chairman may prescribe. As used in this paragraph, "mineral interests" means any interest in minerals, oil, or gas, including, but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed or royalty conveyance;

§ 601.101 Administrative approval to engage in outside employment.

(a) The provisions of this paragraph will be observed with respect to all outside employment or other outside activity. Each employee must be alert to identify and to avoid any situation that would involve him or her in prohibited activity. Each employee must also obtain administrative approval before engaging in outside paid employment of the following types:

(1) Writing or editing, except activities which pertain to the private interest of employees regarding hobbies, sports or cultural activities which do not conflict actually or apparently with officially assigned duties;

(2) Speaking engagements, except where the subject matter is unrelated to the subject matter of the employee's official duties;

(3) Teaching and lecturing;

(4) Regular self-employment;

(5) Consulting services;

(6) Holding state or local public office;

(7) Outside employment or other outside activity involving an institution of the Farm Credit System or an employee of such institution;

(8) Outside employment which will require annual leave or which is in excess of 20 hours per week;

(9) Any other outside work concerning the propriety of which an employee is uncertain.

(b) A request for administrative approval of outside employment or other outside activity shall be in writing and show:

(1) Employee's name, occupational title and Federal salary;

(2) Nature of the activity—a full description of specific duties or services to be performed;

(3) Name and business of person or organization for which the work will be done. (In the case of self-employment in a professional capacity serving a large number of individuals, instead of listing each client, the type of services to be rendered and estimate of the total number of clients anticipated during the next year will be indicated.);

(4) Estimated total time that will be devoted to the activity (if on a continuing basis, the estimated time per year; if not, the anticipated ending date);

(5) Whether service can be performed entirely outside of usual duty hours; if not, estimated number of hours of absence from work that will be required.

(c) The request for approval will be submitted to the supervisor who will make a written recommendation for approval or disapproval and forward the request through the director of the appropriate office to the Designated Agency Ethics Official (DAEO). The DAEO will notify employees in writing of the actions taken on their requests and the reasons for approval or disapproval. This notification will be coordinated and cleared with the employee's supervisor prior to issuance. All approved requests and a copy of the notification of the approval action will be maintained by the DAEO.

(d) If there is a change in the nature or scope of the duties or services performed or the nature of the employer's business, the employee will submit a revised request for approval promptly.

(e) Failure to request administrative approval for outside employment or other outside activity for which approval is required is grounds for disciplinary action.

(f) All requests for approval will be treated as confidential and made available only to specifically authorized persons. Copies of outside employment requests will be maintained by the DAEO.

§ 601.102 Prohibition against involvement in Farm Credit System elections of board members.

No officer or employee of the Farm Credit Administration, except as authorized in the discharge of his or her official duties, shall take any part, directly or indirectly, in the nomination or election of a member of a Farm Credit bank board or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. Any such officer or employee who violates the provisions of this section shall be dismissed.

Dated: January 14, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93-1745 Filed 1-22-93; 8:45 am]

BILLING CODE 6705-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-123-AD; Amendment 39-8448; AD 92-27-13]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Boeing Model 747-400 series airplanes, that currently requires repetitive inspections to detect damage, chafing, and improper clearance between the electrical power feeder cables and engine fuel supply tube, and corrective action, if necessary. This amendment requires a modification of the electrical power feeder cable installation that, once accomplished, will constitute terminating action for the currently required inspections. This action is prompted by the development of a modification that positively addresses the damage, chafing, and clearance problems encountered in the subject area. The actions specified by this AD are intended to prevent a fire in the number two and number three engine struts.

DATES: Effective March 1, 1993.

The incorporation by reference of Boeing Alert Service Bulletin 747-24A2168, Revision 2, dated September 24, 1992, as listed in this regulation, is approved by the Director of the Federal Register as of March 1, 1993.

The incorporation by reference of Boeing Alert Service Bulletin 747-24A2168, dated September 24, 1991, was approved previously by the Director of the Federal Register as of February 18, 1992 (57 FR 3928, February 3, 1992).

The incorporation by reference of Boeing Alert Service Bulletin 747-24A2168, Revision 1, dated December 5, 1991, was approved previously by the Director of the Federal Register as of March 13, 1992 (57 FR 6665, February 27, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Regimbal, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2687; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 92-05-01, Amendment 39-8180 (57 FR 6665, February 27, 1992), which is applicable to Boeing Model 747-400 series airplanes, was published in the **Federal Register** on July 10, 1992 (57 FR 30700). The action proposed to require a modification of the electrical power

feeder cable installation that would constitute terminating action for the currently required inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that the FAA withdraw the proposed rule since it is unnecessary. This commenter states that the proposed terminating action was offered as an optional action in AD 92–05–01 and that the economic advantages provided by this modification should be sufficient to ensure that it is accomplished fleetwide. The FAA does not concur with the commenter's request to withdraw the proposed rule. As was explained in detail in the preamble to the notice, this AD action is based on the FAA's determination that long term continued operational safety will be better assured in this case by design changes to remove the source of the problem, rather than by repetitive inspections. By mandating this modification, the FAA's intent is to ensure that the unsafe condition is addressed in a timely manner by all affected operators.

This same commenter requests that the FAA revise AD 92–05–01 rather than supersede it. The commenter states that the issuance of more than one AD number addressing the same problem and related to the same service bulletin causes confusion and creates more administrative paperwork for affected operators. The FAA does not concur. The FAA's current policy (reference FAA Order 8040.1B) is that, whenever a "substantive change" is made to an existing AD, the AD must be superseded, rather than revised. "Substantive changes" are those made to any instruction or reference that affects the substance of the AD, and includes part numbers, service bulletin and manual references, compliance times, applicability, methods of compliance, corrective action, inspection requirements, and effective dates. In the case of this AD rulemaking action, the changes being made to the existing AD are considered substantive. This superseding AD is assigned a new amendment number and new AD number; the previous amendment is deleted from the system. This procedure facilitates the efforts of the Principal Maintenance Inspectors in tracking AD's and ensuring that the affected operators have incorporated the latest changes into their maintenance programs.

With regard to paperwork changes required by affected operators, Federal Aviation Regulations (FAR) § 121.380(a)(2)(v), "Maintenance recording requirements," requires that persons holding an operating certificate and operating under FAR part 121 must keep records "indicating the current status of applicable airworthiness directives, including the method of compliance." Whether an existing AD is superseded or revised, the new AD is assigned a new AD number: A superseding AD is assigned a new 6-digit AD number; a revising AD retains the original 6-digit AD number, but an "R1" is added to it. In either case, the new AD is identified by its "new" AD number, not by the "old" AD number. In light of this, affected operators updating their maintenance records to indicate the current AD status would have to record a new AD number in all cases, regardless of whether the AD is a superseding or a revising AD. Further, operators are always given credit for work previously performed in accordance with the existing AD by means of the phrase in the compliance section of the AD that states, "Required * * * unless accomplished previously."

Another commenter suggests that the proposed rule be revised to include a step to verify that sufficient clearance exists once the required modification is installed. This commenter previously installed the modification on an airplane in its fleet and, after doing so, noticed that insufficient clearance existed between the bridge bracket (installed as part of the modification) and an adjacent bleed duct. The commenter corrected the problem by adjusting the bleed duct to obtain the proper clearance. The FAA concurs with the commenter's suggestion. Since issuance of the notice, the FAA has examined the installation of the modification on an airplane in production and has verified that, in some circumstances, the modification installation may not provide the required clearance without some final adjustment. Since the intent of this AD action is to ensure that adequate clearance exists in the subject area in order to prevent chafing problems and other damage, and since the purpose of the required modification is to obtain that clearance, the FAA considers it necessary and warranted to clarify the final rule so that the achievement of that clearance is ensured. Accordingly, paragraph (c) of the final rule has been revised to include a stipulation that operators must ensure that a minimum clearance exists between the modification installation (bridge bracket) and the adjacent bleed duct.

(Note: Boeing Commercial Airplane Group has advised the FAA that it is considering including additional procedures for such a final clearance check in the next revision of the cited service bulletin.)

This same commenter requests that the proposed rule be revised to require the installation of a non-rotating bleed duct coupling to address a clearance problem between a bleed duct and certain adjacent wire bundles. This installation is described in Boeing Service Bulletin 747–36–2112. The FAA does not concur. The FAA has reviewed that service bulletin and the circumstances that prompted its issuance, and does not consider the issue it addresses to be a safety problem.

Since the issuance of the notice, the FAA has reviewed and approved Revision 2 to Boeing Alert Service Bulletin 747–24A2168, dated September 24, 1992. The revised service bulletin is essentially identical to the previous issues, but includes procedures for the use of an optional bracket as part of the modification installation and clarifies usage of the support brackets and the wire support clamps. Paragraph (c) of the final rule has been revised to include a reference to this revised service bulletin as an additional appropriate source of service information.

The final rule has also been revised to include a note to indicate that any previously approved alternative method of compliance with AD 92–05–01 continues to be considered as an approved alternative method of compliance with this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 184 Model 747–400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 22 airplanes of U.S. registry will be affected by this AD.

The inspections required by this AD (and previously required by AD 92–05–01) take approximately 4 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact associated with the inspection requirements of this AD on U.S. operators is $4,840, or $220 per airplane, per inspection cycle.

The modification required by this AD will require approximately 6 work hours to accomplish, at an average labor rate

of $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the modification requirements of this AD on U.S. operators is estimated to be $7,260, or $330 per airplane.

Based on the figures discussed above, the total cost impact of this AD on U.S. operators is approximately $12,100, or $550 per airplane.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 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 removing amendment 39–8180 (57 FR 6665, February 27, 1992), and by adding a new airworthiness directive (AD), amendment 39–8448, to read as follows:

92–27–13. Boeing: Amendment 39–8448. Docket 92–NM–123–AD. Supersedes AD 92–05–01, Amendment 39–8180.

Applicability: Model 747–400 series airplanes; having line numbers 696 to 843, 845 to 850, 852 to 870, 872 to 875, 877, 880 to 884, and 887; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire within the engine strut, accomplish the following:

(a) For airplanes having line numbers 696 through 734, inclusive: Within 10 days after February 18, 1992 (the effective date of AD 91–20–51, amendment 39–8152), inspect the electrical power feeder cables and the engine fuel supply tube in engine struts two and three for damage or chafing and minimum clearance of 0.375 inch, in accordance with Boeing Alert Service Bulletin 747–24A2168, dated September 24, 1991, or Revision 1, dated December 5, 1991. If damage is found or if clearance is not within the specified limits, prior to further flight, repair any damage in accordance with that service bulletin, and relocate the electrical power feeder cables so that the clearance is more than 0.375 inch. Repeat this inspection at the intervals specified in either paragraph (a)(1) or (a)(2) of this AD, as applicable:

(1) If the clearance is less than 0.75 inch, repeat the inspection at intervals not to exceed 500 flight hours.

(2) If the clearance is 0.75 inch or greater, repeat the inspection at intervals not to exceed 1,000 flight hours.

(b) For airplanes having line numbers 735 to 843, 845 to 850, 852 to 870, 872 to 875, 877, 880 to 884, and 887: Within 30 days after March 13, 1992 (the effective date of AD 92–05–01, amendment 39–8180), inspect the electrical power feeder cables and engine fuel supply tube in engine strut number three for damage or chafing and minimum clearance of 0.375 inch, in accordance with Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991. If damage is detected or if clearance is not greater than the specified limits, prior to further flight, repair any damage in accordance with that service bulletin, and relocate the electrical power feeder cables so that the clearance is more than 0.375 inch. Repeat this inspection at the intervals specified in either paragraph (b)(1) or (b)(2) of this AD, as applicable:

(1) If the clearance is less than 0.75 inch, repeat the inspection at intervals not to exceed 500 flight hours.

(2) If the clearance is 0.75 inch or greater, repeat the inspection at intervals not to exceed 1,000 flight hours.

(c) Within 12 months after the effective date of this AD, modify the electrical power feeder cable installation in engine struts two and three, in accordance with Phase II of Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991, or Revision 2, dated September 24, 1992. Once this modification is accomplished, ensure that a minimum clearance of 0.75 inch exists between the bridge bracket (installed as part of the modification) and the adjacent bleed duct. Accomplishment of this modification constitutes terminating action for the inspections required by paragraphs (a) and (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Note: Any previously approved alternative method of compliance with AD 92–05–01 continues to be considered as an approved alternative method of compliance with this AD.

(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.

(f) The inspections and modifications shall be done in accordance with Boeing Alert Service Bulletin 747–24A2168, dated September 24, 1991; Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991; or Boeing Alert Service Bulletin 747–24A2168, Revision 2, dated September 24, 1992; as applicable. Boeing Alert Service Bulletin 747–24A2168, Revision 2, dated September 24, 1992, contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3, 5, 10–12, 14–18.	1	Sept. 5, 1991.[1]
4, 6–7, 13, 19	2	Sept. 24, 1992.
8–9	(2)	Dec. 5, 1991.

[1] The dates shown on pages indicating "REV 1" do not match the date of issuance of Revision 1 of this service bulletin.
[2] None.

The incorporation by reference of Boeing Alert Service Bulletin 747–24A2168, Revision 2, dated September 24, 1992, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

The incorporation by reference of Boeing Alert Service Bulletin 747–24A2168, dated September 24, 1991, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of February 18, 1992 (57 FR 3928, February 3, 1992). The incorporation by reference of Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 13, 1992 (57 FR 6665, February 27, 1992). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 1, 1993.

Issued in Renton, Washington, on December 17, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-1615 Filed 1-22-93; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 39

[Docket No. 92-CE-33-AD; Amendment 39-8444; 92-27-10]

Airworthiness Directives; Beech 90, 99, 100, 200, and 1900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Beech 90, 99, 100, 200, and 1900 series airplanes. This action requires a one-time inspection to ensure that the pilot and copilot chair locking pins will fully engage in the seat tracks, and modification of the subject chair if a locking pin fails to fully engage or is misaligned. The Federal Aviation Administration (FAA) has received reports of pilot and copilot chair locking pin malfunctions, which in one instance caused the pilot chair to slide back from the full forward position. The actions specified by this AD are intended to prevent inadvertent movement of the pilot or copilot chair, which could result in loss of control of the airplane if it happens during a critical flight maneuver.

DATES: Effective February 5, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 5, 1993.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 676-7111. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4128; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Beech 90, 99, 100, 200, and 1900 series airplanes was published in the **Federal Register** on August 17, 1992 (57 FR 36917). The action proposed a one-time inspection to ensure that the pilot and copilot chair locking pins will fully engage in the seat tracks, and modification of the subject chair if a locking pin fails to fully engage or is misaligned. The proposed actions would be accomplished in accordance with Beech Service Bulletin (SB) No. 2444, dated April 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The commenter agrees with the intent of the proposed action, but feels that the FAA should have expedited the proposed action and eliminated the notice of proposed rulemaking (NPRM) stage. The FAA does not concur. The FAA examined all available information relating to this situation, and then determined that the condition did not present an urgent safety of flight concern that mandated the implementation of the rule prior to notice and opportunity for public comment under Executive Order 12291.

No comments were received on the FAA's determination of the cost to the public.

Since the FAA issued this proposal, Beech has revised SB No. 2444, and the FAA has determined that this revision should be incorporated into the proposed AD. This service information revision corrects an error in the airplane serial effectivity, which is already incorporated in the proposal.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections and the incorporation of the revised service information. The FAA has determined that these minor corrections and service bulletin revision will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 4,298 airplanes in the U.S. registry will be affected by this AD, that it will take approximately .5 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $118,195.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

92-27-10 Beech: Amendment 39-8444; Docket No. 92-CE-33-AD.

Applicability: The following Model and serial number airplanes, certificated in any category:

Models	Serial numbers
65-90, 65-A90, 65-A90-1, 65-A90-2, 65-A90-3, 65-A90-4, B90, C90, C90A, E90, F90, and H90.	LJ-1 through LJ-1311, LW-1 through LW-347, LA-2 through LA-236, LM-1 through LM-141, LS-1, LS-2, LS-3, LT-1, LT-2, LU-1 through LU-15, and LL-1 through LL-61.
99, 99A, A99A, B99, and C99	U-1 through U-239.
100, A100, and B100	B-1 through B-247 and BE-1 through BE-137.
200, 200C, 200CT, 200T, A200, A100-1, A200CT, B200, B200C, B200CT, and B200T	BB-2 through BB-1405, BC-1 through BC-75, BD-1 through BD-30, BJ-1 through BJ-66, BL-1 through BL-137, BN-1 through BN-4, BP-1 through BP-71, BT-1 through BT-33, BU-1 through BU-12, BV-1 through BV-12, FC-1, FC-2, FC-3, FE-1 through FE-9, FG-1, FG-2, and GR-1 through GR-19.
1900, 1900C, and 1900D	UA-1, UA-2, UA-3, UB-1 through UB-74, UC-1 through UC-174, UD-1 through UD-6, and UE-1 through UE-20.

Compliance: Required within the next 150 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent inadvertent movement of the pilot or copilot chair, which could result in loss of control of the airplane if it occurs during a critical flight maneuver, accomplish the following:

(a) Inspect the pilot and copilot chairs in the full forward position to ensure that the chair locking pin on each chair is fully engaged and each locking pin is properly aligned with the seat tracks in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" section of Beech Service Bulletin (SB) No. 2444, dated April 1992 revised September 1992.

(b) If either locking pin is not fully engaged or is misaligned with the seat tracks, prior to further flight, modify the subject chair in accordance with the "ACCOMPLISHMENT INSTRUCTIONS" section of Beech SB No. 2444, dated April 1992, revised September 1992.

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

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The inspection and modification required by this AD shall be done in accordance with Beech Service Bulletin No. 2444, revised September 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39-8444) becomes effective on February 5, 1993.

Issued in Kansas City, Missouri, on December 14, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-1614 Filed 1-22-93; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 92-CE-40-AD; Amendment 39-8477; AD 93-01-23]

Airworthiness Directives; Beech Aircraft Corporation Models 58 and 58A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Beech Aircraft Corporation (Beech) Models 58 and 58A airplanes. This action requires replacing the fuel crossfeed check valves. The Federal Aviation Administration (FAA) has received several reports of the operators of the affected airplanes using excessive force to operate the fuel selector valves because of pressure buildup in the crossfeed valves. The actions specified by this AD are intended to prevent fuel selector valve binding caused by such pressure buildup, which could result in the inability to control the fuel flow to the engines.

DATES: Effective March 12, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4145; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Beech Models 58 and 58A airplanes was published in the **Federal Register** on August 26, 1992 (57 FR 38631). The action proposed to require replacing the existing fuel crossfeed check valves with new valves that provide pressure relief in accordance with the Accomplishment Instructions section of Beech Service Bulletin No. 2454, dated May 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The sole commenter, Beech, requests that the word "inadvertently" in the second paragraph, second sentence, of the DISCUSSION section of the preamble of the proposed AD, be deleted and the word "inherent" be changed to internal. Beech states that the valve was not designed inherently without the pressure relief and the word internal is a more technically accurate description of the pressure relief function. The FAA concurs that, in the second paragraph, second sentence, of the DISCUSSION section of the preamble of the proposed AD, the word "inadvertently" could be deleted and the word inherent should be replaced with internal. However, since the FAA does not repeat this information in the final rule after a notice of proposed rulemaking, and this change does not add any additional burden upon the public than was already proposed, the

change is so noted and not reprinted in its entirety.

Beech suggests a change to the last two sentences of this same paragraph of the proposed AD. These sentences currently have the following words:

As the pressure increases, the valves could become locked or the crossfeed lines may rupture, which could cause fuel leaks in the area under the floorboards of the cabin.

Beech recommends a change to these sentences with the following words:

As the fuel temperature increases, the fuel expands in the crossfeed lines increasing the pressure and causing the valve to bind.

The FAA partially concurs and believes that the phrase "could become locked" should be changed to "could bind". The FAA believes that the revision proposed by Beech, in its entirety, understates the potential for the unsafe condition. Since the FAA does not repeat this information in the final rule after a notice of proposed rulemaking, and this change does not add any additional burden upon the public than was already proposed, the change is so noted and not reprinted in its entirety.

Beech also requests that the last sentence of the SUMMARY of the proposed AD be changed from "The actions specified by the proposed AD are intended to prevent fuel selector valve failure caused by such pressure buildup, which could result in the inability to control the fuel flow to the engines." to "The actions specified by the proposed AD are intended to allow fuel selector valve operation under varying temperature conditions." Beech believes that the way this sentence currently reads implies that the valve will fail. Beech is not aware of any valve failure, and believes that the change will eliminate any incorrect implications. The FAA concurs that the current sentence could imply valve failure, but, for the sake of consistency with the previous comment, has determined that the sentence in the final rule should be changed to the following: "The actions specified by this AD are intended to prevent fuel selector valve binding caused by such pressure buildup, which could result in the inability to control the fuel flow to the engines." The actual AD has a similar revision.

No comments were received on the FAA's estimate of the cost impact upon the public.

The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 33 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $175 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $14,850.

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

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93-01-23 Beech: Amendment 39-8477; Docket No. 92-CE-40-AD.

Applicability: Models 58 and 58A airplanes (serial numbers TH-1488, TH-1600, TH-1613 through TH-1635, and TH-1638 through TH-1662, certificated in any category.

Compliance: Required within the next 50 hours TIS after the effective date of this AD, unless already accomplished.

To prevent fuel selector valve binding caused by pressure buildup in the crossfeed lines, which could result in the inability to control the fuel flow to the engines, accomplish the following:

(a) Replace both existing crossfeed check valves with new valves, part number 50-380170-39, in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin No. 2454, dated May 1992.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(d) The replacement required by this AD shall be done in accordance with Beech Service Bulletin No. 2454, dated May 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39-8477) becomes effective on March 12, 1993.

Issued in Kansas City, Missouri, on January 14, 1993.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-1741 Filed 1-22-93; 8:45 am]

BILLING CODE 4910-13-U

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that Table 1, in § 305.9, which sets forth the representative average unit energy costs for five residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy ("DOE").

This document revises the table to incorporate the latest figures for average unit energy costs as published by DOE in the **Federal Register** on January 5, 1993.[1]

DATES: The revisions to § 305.9(a) and Table 1 are effective January 25, 1993. The mandatory dates for using these revised DOE cost figures are detailed in the Supplementary Information Section, below.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule (44 FR 66466) in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201.[2] The rule requires the disclosure of energy efficiency or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in § 305.9(a) of the rule sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in § 305.9(b), the Table is intended to be revised periodically on the basis of updated information provided by DOE.

On January 5, 1993, DOE published the most recent figures for representative average unit energy costs. Accordingly, Table 1 is revised to reflect these latest cost figures as set forth below.

The dates when use of the figures is revised Table 1 becomes mandatory in calculating cost disclosures for use in reporting, labeling and advertising products covered by the Commission's rule and/or EPCA are as follows:

For 1993 Submissions of Data Under § 305.8 of the Commission's Rule

The new cost figures must be used in all 1993 cost submissions. For convenience, the annual dates for data submission are repeated here:

Clothes washers: March 1
Water heaters: May 1
Furnaces: May 1
Room air conditioners: May 1
Dishwashers: June 1
Central air conditioners: July 1
Heat pumps: July 1
Refrigerators: August 1
Refrigerator-freezers: August 1
Freezers: August 1

For Labeling and Advertising of Products Covered by the Commission's Rule

Using 1993 submissions of estimated annual costs of operation based on the 1993 DOE cost figures, the staff will determine whether to publish new ranges. Any products for which new ranges are published must be labeled with estimated annual cost figures calculated using the 1993 DOE cost figures. If such new ranges are published, the effective date for labeling new products will be ninety days after publication of the ranges in the **Federal Register**. Products that have been labeled prior to the effective date of any range modification need not be relabeled. Advertising for such products will also have to be based on the new costs and ranges beginning ninety days after publication of the new ranges in the **Federal Register**.

Energy Usage Representations Respecting Products Covered by EPCA But Not by the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, humidifiers and dehumidifiers, pool heaters and space heaters) must use the 1993 representative average unit costs for energy in all representations beginning April 26, 1993.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 is revised to read as follows:

Authority: Section 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act (Pub. L. 100–12) (1987), the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100–357) (1988), and the Energy Policy Act of 1992 (Pub. L. 102–486) (October 24, 1992), 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

[1] 58 FR 345.

[2] Since its promulgation, the rule has been amended twice to include new product categories—central air conditioners (52 FR 46888, Dec. 10, 1987) and fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989). Under the Energy Policy Act of 1992, Pub. L. 102–486 (October 24, 1992), the Commission must amend the rule to include certain lamps and plumbing products.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1993)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu [1]
Electricity	8.30¢/kWh [2,3]	$0.0830/kWh	$24.33
Natural Gas	59.46¢/therm [4] or $6.13/MCF [5,6]	$0.00000595/Btu	5.95
No. 2 heating oil	$1.00/gallon [7]	$0.00000721/Btu	7.21
Propane	$0.73/gallon [8]	$0.00000799/Btu	7.99
Kerosene	$0.82/gallon [9]	$0.00000607/Btu	6.07

[1] Btu stands for British thermal unit.
[2] kWh stands for kilowatt hour.
[3] 1 kWh=3,412 Btu.
[4] 1 therm=100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,031 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 136,690 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

* * * * *

Donald S. Clark,

Secretary.

[FR Doc. 93–1736 Filed 1–22–93; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8472]

RIN 1545–AL35

Certain Corporate Distributions to Foreign Corporations Under Section 367(e)

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the distribution of stock and securities under section 355 and section 367(e)(1) of the Internal Revenue Code of 1986 by a domestic corporation to a person who is not a United States person. These regulations are necessary to implement section 367(e)(1) as added by the Tax Reform Act of 1986. The regulations affect the taxability of the corporation making the distribution.

DATES: These regulations are effective January 16, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie A. Cracraft or Willard W. Yates of the Office of Associate Chief Counsel (International), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 ((202) 622–3850 (Yates) or (202) 622–3860 (Cracraft)) (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–1124. The estimated annual burden per respondent varies from 2 hours to 10 hours, depending on individual circumstances, with an estimated average of 8 hours.

These estimates are an approximation of the average time expected to be necessary for collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On January 16, 1990, temporary regulations § 1.367(e)-1T were adopted (as part of T.D. 8280) [1990–1 C.B. 80] and published in the **Federal Register** at 55 FR 1406. A cross-referenced Notice of Proposed Rulemaking for § 1.367(e)–1 was published on that same date at 55 FR 1472. These amendments, in part, were proposed to implement section 367(e)(1) of the Internal Revenue Code of 1986, as revised by sections 631(d)(1) and 1810(g) of the Tax Reform Act of 1986 (100 Stat. 2085, 2272, Pub. L. 99–514). The regulations were issued under the authority contained in section 367(e)(1) and section 7805(a).

Written comments responding to the notice were received. There were no requests for a public hearing. After consideration of all written comments relating to 1.367(e)–1, this section of the proposed regulations is adopted as revised by this Treasury decision.

Need for Immediate Effective Date for Final Regulations

The regulations under section 367(e)(1) will apply to the subject outbound distributions occurring on or after January 16, 1993. These regulations will clarify and simplify the law and provide taxpayers with immediate guidance needed to effectuate outbound distributions and will resolve uncertainty as to the tax consequences and reporting obligations with respect to such transactions. This effective date is also necessary to prevent avoidance of tax and to provide regulatory relief in certain instances. Accordingly, these regulations are not subject to the effective date limitation of 5 U.S.C. 553(d).

Explanation of Provisions

In General

The final regulations provide rules concerning the recognition of gain by a domestic corporation on a distribution that qualifies for nonrecognition under section 355 of stock or securities of a domestic or foreign corporation to a person who is not a United States person. The regulations provide, as a general rule, that gain recognition is required on such a distribution. However, the final regulations follow the proposed regulations, with certain modifications, in providing three exceptions to this rule in the case of distributions of stock or securities of domestic controlled corporations: The U.S. real property holding corporation exception, the publicly traded exception, and the 5-year gain recognition agreement exception.

In response to the proposed regulations, one commentator proposed that an exception to the general gain recognition rule be provided in cases where the foreign distributee agrees to subject to U.S. tax any gain realized on

a disposition of the stock or securities of the distributing or controlled corporation within a 5 year period following the distribution. Such an exception was not included in the final regulations because of concerns about the administrative difficulties and complexities of collecting a shareholder-level tax, as well as concerns about the inconsistency of such an approach with the general principles of section 367. However, the Service intends to continue to study this alternative and solicits taxpayer comments on the proposal, including suggestions on how to administer such an election.

Some commentators suggested that the exceptions to the general gain recognition rule be made applicable to distributions of stock or securities of foreign corporations. This suggestion was not adopted in the final regulations because the distribution of stock of a foreign corporation in a section 355 transaction will generally result in a complete loss of U.S. corporate taxing jurisdiction over the stock of the foreign corporation and its assets.

Distributions to Partnerships, Trusts and Estates

Both foreign and domestic persons often hold interests in domestic corporations through pass-through entities. Accordingly, the final regulations apply aggregate principles to stock owned by a domestic or foreign partnership, trust or estate. The regulations generally apply the constructive ownership principles of section 318 in determining the ownership of stock or securities of the distributing or controlled corporation owned by a partnership, trust or estate (whether foreign or domestic). Thus, if under section 355 a domestic corporation distributes stock of a controlled corporation to a partnership that is owned by two equal partners, one domestic and one foreign, the distributing corporation must recognize gain under section 367(e)(1) with respect to one-half of the stock distributed to the partnership. The Service is studying the determination of a beneficiary's actuarial interest in a trust, and may issue further guidance on this subject at a future date.

The final regulations generally do not permit a distributing corporation to qualify for nonrecognition under the 5-year gain recognition agreement exception on a distribution to a pass-through entity with respect to foreign persons holding interests in the pass-through entity. The Service is concerned that allowing foreign persons holding interests in pass-through entities to qualify for the exception would excessively complicate the exception and impose an undue administrative burden on the Service. The Service, however, recognizes that the denial of the exception to foreign persons holding interests in pass-through entities may be unduly harsh in certain circumstances. Therefore, the regulations permit a distributing corporation to obtain a ruling from the Service applying the exception to foreign persons holding interests in pass-through entities, and intends to publish a revenue procedure describing the conditions for obtaining such a ruling.

Anti-Abuse Rule

The final regulations provide an anti-abuse rule to address situations in which a domestic corporation is formed or availed of by one or more foreign persons to hold the stock of a distributing corporation for a principal purpose of avoiding the requirements of section 367(e)(1) and these regulations. If the rule applies, the distribution will be treated as having been made to the foreign persons, who will then be treated as having transferred the distributed stock (and distributing stock, as the case may be) to the domestic corportion. If gain recognition on the distribution, as resequenced, can be avoided by filing a 5-year gain recognition agreement, gain recognition will not be required if the subsequent transfer to the domestic corporation qualifies under the successor-in-interest rules described below.

U.S. Real Property Holding Corporation Exception

The final regulations include the exception contained in the proposed regulations applicable to a distribution of the stock of a U.S. real property holding corporation by a corporation that continues to be a U.S. real property holding corporation after the distribution. Some commentators suggested that this exception be revised to provide for nonrecognition on any distribution of the stock of a U.S. real property holding corporation, even if the distributing corporation no longer qualifies as a U.S. real property holding corporation after the distribution. This approach was not adopted because the exception is premised on continuing U.S. taxing jurisdiction over shareholder-level gain on the stock of both the distributing and controlled corporation. Such a distribution could qualify for one of the other exceptions to the general gain recognition rule (assuming the requirements of the exception are satisfied).

Publicly Traded Exception

The final regulations revise the publicly traded exception contained in the proposed regulations. The final regulations retain the requirement for nonrecognition on a distribution of stock or securities of a domestic controlled corporation that more than 80 percent of the stock (measured by value) of the controlled corporation be distributed with respect to one or more publicly traded classes of stock of the distributing corporation. The final regulations, however, eliminate the requirement in the proposed regulations that 80 percent or more of the stock of the distributing corporation be publicly traded.

The final regulations also provide that a distributing corporation may obtain nonrecognition on the distribution of stock of a domestic controlled corporation to more-than-five-percent foreign shareholders of a publicly traded corporation under the U.S. real property holding corporation exception or the 5-year gain recognition agreement exception if all of the requirements of the relevant exception are satisfied. These exceptions may also apply to the distribution to non-publicly traded classes of stock of a publicly traded corporation.

5-Year Gain Recognition Agreement Exception

The final regulations liberalize and simplify the 5-year gain recognition agreement exception contained in the proposed regulations. In general, no gain is immediately recognized on the distribution of stock or securities of a domestic controlled corporation to a foreign distributee if the distributing corporation agrees to file an amended return and recognize such gain upon a disposition by the foreign distributee of the stock or securities of the distributing or controlled corporation within 60 months after the end of the taxable year of the distributing corporation in which the distribution was made. The foreign distributee must make annual certifications concerning its ownership of the stock during the 60-month period.

Under the proposed regulations, this exception applied only if the distributing corporation was wholly-owned by five or fewer individual or corporate shareholders. The final regulations permit this exception to be claimed for a distribution to 10 or fewer foreign distributees, regardless of the number of shareholders of the corporation. The requirement that the foreign distributees be individuals or corporations generally has been retained because of the administrative

difficulties of applying this exception to other types of taxpayers. Thus, except where the distributing corporation obtains a ruling from the Service to the contrary, distributions to partnerships, trusts or estates with foreign interest holders do not qualify for nonrecognition under this exception.

Under the proposed regulations, this exception applied only if, immediately before the distribution, at least 90 percent of the stock of the distributing corporation had a holding period of at least two years in the hands of the shareholders. In light of the enactment of section 355(d), this requirement has not been included in the final regulations.

Under the proposed regulations, to qualify for the exception in the case of a distribution to a foreign corporation, the fair market value of the stock of the distributing corporation owned by the foreign corporation immediately before the distribution could not equal or exceed 50 percent of the fair market value of all of the foreign corporation's stock immediately before the distribution. This anti-holding company provision has been replaced in the final regulations with a requirement that the foreign corporate distributee be engaged in the active conduct of a trade or business (determined without regard to the trade or business conducted by the distributing or controlled corporation) until the end of the 60-month period following the taxable year of the distribution. The determination of whether the distributee is engaged in an active trade or business generally is made in accordance with the provisions of section 355(b)(2)(A).

In the case of a distribution of stock or securities of a controlled corporation that is not part of the distributing corporation's consolidated return group, the final regulations retain the rule in the proposed regulations that, immediately after the distribution, the stock of the distributing corporation must have a fair market value at least equal to the fair market value of the distributed stock and securities of the controlled corporation. The fair market value requirement ensures that the distributing corporation retains sufficient assets to meet potential tax liabilities if gain is subsequently recognized under the 5-year gain recognition agreement. However, the final regulations provide that, if a controlled corporation is part of the distributing corporation's consolidated return group for one or more taxable years in which all of the stock and securities of the controlled corporation are distributed, and thus is severally liable for any tax on gain recognized on the distribution, the fair market value requirement does not apply.

The proposed regulations provided that, if a foreign distributee disposed of any of the stock or securities of the distributing or controlled corporation within the 60-month period covered by the gain recognition agreement, the entire amount of gain realized by the distributing corporation on the distribution to the foreign distributee would be recognized. The final regulations provide that only a proportionate amount of gain is recognized, determined by reference to the portion of stock and securities of the distributing corporation and controlled corporation disposed of by the foreign distributee.

The final regulations permit the stock or securities of the distributing or controlled corporation to be disposed of by the foreign distributee in certain nonrecognition transactions without causing gain to be recognized under the gain recognition agreement. The rules have been designed to provide taxpayers with flexibility to restructure their operations, without imposing undue administrative burdens on the Service. The Service solicits taxpayer comments on the scope of these rules.

The final regulations follow the proposed regulations in providing that the distributing corporation must amend its income tax return for the year of the distribution in the event gain is required to be recognized. Interest must be paid on any additional tax incurred.

Regulations Under Section 367(e)(2)

The temporary regulations under section 367(e)(2) that were proposed with the regulations under section 367(e)(1) will be promulgated as final regulations in a separate Treasury decision. The final regulations under section 367(e)(2) will be effective with respect to distributions occurring on or after January 16, 1993. However, taxpayers will be given the option to apply the provisions of the current temporary regulations to distributions occurring on or after January 16, 1993 but prior to the date that is 30 days after the date on which the final section 367(e)(2) regulations are published in the **Federal Register.**

Effective Date

These regulations are effective with respect to distributions occurring on or after January 16, 1993. However, a corporation may elect to apply the regulations (subject to certain elective exceptions) to all distributions made by it after February 15, 1990 (the date the temporary regulations under section 367(e)(1) became effective), to which this section applies by timely filing an original or amended return for the year of distribution and otherwise complying with these regulations.

Special Analyses

It has been determined that these regulations are not major rules as defined in Executive Order 12291. Therefore, a final Regulatory Impact Analysis is not required. It has also been determined that a prior notice of proposed rulemaking was required by the Administrative Procedure Act. It is hereby certified that these rules will not have a significant impact on a substantial number of small entities. Few small entities would be affected by these regulations. A Regulatory Flexibility Analysis, therefore, is not required under section 604 of the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the notice of proposed rulemaking was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

Various personnel from the Office of the Associate Chief Counsel (International), Internal Revenue Service, other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations.

List of Subjects

26 CFR 1.361–1 Through 1.367(e)–2T

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are 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 a citation to read as follows:

Authority: 26 U.S.C. 7805 * * *
§ 1.367(e)–1 also issued under 26 U.S.C. 367 (e). * * *

Par. 2. Sections 1.367(e)–0T and 1.367(e)–1T are removed as of January 16, 1993.

Par. 3. Sections 1.367(e)–0 and 1.367(e)–1 are added to read as follows:

§ 1.367(e)–0 Treatment of distributions or liquidations under section 367(e); table of contents.

This section lists captioned paragraphs contained in § 1.367(e)–1.

§ 1.367(e)–1 Distributions described in section 367(e)(1)

1.367(e)–1 Distributions described in section 367(e)(1).

(a) *Purpose and scope.* This section provides rules concerning the recognition of gain by a domestic corporation on a distribution that qualifies for nonrecognition under section 355 of stock or securities of a domestic or foreign corporation to a person who is not a United States person. Paragraph (b) of this section states as a general rule that gain recognition is required on the distribution. Paragraph (c) of this section provides exceptions to the gain recognition rule of paragraph (b) of this section for certain distributions of stock or securities of a domestic corporation. Paragraph (d) of this section refers to other consequences of distributions described in this section. Paragraph (e) of this section provides examples of the rules of paragraphs (b), (c) and (d) of this section. Finally, paragraph (f) of this section specifies the effective date of this section.

(b) *Recognition of gain required*—(1) *In general.* If a domestic corporation (distributing corporation) makes a distribution that qualifies for nonrecognition under section 355 of stock or securities of a domestic or foreign corporation (controlled corporation) to a person who is not a United States person, as defined in section 367(a) and the regulations thereunder (foreign distributee), then, except as provided in paragraph (c) of this section, the distributing corporation shall recognize gain (but not loss) on the distribution under section 367(e)(1).

(2) *Computation of gain of the distributing corporation.* The gain recognized by the distributing corporation under paragraph (b)(1) of this section shall be equal to the excess of the fair market value of the stock or securities distributed to the foreign distributee (determined as of the time of the distribution) over the distributing corporation's adjusted basis in the stock or securities distributed to the foreign distributee. For purposes of the preceding sentence, the distributing corporation's adjusted basis in each unit of each class of stock or securities distributed to a foreign distributee shall be equal to the distributing corporation's total adjusted basis in all of the units of the respective class of stock or securities owned immediately before the distribution, divided by the total number of units of the class of stock or securities owned immediately before the distribution.

(3) *Treatment of the distributee.* If the distribution otherwise qualifies for nonrecognition under section 355, each distributee shall be considered to have received stock or securities in a distribution qualifying for nonrecognition under section 355, even though the distributing corporation recognizes gain on the distribution. Thus, the distributee shall not be considered to have received a distribution described in section 301 or a distribution in an exchange described in section 302(b) upon the receipt of the stock or securities of the controlled corporation.

(4) *Nonapplication of section 367(a) principles that provide for exceptions to gain recognition.* Paragraph (b)(1) of this section requires recognition of gain notwithstanding the application of any principles contained in section 367(a) or the regulations thereunder. The only exceptions to paragraph (b)(1) of this section are contained in paragraph (c) of this section. None of these exceptions applies to a distribution of stock or securities of a foreign corporation.

(5) *Partnerships, trusts and estates*—(i) *In general.* For purposes of this section, stock or securities owned by or for a partnership (whether foreign or domestic) shall be considered to be owned proportionately by its partners. In applying this principle, the proportionate share of the stock or securities of the distributing corporation considered to be owned by a partner of a partnership at the time of the distribution shall equal the partner's distributive share of gain that would be realized by the partnership from a sale of the stock of the distributing corporation immediately before the distribution (without regard to whether, under the particular facts, any gain would actually be realized on the sale for U.S. tax purposes), determined under the rules and principles of sections 701 through 761 and the regulations thereunder. For purposes of this section, stock or securities owned by or for a trust or estate (whether foreign or domestic) shall be considered to be owned proportionately by the persons who would be treated as owning such stock or securities under sections 318(a)(2)(A) and 318(a)(2)(B). In applying section 318(a)(2)(B), if a trust includes interests that are not actuarially ascertainable and a principal purpose of the inclusion of the interests is the avoidance of section 367(e)(1), all such interests shall be considered to be owned by foreign persons. In a case where an interest holder in a partnership, trust or estate that owns stock of the distributing corporation is itself a partnership, trust or estate, the rules of this paragraph (b)(5) apply to individuals or corporations that own (direct or indirect) interests in the upper-tier partnership, trust or estate.

(ii) *Written statement.* If prior to the date on which the distributing corporation must file its income tax return for the year of the distribution, the corporation obtains a written statement, signed under penalties of perjury by an interest holder in a partnership, trust, or estate, that certifies that the interest holder is a United States person who is an individual or corporation, no liability shall be imposed under paragraph (b)(1) of this section with respect to the distribution to the interest holder, unless the distributing corporation knows or has reason to know that the statement is false. The written statement must set forth the amount of the interest holder's proportionate interest in the distributing corporation, as well as the interest holder's name, taxpayer identification number, home address (in the case of an individual) or office address and place of incorporation (in the case of a corporation). The written statement

must be retained by the distributing corporation with its books and records for a period of three calendar years following the close of the last calendar year in which the corporation relied upon the statement. If the distributing corporation instead relies upon other evidence of the interest holder's status as a United States person or of the amount of the interest holder's proportionate interest, liability shall be imposed under paragraph (b)(1) of this section if the interest holder, in fact, is not a United States person or the amount of its proportionate interest is not established.

(6) *Anti-abuse rule.* If a domestic corporation is directly or indirectly formed or availed of by one or more foreign persons to hold the stock of a second domestic corporation for a principal purpose of avoiding the application of section 367(e)(1) and the requirements of this section, any distribution of stock or securities to which section 355 applies by such second domestic corporation shall be treated for federal income tax purposes as a distribution to such foreign person or persons, followed by a tranfer of the stock or securities to the domestic corporation. The qualification of the distribution to the foreign person for an exception to the general gain recognition rule of paragraph (b)(1) of this section, and the consequences of the transfer to the domestic corporation under this section, shall be determined in accordance with all of the facts and circumstances.

(c) *Nonrecognition of gain*—(1) *Distribution by a U.S. real property holding corporation of stock in a second U.S. real property holding corporation.* Gain shall not be recognized under paragraph (b) of this section by a domestic corporation making a distribution that qualifies for nonrecognition under section 355 of stock or securities of a domestic controlled corporation to a foreign distributee if, immediately after the distribution, both the distributing and controlled corporations are U.S. real property holding corporations (as defined in section 897(c)(2)). For the treatment of the distribution under section 897, see section 897(e)(1) and the regulations thereunder.

(2) *Distribution by a publicly traded corporation*—(i) *Conditions for nonrecognition.* Gain shall not be recognized under paragraph (b) of this section by a domestic corporation making a distribution that qualifies for nonrecognition under section 355 of stock or securities of a domestic controlled corporation to a foreign distributee if both of the following conditions are satisfied:

(A) Stock of the domestic controlled corporation with a value of more than 80 percent of the outstanding stock of the corporation is distributed with respect to one or more classes of the outstanding stock of the distributing corporation that are regularly traded on an established securities market, as defined in § 1.897–1(m) (1) and (3), located in the United States. Stock is considered to be regularly traded if it is regularly quoted by brokers or dealers making a market in such interests. A broker or dealer is considered to make a market only if the broker or dealer holds himself out to buy or sell interests in the stock at the quoted price.

(B) At the time of the distribution, the distributing corporation does not know or have reason to know that the subject foreign distributee owns, directly or constructively, more than 5 percent (by value) of a class of stock of the distributing corporation with respect to which the stock of the controlled corporation is distributed. For purposes of determining whether a foreign distributee owns, directly or constructively, more than 5 percent (by value) of a class of stock of the distributing corporation, the rules of section 897(c)(3) and the regulations thereunder shall apply, except as otherwise provided herein.

(ii) *Relation to other nonrecognition provisions.* If the distribution of the stock and securities of the controlled corporation also qualifies for nonrecognition under paragraph (c)(1) of this section, the distributing corporation shall be entitled to nonrecognition under paragraph (c)(1) of this section and not this paragraph (c)(2). The distributing corporation may obtain nonrecognition treatment under paragraph (c)(1) or (c)(3) of this section with respect to a foreign distributee that owns more than 5 percent of a class of stock of the distributing corporation, if all of the requirements of either of those paragraphs is satisfied.

(3) *Distribution of certain domestic stock to 10 or fewer foreign distributees*—(i) *In general.* Gain shall not be recognized under paragraph (b) of this section by a domestic corporation making a distribution that qualifies for nonrecognition under section 355 of stock or securities of a domestic controlled corporation to a foreign distributee if each of the conditions of this paragraph (c)(3) is satisfied.

(ii) *Conditions for nonrecognition.* A distribution of stock or securities described in paragraph (c)(3)(i) of this section to a foreign distributee shall not result in the recognition of gain if each of the following conditions is satisfied:

(A)(*1*) There are 10 or fewer foreign distributees for which nonrecognition is claimed under this paragraph (c)(3), each of whom is either an individual or a corporation as defined in section 7701(a)(3) of the Internal Revenue Code.

(*2*) Unless the distributing corporation obtains a ruling from the Internal Revenue Service to the contrary, no foreign distributee shall be entitled to claim nonrecognition under this paragraph (c)(3) if it holds its interest in the distributing corporation through a partnership, trust or estate (whether foreign or domestic).

(*3*) If the distribution is made to more than 10 foreign distributees, the distributing corporation shall designate the 10 or fewer foreign distributees for which nonrecognition is claimed under this paragraph (c)(3).

(B) If the distributee for which nonrecognition is claimed under this paragraph (c)(3) is a foreign corporation, immediately after the distribution and at all times until the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the foreign distributee is directly or indirectly engaged in the active conduct of a trade or business. To determine what constitutes an active conduct of a trade or business, see section 355(b)(2)(A) and the regulations thereunder. For purposes of this paragraph (c)(3)(ii)(B), a foreign distributee shall be considered to engage in the active conduct of a trade or business if it directly conducts the trade or business or if any corporation, 80% of the stock (measured by vote and value of which it directly or indirectly owns, conducts the trade, or business. However, for purposes of this paragraph (c)(3)(ii)(B), a foreign distributee will not be considered to engage in the active conduct of any trade or business engaged in, directly or indirectly, by the distributing corporation or controlled corporation. The requirements of this paragraph (c)(3)(ii)(B) will not be satisfied if, at any time until the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the foreign distributee directly or indirectly engages in the active conduct of one or more trades or businesses that have a fair market value that is not substantial in relation to the fair market value of the stock of the foreign distributee for a principal purpose of complying with the requirements of this paragraph (c)(3).

(C)(*1*) Immediately after the distribution, the stock of the distributing

corporation has a fair market value that is at least equal to the fair market value of the distributed stock and securities of the controlled corporation immediately before the distribution.

(2) The requirements of paragraph (c)(3)(ii)(C)(1) of this section shall not apply if the distributing corporation distributes all of the stock and securities of the controlled corporation during one or more taxable years with respect to which the controlled corporation is severally liable under § 1.1502–6(a) for tax imposed on any gain required to be recognized by the distributing corporation pursuant to this paragraph (c)(3).

(D) Immediately after the distribution and at all times until the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the foreign distributee is a resident of (if the foreign distrubutee is an individual), or is incorporated in (if the foreign distributee is a corporation), a foreign country that maintains a comprehensive income tax treaty with the United States that contains an information exchange provision to which the foreign distributee is subject. This requirement is satisfied during any period in which an individual foreign distributee is a resident of the United States.

(E) At all times until the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the foreign distributee continues to own all of the stock and securities of the distributing and controlled corporations that the foreign distributee owned immediately after the distribution (including any stock and securities of the distributing or controlled corporation later acquired from the distributing or controlled corporation for which the distributee has a holding period determined under section 1223 by reference to such stock and securities).

(F) The distribution of stock or securities described in paragraph (c)(3)(i) of this section is not a distribution pursuant to which the distributing corporation goes out of existence.

(G) The distributing corporation files the agreement to recognize gain described in paragraph (c)(3)(iii) of this section with its income tax return for its taxable year in which the distribution is made. In addition, for each of the taxable years of the distributing corporation, beginning with the taxable year of the distribution and ending with the taxable year that includes the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the distributing corporation files with its income tax return the annual certifications described in paragraph (c)(3)(v) of this section.

(H) For each of the taxable years of the distributing corporation, beginning with the taxable year of the distribution and ending with the taxable year that includes the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the foreign distributees for which nonrecognition is claimed under this paragraph (c)(3) provide to the distributing corporation the annual certifications described in paragraph (c)(3)(v) of this section.

(iii) *Agreement to recognize gain.* The agreement to recognize gain required by this paragraph (c)(3)(iii) shall be prepared by or on behalf of the distributing corporation and signed under penalties of perjury by an authorized officer of the distributing corporation. The agreement provided by the distributing corporation shall set forth the ~~following~~ items, under the heading "GAIN RECOGNITION AGREEMENT UNDER § 1.367(e)–1(c)(3)(iii)", with paragraphs labeled to correspond with such items:

(A) A declaration that the distribution is one to which § 1.367(e)–1(c)(3) applies.

(B) A description of each foreign distributee of the distributing corporation for which nonrecognition is claimed under this paragraph (c)(3), which shall include the distributee's—

(1) Name;

(2) Address;

(3) Taxpayer identification number (if any); and

(4) Residence and citizenship (in the case of an individual) or place of incorporation (in the case of a corporation).

(C) A description of the stock and securities of the distributing and controlled corporations owned immediately before and after the distribution by each distributee for which nonrecognition is claimed under this paragraph (c)(3), including—

(1) The number or amount of shares;

(2) The type of stock or securities;

(3) The fair market values of the stock and securities of the controlled corporation distributed to the foreign distributee, determined as of the date of the distribution;

(4) The fair market values of the stock and securities of the distributing corporation owned by the foreign distributee, determined immediately after the distribution;

(5) The total fair market values of the outstanding stock and securities of the distributing corporation, determined immediately after the distribution;

(6) The total fair market values of the distributed stock and securities of the controlled corporation, determined immediately before the distribution;

(7) The distributing corporation's adjusted basis in the distributed stock and securities immediately before the distribution (computed according to the provisions of paragraph (b)(2) of this section); and

(8) For each applicable valuation, a summary of the method (including appraisals, if any) used for determining the values required by this paragraph (c)(3)(iii).

(D) The distributing corporation's agreement to recognize gain in accordance with paragraph (c)(3)(vii) of this section.

(E) A waiver of the period of limitations as described in paragraph (c)(3)(iv) of this section.

(F) An attached statement from each foreign distributee for which nonrecognition is claimed under this paragraph (c)(3) declaring that the foreign distributee shall provide to the distributing corporation the annual certifications described in paragraph (c)(3)(v)(A) of this section for each of the taxable years of the distributing corporation, beginning with the taxable year of the distribution and ending with the taxable year that includes the close of the 60-month period following the taxable year of the distributing corporation in which the distribution was made.

(G) An agreement by the distributing corporation to attach to its income tax return the annual certification described in paragraph (c)(3)(v)(A) of this section and the statement described in paragraph (c)(3)(v)(B) of this section, in accordance with paragraph (c)(3)(v) of this section.

(H) A statement that arrangements have been made to ensure that the distributing corporation will be informed of any subsequent disposition by the foreign distributee of any stock or securities of the distributing or controlled corporation that are subject to the gain recognition agreement described in this paragraph (c)(3)(iii).

(iv) *Waiver of period of limitation.* The distributing corporation must file, with the gain recognition agreement described in paragraph (c)(3)(iii) of this section, a waiver of the period of limitation on the assessment of tax upon the gain realized on the distribution to the foreign distributee for which

nonrecognition is claimed under this paragraph (c)(3). The waiver shall be executed on such forms as are prescribed therefor by the Commissioner and shall extend the period for assessment of such tax to a date not earlier than the close of the eighth full taxable year following the taxable year that includes the distribution. If the requirements of paragraph (c)(3)(ii)(C)(*2*) of this section are satisfied, a waiver of the period of limitation on the assessment of tax upon the gain realized on the distribution must be filed in accordance with the requirements of this paragraph (c)(3)(iv) by or on behalf of the controlled corporation.

(v) *Annual certification.* For each of the taxable years of the distributing corporation, beginning with the taxable year of the distribution and ending with the taxable year that includes the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the distributing corporation must file with its income tax return the annual certification for that year described in this paragraph (c)(3)(v).

(A) Each foreign distributee for which nonrecognition is claimed under this paragraph (c)(3) must provide an annual certification, signed under penalties of perjury by an authorized officer of the foreign distributee corporation or by the individual foreign distributee (as the case may be). Each annual certification must identify the distribution with respect to which it is given by setting forth the date and a summary description of the distribution. In the annual certification, the foreign distributee must declare that—

(*1*) The foreign distributee continues to be, without interruption, a resident of (in the case of an individual foreign distributee) or incorporated in (in the case of a foreign distributee corporation) a country described in paragraph (c)(3)(ii)(D) of this section;

(*2*) The foreign distributee continues to own, without interruption, the stock and securities of the distributing and controlled corporations as described in paragraph (c)(3)(ii)(E) of this section (except to the extent the stock or securities have been disposed of in a transaction described in paragraph (c)(3)(vi) of this section); and

(*3*) If the foreign distributee is a corporation, the foreign distributee continues to meet the active trade or business requirement of paragraph (c)(3)(ii)(B) of this section.

(B) The distributing corporation must attach a statement to the annual certification described in paragraph (c)(3)(v)(A) of this section, signed under penalties of perjury by an authorized officer of the corporation, in which the corporation declares that, to the best of its knowledge, the annual certification is true.

(vi) *Special rule for nonrecognition transactions.* (A) Gain shall not be recognized under paragraph (c)(3)(vii) of this section upon a disposition of stock or securities of the distributing or controlled corporation (or a successor in interest, as defined in this paragraph (c)(3)(vi)) that are subject to a gain recognition agreement described in paragraph (c)(3)(iii) of this section if the requirements of this paragraph (c)(3)(vi) are satisfied and the disposition consists of a transfer described in section 332, 337, 351, 354, or 356, or sections 361 and 381(a)(2).

(B) For purposes of this section, the term successor in interest refers to—

(*1*) Any corporation that acquires the assets of the distributing or controlled corporation (or a successor in interest) in a transaction described in section 381(a) to which this paragraph (c)(3)(vi) applies;

(*2*) Any corporation that acquires the stock or securities of the distributing or controlled corporation (or a successor in interest) in a transaction to which this paragraph (c)(3)(vi) applies;

(*3*) Any corporation whose stock or securities are exchanged for the stock or securities of the distributing or controlled corporation (or a successor in interest) in a transaction described in section 351, 354 or 356 to which this paragraph (c)(3)(vi) applies.

(C) Gain shall not be recognized under paragraph (c)(3)(vii) of this section upon a disposition of stock or securities of the distributing or controlled corporation (or a successor in interest) pursuant to a transaction described in paragraph (c)(3)(vi)(A) of this section if the following requirements are satisfied.

(*1*) Immediately after the transaction and at all times until the end of the 60-month period described in paragraph (c)(3)(vii)(A) of this section, the foreign distributee (or a successor in interest that acquires the assets of the foreign distributee in a transaction described in section 381(a) to which this paragraph (c)(3)(vi) applies) must continue to own directly or indirectly at least 80 percent of the vote and value of the stock and securities of the distributing corporation, and at least 80 percent of the vote and value of the stock and securities of the controlled corporation (or of a successor in interest that acquires the assets of the distributing or controlled corporation, as the case may be, in a transaction described in section 381(a) to which this paragraph (c)(3)(vi) applies), that it owned immediately after the distribution. The requirements of this paragraph (c)(3)(vi)(C)(*1*), however, will not be violated if such ownership drops below the 80 percent threshold by reason of a disposition of the stock or securities of the distributing or controlled corporation (or of a successor in interest that acquires the assets of the distributing or controlled corporation, as the case may be, in a transaction described in section 381(a) to which this paragraph (c)(3)(vi) applies) in a transaction subject to the gain recognition provisions of paragraph (c)(3)(vii) of this section.

(*2*) In a transaction involving a transfer of the assets of the distributing or controlled corporation described in section 381(a), the acquiring corporation must be a domestic corporation.

(*3*) The following information and agreements must be included with the first annual certification filed under paragraph (c)(3)(v) of this section after the transaction—

(*i*) A description of the transaction (including a statement of applicable Code provisions, and a description of stock or securities transferred, exchanged or received in the transaction);

(*ii*) A description of each successor in interest (including the name, address, taxpayer identification number (if any), and place of incorporation of the successor in interest);

(*iii*) Except in the case of a transaction described in section 381(a) pursuant to which the distributing corporation goes out of existence, an agreement of the distributing corporation (amending the agreement described in paragraph (c)(3)(iii) of this section), signed under penalties of perjury by an authorized officer of the corporation, to recognize gain in accordance with the provisions of this paragraph (c)(3) upon the occurrence of any of the following events (to the extent applicable): A disposition by the foreign distributee (or a successor in interest) of any stock or securities of a successor in interest that are subject to the provisions of this paragraph (c)(3)(vi) (other than a disposition that itself satisfies the requirements of this paragraph (c)(3)(vi)); a disposition by a successor in interest of any of the stock or securities of the distributing or controlled corporation (or a successor in interest) that are subject to the provisions of this paragraph (c)(3)(vi) (other than a disposition that itself satisfies the requirements of this paragraph (c)(3)(vi)); or any material failure to satisfy the requirements of this paragraph (c)(3) (or the terms of an agreement submitted pursuant hereto)

with respect to the stock or securities of a successor in interest or the transferred stock or securities of the distributing or controlled corporation;

(*iv*) In the case of a transaction described in section 381(a) pursuant to which the distributing corporation goes out of existence, an agreement of the successor in interest that acquires the assets of the distributing corporation in the transaction, signed under penalties of perjury by an authorized officer of the successor in interest corporation, to succeed to all of the responsibilities and duties of the distributing corporation under this paragraph (c)(3);

(*v*) To the extent applicable, an agreement of each successor in interest, signed under penalties of perjury by an authorized officer of the corporation, to succeed to all of the responsibilities and duties of a foreign distributee under this paragraph (c)(3), as applied to the transferred stock and securities of the distributing or controlled corporation (or stock and securities of a successor in interest). The successor in interest, however, is required to comply with the provisions of paragraph (c)(3)(ii)(B) of this section only if the corporation acquires the assets of the foreign distributee in a transaction described in section 381(a). In the case of a successor in interest that is a domestic corporation, the successor in interest is not required to comply with the requirements of paragraph (c)(3)(ii)(D) of this section;

(*vi*) To the extent applicable, an agreement of the foreign distributee, signed under penalties of perjury by the individual or an authorized officer of the corporation (as the case may be), to comply with all responsibilities and duties of this paragraph (c)(3), as applied with respect to stock or securities of a successor in interest received in the transaction.

(D) Any property received (or treated as received) in a transaction described in this paragraph (c)(3)(vi) for which gain is required to be recognized under United States income tax principles shall be treated as an amount received in a disposition subject to the provisions of paragraph (c)(3)(vii) of this section.

(vii) *Recognition of gain.* (A) If, prior to the close of the 60-month period following the end of the taxable year of the distributing corporation in which the distribution was made, the foreign distributee disposes of the stock or securities of either the distributing or controlled corporation that the foreign distributee owned immediately after the distribution, as described in paragraph (c)(3)(ii)(E) of this section (other than pursuant to a transfer described in paragraph (c)(3)(vi) of this section), then by the 90th day thereafter the distributing corporation must file an amended return for the year of the distribution and recognize the gain realized but not recognized upon such distribution. For purposes of this paragraph (c)(3)(vii)(A), a disposition includes, but is not limited to, any disposition treated as a sale or exchange under this title.

(B) The gain shall be computed as if there had been a sale of the distributed stock or securities at fair market value at the time of the distribution. If the foreign distributee disposes of only a portion of the stock and securities of the distributing or controlled corporation, the distributing corporation shall be required to recognize only a proportionate amount of the gain realized but not recognized upon the initial distribution of the stock and securities of the controlled corporation to the foreign distributee. The proportion of the gain required to be recognized shall be equal to the same proportion that the value (determined immediately after the distribution) of the stock and securities of the distributing corporation or controlled corporation (as the case may be) disposed of by the foreign distributee bears to the total value (determined immediately after the distribution) of the stock and securities in such corporation owned by the foreign distributee immediately after the distribution (taking account of stock and securities of the distributing or controlled corporation later acquired from the distributing or controlled corporation for which the distributee has a holding period determined under section 1223 by reference to such stock or securities). However, gain recognized pursuant to this paragraph (c)(3)(vii)(B) on the disposition by the foreign distributee of stock or securities of either the distributing corporation or the controlled corporation (as the case may be) shall not exceed the excess of the gain required to be recognized by the distributing corporation under the gain recognition agreement solely by reason of such disposition and all prior dispositions of the stock and securities of such corporation over the gain already recognized by the distributing corporation under the gain recognition agreement solely by reason of dispositions by the foreign distributee of the stock and securities of the other corporation.

(C) For purposes of computing gain under this paragraph (c)(3)(vii), the following rules shall govern dispositions of stock or securities of the distributing or controlled corporation by a successor in interest, or dispositions of stock or securities of a successor in interest.

(*1*) A disposition by a successor in interest of stock or securities of the distributing or controlled corporation that were acquired in a transaction described in paragraph (c)(3)(vi) of this section shall be treated as a disposition of such stock or securities by a foreign distributee.

(*2*) A disposition by a foreign distributee of a portion of stock and securities of a successor in interest that were received in exchange for stock and securities of the distributing or controlled corporation (as the case may be) in a transaction described in paragraph (c)(3)(vi) of this section shall be treated as a disposition of a proportionate share of such stock and securities of the distributing or controlled corporation owned by the successor in interest at the time of the disposition. The proportionate share shall equal the same proportion that the amount of stock and securities of the successor in interest disposed of bears to the total of stock and securities of the successor in interest originally received in exchange for the stock and securities of the distributing or controlled corporation.

(*3*) Other dispositions of stock or securities of a successor in interest to which paragraph (c)(3)(vi) of this section applies shall result in gain recognition in a manner consistent with the principles of this paragraph (c)(3)(vii)(C).

(D) If additional tax is required to be paid by the distributing corporation for the year of the distribution, interest must be paid by the distributing corporation on that amount at the rates determined under section 6621 with respect to the period between the date that was prescribed for filing the distributing corporation's original income tax return for the year of the distribution and the date on which the additional tax for that year is paid.

(E) Net operating losses, capital losses, or credits against tax that were available in the year of the distribution and that are unused (whether or not they have expired since the distribution) at the time of gain recognition described in this paragraph (c)(vii) may be applied (respectively) against any gain recognized or tax owed by reason of this provision, but no other adjustments shall be made with respect to any other items of income or deduction in the year of distribution or other years.

(viii) *Failure to comply.* (A) Except as otherwise provided in paragraph (c)(3)(viii)(B) of this section, if the distributing corporation fails to comply in any material respect with the

requirements of this paragraph (c)(3) or with the terms of an agreement submitted pursuant hereto, or if the distributing corporation knows or has reason to know of any failure of another person to so comply, the distributing corporation shall treat the initial distribution of the stock or securities of the controlled corporation as a taxable exchange in the year of the distribution. In such event, the period for assessment of tax shall be extended until three years after the date on which the Internal Revenue Service receives actual notice of such failure to comply.

(B) If a person fails to comply in any material respect with the requirements of this paragraph (c)(3) or with the terms of an agreement submitted pursuant hereto, the provisions of paragraph (c)(3)(viii)(A) of this section shall not apply if the person is able to show that such failure was due to reasonable cause and not willful neglect, provided that the person achieves compliance as soon as he becomes aware of the failure. Whether a failure to materially comply was due to reasonable cause shall be determined by the district director under all the facts and circumstances.

(d) *Other consequences*—(1) *Distributee basis in stock.* Except where section 897(e)(1) and the regulations thereunder cause gain to be recognized by the distributee, the basis of the distributed domestic or foreign corporation stock in the hands of the foreign distributee shall be the basis of the distributed stock determined under section 358 without any increase for any gain recognized by the domestic corporation on the distribution.

(2) *Exchange under section 897(e)(1).* With respect to the treatment under section 897(e)(1) of a foreign distributee on the receipt of stock or securities of a domestic or foreign corporation where the foreign distributee's interest in the distributing domestic corporation is a United States real property interest, see section 897(e)(1) and the regulations thereunder.

(3) *Dividend treatment under section 1248.* With respect to the treatment as a dividend of a portion of the gain recognized by the domestic corporation on the distribution of the stock of certain foreign corporations, see section 1248 (a) and (f) and the regulations thereunder.

(4) *Distribution of stock of a passive foreign investment company.* [Reserved]

(5) *No Reporting under section 6038B.* No notice shall be required under section 6038B with respect to a distribution described in this section.

(e) *Examples.* The rules of paragraphs (b), (c), and (d) of this section may be illustrated by the following examples:

Example 1. (i) FC, a Country X corporation, owns all of the outstanding stock of DC1, a domestic corporation. DC1 owns all of the outstanding stock of DC2, another domestic corporation. The fair market value of the DC1 stock is 300x, and FC has a 100x basis in the DC1 stock. The fair market value of the DC2 stock is 180x, and DC1 has a 40x basis in the DC2 stock. Neither DC1 nor DC2 is a U.S. real property holding corporation. Country X does not maintain an income tax treaty with the United States.

(ii) In a transaction qualifying for nonrecognition under section 355(a), DC1 distributes all of the stock of DC2 to FC. After the distribution, the DC1 stock has a fair market value of 120x.

(iii) Under paragraphs (b) (1) and (2) of this section, DC1 recognizes gain of 140x, which is the difference between the fair market value (180x) and the basis (40x) of the stock distributed. Under paragraph (d)(1) of this section and section 358, FC takes a basis of 40x in the DC1 stock, and a basis of 60x in the DC2 stock.

Example 2. (i) C, a citizen and resident of Country F, owns all of the stock of DC, a U.S. real property holding corporation. The fair market value of the DC stock is 500x, and C has a 100x basis in the DC stock.

(ii) In a transaction qualifying for nonrecognition under section 355(a), DC distributes to C all of the stock of DC2, a domestic corporation. DC and DC2 are U.S. real property holding corporations immediately after the distribution. The DC2 stock has a fair market value of 200x, and DC has a 180x basis in the DC2 stock. After the distribution, the DC stock has a fair market value of 300x.

(iii) Under paragraph (c)(1) of this section, DC does not recognize gain on the distribution of the DC2 stock because DC and DC2 are U.S. real property holding corporations immediately after the distribution.

(iv) Under section 897(e) and the regulations thereunder, C is considered to have exchanged DC stock with a fair market value of 200x and an adjusted basis of 40x for DC2 stock with a fair market value of 200x. Because DC2 is a U.S. real property holding corporation, and its stock is a U.S. real property interest, C does not recognize any gain under section 897(e) on the distribution. C takes a basis of 40x in the DC2 stock, and its basis in the DC stock is reduced to 60x pursuant to section 358.

Example 3. (i) All of the outstanding common stock of DC, a domestic corporation, is regularly traded on an established securities market located in the United States. None of the foreign shareholders of DC directly or indirectly owns more than five percent of the common stock of DC.

(ii) In a transaction qualifying for nonrecognition under section 355(a), DC distributes all of the stock of DS, a domestic corporation, to the common shareholders of DC. The stock of DS has appreciated in the hands of DC.

(iii) Under paragraph (c)(2) of this section, DC does not recognize gain on the distribution of the DS stock to any foreign distributee. Each shareholder's basis in the DC and DS stock is determined pursuant to section 358.

Example 4. (i) FC, a Country X corporation, owns all of the stock of DC1, a domestic corporation. The fair market value of the DC1 stock is 1,000x, and FC has a basis in the DC1 stock of 800x. Country X maintains an income tax treaty with the United States that includes an information exchange provision. In addition to owning stock in DC1, FC directly engages in an active trade or business in Country X.

(ii) In a transaction qualifying for nonrecognition under section 355(a), DC1 distributes to FC all of the stock of DC2, a domestic corporation. The DC2 stock has a fair market value of 500x at the time of the distribution, and DC1 has a 100x basis in the DC2 stock. Immediately after the distribution, the DC1 stock has a fair market value of 500x. Neither DC1 or DC2 is a U.S. real property holding corporation.

(iii) Under paragraph (c)(3) of this section, DC1 will not recognize gain on the distribution of the DC2 stock if DC1 enters into a gain recognition agreement, as described in paragraph (c)(3)(iii), and DC1 and FC otherwise comply with all of the provisions of paragraph (c)(3) of this section. Pursuant to section 358, FC will take a 400x basis in the DC2 stock and FC's basis in the DC1 stock will be reduced to 400x.

Example 5. (i) Assume the same facts as in *Example 4* and that DC1 enters into a gain recognition agreement pursuant to paragraph (c)(3) of this section. Two years after DC1's distribution of DC2 stock to FC, FC sells 25 percent of the DC2 stock to Y, an unrelated corporation. One year after the DC2 stock sale, FC sells 50 percent of its DC1 stock to Z, another unrelated corporation. In the next year, FC sells to Y an additional amount of DC2 stock representing 10% of the DC2 shares distributed to FC.

(ii) Under paragraph (c)(3)(vii) of this section, upon FC's sale of 25 percent of its DC2 stock, DC1 is required to file an amended return for the year in which the DC2 stock was distributed to FC, and recognize 100x of gain, which represents 25 percent of the gain realized but not recognized on the distribution.

(iii) Upon FC's subsequent sale of 50 percent of its DC1 stock, DC1 is required to file another amended return for the year of the distribution and recognize an additional 100x of gain. This represents the excess of the total amount of gain required to be recognized under the gain recognition agreement, determined solely by reference to FC's disposition of DC1 stock (200x), over the gain previously required to be recognized under the agreement, determined solely by reference to FC's disposition of DC2 stock (100x).

(iv) Upon FC's sale of additional DC2 stock representing 10 percent of the DC2 stock distributed to it, DC1 is not required to recognize additional gain. This is because the total amount of gain already recognized by DC1 under the gain recognition agreement solely by reason of FC's disposition of DC1 stock (200x) exceeds the amount gain that would be required to be recognized under the agreement solely by reason of FC's total dispositions of DC2 stock (40x plus 100x).

Example 6. (i) Assume the same facts as in *Example 4* and that DC1 enters into a gain

recognition agreement pursuant to paragraph (c)(3) of this section. One year after DC1's distribution of DC2 stock to FC, FC transfers all of the DC2 stock to FS, a Country X corporation, in a transaction described in section 351. FC receives, in exchange for the DC2 stock, FS stock possessing 90 percent of the voting power and value of all of the outstanding stock of FS. The remaining 10 percent of the stock of FS is issued in the transaction to C, an unrelated corporation.

(ii) DC1 will not recognize gain under the gain recognition agreement upon FC's disposition of the stock of DC2 if DC1 enters into a new agreement to recognize gain on FC's disposition of the FS stock or FS's disposition of the DC2 stock, and DC1, FC and FS otherwise comply with the successor in interest provisions of paragraph (c)(3)(vi) of this section.

(iii) Assume that two years after DC1 enters into a new gain recognition agreement in accordance with paragraph (c)(3)(vi) of this section, FS sells one-half of its DC2 stock. One year later, FC sells one-half of its FS stock. Upon FS's sale of the DC2 stock, DC1 is required to file an amended return for the year in which the DC2 stock was distributed to FC, and recognize 200x (one-half of 400x) of the gain realized but not recognized on the distribution. Upon FC's subsequent sale of the FS stock, the entire remaining amount of gain realized on the distribution (200x) is required to be recognized pursuant to paragraph (c)(3)(vii) of this section because FC no longer complies with paragraph (c)(3)(vi)(C)(*1*) of this section. Therefore, paragraph (c)(3)(vii)(C)(*2*) of this section does not apply to determine the amount of gain required to be recognized upon FC's sale of the FS stock.

Example 7. (i) P1, a partnership organized under the laws of Country X, owns all of the outstanding stock of DC1, a domestic corporation. DC1 owns all of the outstanding stock of DC2, another domestic corporation. The fair market value of the DC1 stock is 800x and P1 has an 800x basis in the DC1 stock. The fair market value of the DC2 stock is 600x and DC1 has a 400x basis in the DC2 stock. Neither DC1 nor DC2 is a U.S. real property holding corporation.

(ii) Y, a Country X corporation, and P2, another partnership organized under the laws of Country X, are the sole partners of P1. Under the rules and principles of sections 701 through 761, Y and P2 are each entitled to a 50 percent distributive share of each item of P1 income and loss. V, a domestic corporation, and Z, a Country X corporation, are the sole partners of P2. Under the rules and principles of sections 701 through 761, V and Z are each entitled to a 50 percent distributive share of each item of P2 income and loss.

(iii) In a distribution qualifying for nonrecognition under section 355(a), DC1 distributes all of the stock of DC2 to P1. Because the distribution is to a partnership, DC1 may not avoid recognition of gain on the distribution by entering into a gain recognition agreement pursuant to paragraph (c)(3) of this section (unless DC1 obtains a ruling from the Internal Revenue Service to the contrary).

(iv) Under paragraph (b)(5) of this section, if DC1 establishes that V is a domestic corporation that owns a 50 percent interest in P2, which owns a 50 percent interest in P1, DC1 will be required to recognize only 75 percent (150x) of the gain realized on the distribution. This gain must be recognized even though P1 would not realize any gain on a sale of the DC2 stock following the distribution because its basis in the stock (600x) equals the stock's fair market value (600x).

Example 8. (i) DC1, a domestic corporation, owns all of the stock of DC2, also a domestic corporation. The stock of DC1 is owned equally by X, a domestic corporation, and FY, a Country Y corporation.

(ii) A short time before DC1 adopted a plan to distribute the stock of DC2 to its shareholders, but after the board of directors of DC1 began contemplating the distribution, FY formed Newco, a domestic corporation, and contributed its DC1 stock to Newco in a transaction qualifying for nonrecognition under section 351. A valid business purpose existed for FY's transfer of the DC1 stock to Newco, but this business purpose would have been fulfilled irrespective of whether FY transferred the stock to Newco before the distribution of DC2, or after the distribution of DC2 (in which case FY would have transferred the stock of DC1 and DC2 to Newco).

(iii) Pursuant to paragraph (b)(6) of this section, the District Director may determine that FY formed Newco for a principal purpose of avoiding section 367(e)(1). In such case, for federal income tax purposes, FY will be treated as having received the stock of DC2 in a section 355 distribution, and then as having transferred the stock to Newco in a section 351 transaction.

(f) *Effective date.* This section shall be effective with respect to distributions occurring on or after January 16, 1993. However, a corporation may elect to apply this section to all distributions made by it after February 15, 1990, and before January 16, 1993, to which section 367(e)(1) applies, by timely filing an original or amended return for the year of distribution, and otherwise complying with the provisions of this section. A corporation making such an election may choose to comply with § 1.367(e)–1T(c)(2)(i)(C) (as contained in the 26 CFR part 1 edition revised as of April 1, 1992) instead of paragraph (c)(3)(ii)(B) of this section, and any annual certification submitted in compliance with § 1.367(e)–1T(c)(2)(ii)(F) (as contained in the 26 CFR part 1 edition revised as of April 1, 1992), prior to January 16, 1993, will be considered as complying with the annual certification requirements of paragraph (c)(3)(v) of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.10 [Amended]

Par. 5. Section 602.101(c) is amended by removing from the table "§ 1.367 (e)-1T * * * 1545–1124" and adding in its place "§ 1.367 (e)–1 * * * 1545–1124".

Approved: January 4, 1993.

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: January 4, 1993.

Alan J. Wilensky,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–1398 Filed 1–15–93; 3:50 pm]

BILLING CODE 4830–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61, 64, 65, and 69

[CC Docket No. 91–141, FCC 92–552]

Expanded Interconnection With Local Telephone Company Facilities; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rules published Thursday, December 31, 1992. The rules related to the modification requiring Tier 1 LECs to file initial tariffs for only a subset of their central offices, and to establish new procedures for the tariffing of additional central offices thereafter.

EFFECTIVE DATE: February 16, 1993, except that the requirements that Southwestern Bell Telephone Co. (SW Bell) file a list of central offices by December 28, 1992 and that interconnectors be permitted to request additional offices on or before January 15, 1993 shall be operative upon the release of the Order.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, 202–653–6975, or Linda L. Haller, 202–632–1298, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the Paperwork Reduction Act statement was inadvertently omitted from the materials included in the **Federal Register.**

Correction of Publication

Accordingly, the publication on Thursday, December 31, 1992, of the final rules, which were the subject of FR Doc. 92–31714, is corrected as follows:

On page 62482, column 2, the following should be inserted before the heading reading "Ordering Clauses":

Paperwork Reduction Act

Public reporting burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden to the Federal Communications Commission, Records Management Division, room 416, Paperwork Reduction Project, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–1661 Filed 1–22–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[GC Docket No. 92–223; FCC 93–42]

Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. 1464

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Federal Communications Commission adopts regulations to establish the times of day during which indecent programming may not be broadcast on radio and television stations. The regulations, promulgated pursuant to section 16(a) of the Public Telecommunications Act of 1992, prohibit the broadcast of indecent material between the hours of 6 a.m. and 10 p.m. on public broadcast stations that go off the air at or before 12 midnight, prohibit the broadcast of indecent programming on all other broadcast stations between 6 a.m. and 12 midnight, and prohibit obscene broadcasts at all times.

EFFECTIVE DATE: February 24, 1993.

FOR FURTHER INFORMATION CONTACT: Peter Tenhula, Office of General Counsel, Federal Communications Commission, 202–254–6530.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the Report and Order in GC Docket No. 92–223, adopted January 19, 1993. The full text of this document, including the Final Regulatory Flexibility Analysis, is available for public inspection and copying, Monday through Friday, 9 a.m. to 4:30 p.m. in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 202–857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

2. This action is taken pursuant to section 16(a) of the Public Telecommunications Act of 1992, Public Law 102–356, section 16(a), 106 Stat. 949, 954 (1992), enacted August 26, 1992, which states that the Federal Communications Commission shall promulgate regulations to prohibit the broadcasting of indecent programming—

(1) between 6 a.m. and 10 p.m. on any day by any public radio station or public television station that goes off the air at or before 12 midnight; and

(2) between 6 a.m. and 12 midnight on any day for any radio or television broadcast station not described in paragraph (1).

3. On October 5, 1992, the Commission released a Notice of Proposed Rule Making, 7 FCC Rcd 6464 (1992), 57 FR 46132, October 7, 1992, which invited interested parties to comment on proposed rules drafted in accordance with section 16(a) and 18 U.S.C. 1464, the principal statute governing obscene and indecent broadcasts. The Commission also asked commenters to update the record in connection with the presence of children in the viewing and listening audience as it relates to the government's interest in restricting the broadcasting of indecent material. In this Report and Order, the Commission adopts rules tracking section 16(a) and prohibiting the Broadcast of obscene programming at all times pursuant to 18 U.S.C. 1464.

4. In addition to amending § 73.3999 of the Commission's Rules (47 CFR 73.3999), the Commission's Report and Order addresses issues raised by the commenters, and previously by the courts, that are relevant to this proceeding, including the scope of the government's interest in regulating broadcast indecency, the definition of "children" for purposes of channeling indecent broadcast materials, and harm to children. The Report and Order also discusses the channeling approach to regulating broadcast indecency, concluding that although there is a reasonable risk that a significant number of children (defined as those ages 17 and under) are in the radio and television audience during all hours of the day and night, the "safe harbor" time period established by the statute and FCC regulations is necessary to accommodate the interests of broadcasters and adult listeners and viewers.

5. In the Report and Order, the Commission tentatively concludes that in enforcing restrictions on indecent broadcasts it will continue to consider, on a case-by-case basis, evidence from a station charged with indecent broadcasting that there was no actual risk that children were in the broadcast audience in the station's market at the time of the broadcast in question. The submission of market-wide data demonstrating that there was no appreciable child audience during the relevant time period may raise a viable defense to a charge of indecency outside of the safe harbor time period.

6. Accordingly, *it is ordered that*, For the reasons discussed in the Report and Order and pursuant to section 16(a) of the Public Telecommunications Act of 1992, Public Law 102–356, section 16(a), 106 Stat. 949, 954 (1992), and sections 4 (i) and (j), 303 and 312 of the Communications Act of 1934, as amended (47 U.S.C. 154 (i) and (j), 303, 312), § 73.3999 of the Commission's Rules (47 CFR § 73.3999) is amended, as set forth below.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Amendatory Text

Part 73, chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.3999 is revised to read as follows:

§ 73.3999 Enforcement of 18 U.S.C. 1464 (restrictions on the transmission of obscene and indecent material).

(a) No licensee of a radio or television broadcast station shall broadcast any material which is obscene.

(b) No licensee of a public broadcast station, as defined in 47 U.S.C. 397(6), that goes off the air at or before 12 midnight shall broadcast on any day between 6 a.m. and 10 p.m. any material which is indecent.

(c) No licensee of a radio or television broadcast station not described in paragraph (b) of this section shall broadcast on any day between 6 a.m. and 12 midnight any material which is indecent.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 93-1763 Filed 1-22-93; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AA98

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Bruneau Hot Springsnail in Southwestern Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for the Bruneau Hot Springsnail (*Pyrgulopsis bruneauensis*). This species occurs only in a complex of related thermal springs and their immediate outflows along the Bruneau River in Owyhee County, Idaho. The primary threat to this species is the reduction of thermal spring habitats from agricultural-related ground water withdrawal/pumping. This rule implements the protection and recovery provisions afforded by the Act for this aquatic snail.

DATES: The effective date of this rule is February 24, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Boise Field Office, U.S. Field and Wildlife Service, 4696 Overland Road, room 576, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Dr. Charles H. Lobdell at the above address (telephone 208/334-1931).

SUPPLEMENTARY INFORMATION:

Background

Borys Malkin first collected the Bruneau Hot Springsnail in springflows at the Indian Bathtub in upper Hot Creek along the Bruneau River in 1952. The following year, W.F. Barr collected additional specimens, which were sent to the U.S. National Museum in Washington, DC (now the National Museum of Natural History) (Taylor 1982). Morrison determined that it represented a previously unknown genus and species of springsnail of the family *Hydrobiidae*. Dwight Taylor (1982) pursued subsequent field and laboratory studies of this snail from 1959 through 1982. Based on these studies, Taylor prepared a brief physiological and biological description of the species and suggested the common name of the Bruneau Hot Spring Snail. In 1990, Robert Hershler formally described the species from type specimens collected from the Indian Bathtub in Hot Creek, naming it *Pyrgulopsis bruneauensis*, with a new common name of Bruneau Hot Springsnail (Hershler 1990).

Adult Bruneau Hot Springsnails have a small, globose to low-conic shell reaching a length of 5.5 millimeters (mm) (.22 inch) with 3.75 to 4.25 whorls. Fresh shells are thin, transparent, white-clear, appearing black due to pigmentation (Hershler 1990). In addition to its small size (<2.8 mm (.11 inch) shell height), distinguishing features include a verge (penis) with a small lobe bearing a single distal glandular ridge and elongate, muscular filament. They are dioecious and lay single round to oval eggs on hard surfaces such as rock substrates or other snail shells.

The Bruneau Hot Springsnail is found only in the springflows of Hot Creek and 128 small, flowing thermal springs and seeps along an approximately 8.5 kilometer (km) (5.28 mile) length of the Bruneau River in southwestern Idaho (Mladenka 1992). A majority (n=116) of occupied springsnail habitats are located along both shorelines of the Bruneau River up to 4.46 km (2.77 miles) above its confluence with Hot Creek while the remaining sites occur up to 4.30 km (2.67 miles) below the Hot Creek-Bruneau River confluence. Most of the springs and seeps containing springsnails are small, ranging from 0.15 square meters (m) (1.6 square feet (ft)) to 37 square m (398 square ft) in area, with a mean size of almost 1 square m (10.8 square ft). These spring sites are located primarily above the high-water mark of the Bruneau River and are separated by distances of less than 1 m (3.28 ft) to greater than 2,000 m (6,562 ft) (Mladenka 1992). The Indian Bathtub area (the type locality, now covered with sediment) and most of the springs along the Bruneau River upstream of Hot Creek are on lands administered by the Bureau of Land Management (Bureau), while most springsnail habitats downstream of the Indian Bathtub and Hot Creek are on private land.

There are no additional historic records for this species from the United states or elsewhere. Additional surveys of thermal springs in the Bruneau and Jarbridge River Basins in southwest Idaho and the Owyhee River in southeast Oregon conducted during January, 1987, and several springs along the West Fork Bruneau River in 1990, failed to locate additional populations (Pat Olmstead, Bureau of Land Management, pers. comm.).

The species has been found in flowing thermal springs and seeps with temperatures ranging from 15.7 °C to 35.7 °C, with highest densities (>1,000 per square m (10.8 square ft)) of snails noted at temperatures ranging from 24.8 °C to 35.7 °C (Mladenka 1992. No Bruneau Hot Springsnails have been collected outside thermal plumes of hot springs entering the Bruneau River. They are found in these habitats on the exposed surfaces of various substrates, including rocks, gravel, sand, mud and algal film. However, during the winter period of cold ambient temperatures and icing, the springsnails are most often located on the undersides of outflow substrates, habitats least exposed to cold temperatures. In madicolous habitats (thin sheets of water flowing over rock faces), the species has been found in water depths less than 1 centimeter (cm) (.39 inch). Current velocity is not considered a significant factor limiting the springsnails distribution, since they have been observed to inhabit nearly 100 percent of the available current regimes. In a September 1989 survey of 10 thermal springs containing the species in the vicinity of the Hot Creek-Bruneau River confluence, the total number of snails per spring ranged from 1 to 17,319 (Mladenka 1992). Springsnail abundance generally fluctuates seasonally; abundance is influenced primarily by water temperature, spring discharge and food availability.

Springsnails appear to be opportunistic grazers as food habit studies reveal algal genera are taken in proportions similar to those found in their habitat (Mladenka 1992). However, springsnail densities are lowest in areas of bright green algal mats, while higher snail densities occur where periphyton communities are dominated by diatoms. Based on laboratory studies, springsnail growth was retarded at cooler temperatures (<24 °C).

Sexual maturity can occur at two months, with a sex ratio of approximately 1:1. Reproduction occurs throughout the year except when inhibited by high or low temperatures (Mladenka 1992). Mladenka noted reproduction occurs at temperatures between 24° and 35 °C. At sites affected

by high ambient temperatures during summer and early fall months, recruitment was seasonal, corresponding with cooler periods. Likewise, sites with cooler ambient temperatures would likely exhibit recruitment during the summer months. Springsnails use "hard" surfaces such as rock substrate to deposit their eggs. They may deposit eggs on other snails' shells when other hard surfaces are unavailable.

Common aquatic community associates of the springsnail include three molluscs: *Physella gyrina* (Say) (Physidae), *Fossaria exigua* Lea (Lymnaeidae) and *Gyraulus vermicularis* Lea (Planorbidae); the creeping water bug *Ambrysus mormon minor* La Rivers (Naucoridae), which is also endemic to the Hot Creek thermal spring complex; and the skiff beetle *Hydroscapha natans* (Hydroscaphidae). In addition, Hot Creek and several of the thermal springs support populations of guppies, *Poecillia reticulata* and a species of *Tilapia*, an exotic fish in the family Cichlidae. It is believed that guppies were originally released into upper Hot Creek at the Indian Bathtub, from which they spread downstream and into nearby thermal springs and seeps (Bowler and Olmstead 1991).

The major threat to the Bruneau Hot Springsnail is the reduction or reduced water levels in thermal spring habitats from groundwater withdrawal/mining of the regional geothermal aquifer system. Within the past 25 years, flows from the Indian Bathtub springs have decreased, thereby restricting the springnail's habitat area and reducing its numbers. Recent studies indicate that natural discharge (= recharge) prior to ground water development in the Bruneau-Grandview area equalled approximately 23,000 acre feet per year, while groundwater pumpage in the area during 1991 was approximately 34,700 acre feet (Charles Berenbrock, U.S. Geological Survey (USGS), written communication). These figures indicate that withdrawals exceeded the estimate rate of recharge by nearly 12,000 acre feet during 1991, and upwards of 26,000 acre feet in 1981, when ground water pumpage was nearly 49,900 acre feet. Mladenka (1992) noted that the springsnail population in Hot Creek may have declined generally by 50 percent from Taylor's (1982) earlier estimates of abundance, and the species has been totally eliminated in local areas such as the Indain Bathtub springs. For example, in 1964 spring discharge at the Indian Bathtub was an estimated 2,400 gallons per minute (gpm). Following increased ground water development and pumpage in the mid-1960's, springflows at the Indian Bathtub had declined to 458 gpm by 1972. During June to July 1978, flow was down to between 130 to 162 gpm and by 1985 the spring no longer flowed during the irrigation season between July and October. Ongoing drought conditions since the mid-1980's have resulted in increased reliance on ground water for irrigated agriculture in the Bruneau basin, causing the extent of seepage at several of the springnail's spring sources to be greatly reduced in recent years. Considerable springsnail habitat has also been lost in recent years due to sedimentation from flash flooding. This is especially true for the Indian Bathtub spring area where the species was first discovered. Heavy sedimentation of gravel, sand and silt from a July 1992 flood totally covered over and eliminated remaining springsnail habitat in the Indian Bathtub and upper Hot Creek (Robinson et al. 1992).

Previous Federal Action

On May 22, 1984, the Service included in Bruneau Hot Springsnail as a category 1 candidate species in the invertebrate notice of review (49 FR 21664), based primarily on the results of field surveys conducted by Dr. Dwight Taylor. Category 1 candidates are taxa for which the Service has on file enough substantial information on biological vulnerability and threats to support proposals to list them as endangered or threatened species. The Service proposed the Bruneau Hot Springsnail for listing as endangered on August 21, 1985 (50 FR 33803). The comment period on this proposal, which originally closed on October 21, 1985, was extended to December 31, 1985 (50 FR 45443). To accommodate public hearings in Boise and Bruneau, Idaho, the comment period was reopened until February 1, 1986 (50 FR 51894). At the time of the hearings and subsequently, the Idaho Department of Water Resources (IDWR) and others questioned the Service's analysis of available scientific information. In particular, they believed that surveys of available habitat were incomplete and the analysis of human induced impacts was erroneous. In order to solicit additional information and adequately respond to these concerns, the Service on December 30, 1986 gave notice of a six month extension of the period of consideration and reopened the public comment period until February 6, 1987, to solicit additional information (51 FR 47033).

Following the six month extension period in which the IDWR proposed additional biological and hydrological studies in the Bruneau-Grandview area, a decision was agreed upon by Idaho's two U.S. Senators and the Service to develop a multi-agency cooperative conservation plan for the springsnail. Subsequently, the U.S. Congress allocated additional monies to the Service to fund these studies starting in 1987. Information gained from the studies was to be used to develop a cooperative conservation (management) plan to achieve the conservation and protection of the Bruneau Hot Springsnail, thus removing the threats facing the species and eliminating the need to list under the Act. The three entities involved in the studies for the cooperative conservation planning efforts included the IDWR, U.S. Geological Survey (USGS), and Idaho State University. The IDWR was to accomplish three primary tasks through the studies: (1) Prepare a Geographic Information System (GIS) for the study area, (2) prepare geological maps to define the bedrock geology and record the location, elevation, flow and temperature of area springflows, and (3) evaluate and analyze Federal and State laws applicable to a conservation plan for the springsnail and assess management alternatives open to IDWR to protect springsnail habitats. The Service also provided funds for the USGS to conduct a three-phase groundwater study of the Bruneau River valley and basin. This study focused on the hydrology of the regional geothermal system and surrounding hot springs, with an overall goal to determine the cause of declining springflows affecting the Bruneau Hot Springsnail. Finally, the Service provided funds to the Stream Ecology Center, Idaho State University, to study the biological, ecological, and physiological needs of the Bruneau Hot Springsnail. The Service also entered into a short-term conservation easement with Owen Ranches, Inc., owners of much of the snail's habitat in Hot Creek and the Indian Bathtub springs. Terms of the easement included fencing to regulate livestock use to improve stream flows. Expiration of this agreement would coincide with the completion of the hydrologic studies by USGS.

On July 6, 1992, the Idaho Conservation League and the Committee for Idaho's High Desert filed a lawsuit in Federal District Court in Boise, Idaho, over the Service's failure to make a final determination on the listing of the springsnail. In order to respond to the concerns raised in the lawsuit and to ensure the accuracy of any final decision concerning the appropriateness of listing, the Service reopened the

public comment period on October 5, 1992 (57 FR 45762), for a period of 30 days, and on December 18, 1992 (57 FR 60160), for a period of 10 days.

The Service now determines the Bruneau Hot Springsnail to be an endangered species with publication of this rule.

Summary of Comments and Recommendations

In the August 21, 1985, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final listing decision. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the Idaho Statesman and the Mountain Home News on November 18 and November 20, 1985, respectively. Two public hearings were held, the first on December 10, 1985, requested by the Idaho Department of Water Resources in Boise, and the second on January 15, 1986, in Grandview, Idaho, requested by Lieutenant Governor David Leroy and others. The comment period, which originally closed on October 21, 1985, was extended to December 31, 1985 (50 FR 45443), then again to February 1, 1986 (50 FR 51894), to accommodate these hearings. The public comment period was again reopened on December 30, 1986, until February 6, 1987 (52 FR 47033); on October 5, 1992 (57 FR 45762); and December 18, 1992 (57 FR 60160). These actions accommodated the receipt of additional information.

Comments in response to the proposed rule were received from 115 individuals and agencies. The Service considered all comments received, including oral testimony from two public hearings on the proposal to list the snail. Thirty-one of the commenters supported the proposal while 77 were opposed to the proposed action. The remaining commenters did not state an opinion on the listing; some provided new/substantive information, which has been incorporated into the final rule. The Bureau of Land Management and three conservation organizations: The Committee for Idaho's High Desert, Idaho Natural Resources Legal Foundation, Inc. and Defenders of Wildlife all supported the proposed listing. Comments opposed to the proposed listing were received from two U.S. Senators, former Idaho Governor John Evans, former Idaho Lieutenant Governor David Leroy, an Idaho State Senator and Idaho State Representative representing Elmore and Owyhee Counties, Idaho Water Resource Board, Idaho Department of Agriculture, Idaho Water Users Association, Idaho Cattle Association, National Cattlemen s Association, Idaho Water Resources Research Institute, and Idaho Farm Bureau. Opposition to the original proposed rule was based on several factors, including possible impacts to existing and further agricultural development in the affected area; assertions that surveys of available habitat and snail distribution used to prepare the proposed rule were inadequate; and that the analysis of ground water withdrawal impacts were erroneous. Comments of a similar nature or point of concern are grouped into a number of general issues. A summary of these issues and the Service's response to each are discussed below.

Issue 1. Several commenters requested that the Service delay or preclude listing the Bruneau Hot Springsnail because too little is known regarding its present status. They believed additional snail populations may exist in other locations. Some individuals provided locations of nearby springs where "small black snails" occur. Others believed the species may be more common or widespread than the Service stated in the proposed rule. In addition, several respondents suggested that the Service initiate a comprehensive studies program for the Bruneau Hot Springsnail to develop additional information on distribution and habitat requirements prior to any final listing decision. For example, in 1985 IDWR and Idaho's then Governor John V. Evans, supported a "two-year cooperative study" as the most sensible approach to this problem.

Service Response: The listing process includes an opportunity for the public to comment and provide information that is evaluated and considered by the Service before making a final decision. Aside from previously cited studies and reports in the 1985 proposed rule (50 FR 33803), the Service has reviewed and considered new information regarding distribution and general life history for the Bruneau Hot Springsnail from a recently completed 3-year study in the Bruneau River basin (Mladenka 1992). The study examined a larger geographical area than previous studies cited in the proposed rule and reported 128 additional thermal spring or seep sites along the Bruneau River over a distance of 8.5 km (5.28 miles) containing the species. However, given that all thermal springs along this reach of river arise from a single regional geothermal aquifer (Berenbrock, USGS, written communication), these newly discovered springsnail populations and their habitats are as threatened by continuing declines in Bruneau valley spring discharges as the remaining Hot Creek populations. Additionally, remaining populations are vulnerable to habitat alteration and loss from flash-flooding. Springsnail populations were drastically reduced in Hot Creek following a major flood (runoff) event in July 1992 (Robinson et al. 1992). In summary, the Bruneau Hot Springsnail remains endemic to a small geographic area in southwestern Idaho and is totally dependent upon thermal springflows originating from a common groundwater source for its survival.

Issue 2. Some commenters questioned whether the use of ground water for agricultural and aquacultural purposes is the primary cause of the reduced springflows in Hot Creek. They believe climatic and geologic factors may also be contributing to declining springflows and suggested that the Service conduct additional hydrology studies of the underlying aquifer and thermal springs in the Bruneau Valley prior to any listing decision on the springsnail.

Service Response: Despite the above claims, no new information was provided to contradict the Service's contention that the Bruneau Hot Springsnail is threatened by the reduction of its thermal spring habitats from agricultural-related ground water withdrawal/pumping and other threats present in the Bruneau area (see Factor A in "Summary of Factors Affecting the Species"). The USGS has developed a conceptual model of the geothermal aquifer system that characterizes the geohydrology of the aquifer system (Berenbrock, USGS, written communication). The conceptual model, using both direct and indirect evidence, also describes the hydraulic connection between the aquifer system and the series of thermal springflows along the Bruneau River containing Bruneau Hot Springnails. Additional information in the USGS study describes how over the past 25 years, discharge from many of the springs along Hot Creek and Bruneau River have decreased, especially springflows at the Indian Bathtub (Berenbrock, USGS, written communication). Spring discharge in 1964 was approximately 2,400 gpm, had dropped to between 130 to 162 gpm in June to July 1978 (Young et al. 1979), and by the summer of 1990 discharge was zero. The USGS believes that prior to extensive ground water development, recharge to the geothermal aquifer was balanced by discharge. Ground water flows northward through volcanic rocks from areas of recharge along the

Jarbridge and Owyhee Mountains to the Bruneau area, where it is discharged as either springflow or leaves the area as underflow. Natural recharge to and discharge from the regional geothermal aquifer underlaying the 600-square mile Bruneau area was estimated to be approximately 22,800 acre-feet per year (Berenbrock, USGS, written communication). Of that amount, approximately 10,100 acre-feet was discharged from springflows and the remaining 12,700 acre-feet was underflow. Ground water discharge (=withdrawal) from wells for domestic and agricultural purposes began during the late 1890's (Berenbrock, USGS, written communication). From 1890 to 1978, well discharge increased from 0 to approximately 40,600 acre-feet per year. Annual well discharge has exceeded annual recharge since 1965, when the rate of increase in ground water pumpage accelerated. Pumping has caused hydraulic heads or water levels in the volcanic rock portion of the geothermal aquifer to decline more than 9.5 m (30 ft) in much of the Bruneau area and at least 23 m (70 ft) in one USGS observation well. For example, in another well, water levels declined almost 3 m (10 ft) from 1979 to 1992, or about 0.2 m (.66 ft) per year. Changes in discharge from thermal springs corresponds with changes in hydraulic head, which normally fluctuate seasonally and are substantially less during late summer than in the spring.

At this time, there is no information available on how much of the recent decline in water levels can be attributed to the effects of protracted drought conditions throughout southwestern Idaho. Total well discharge (=ground water withdrawal) has declined from a maximum of 49,900 acre-feet in 1981 to 34,700 acre-feet in 1991, in large part due to area farmer participation in the Conservation Reserve Program administered by the U.S. Soil Conservation Service. Some individuals believe that under 'normal' (non-drought) conditions, a reduction in ground water withdrawal might cause water levels to recover or possibly slow their rate of decline (Idaho Department of Water Resources (IDWR) 1992). While drought may be a contributing factor, springflows at the Indian Bathtub and water levels in USGS observation wells in the volcanic rock portion of the aquifer continued to show a steady decline during the early 1980's period of normal precipitation prior to the onset of drought conditions beginning in 1986. The USGS believes that there is very little to no recharge in the geothermal aquifer from direct precipitation in the Bruneau area (Berenbrock, USGS, written communication) since a stable isotopic analysis of thermal waters in the Bruneau area by Young and Lewis (1982) "* * * indicates that none of the hot water discharged from the geothermal system is derived from present-day, local precipitation." They go on to state that resident time calculated on the basis of reservoir (=aquifer) volume and discharge "* * * is probably at least 3,400–6,800 years, and in view of recent carbon-14 analysis, perhaps as long as 25,000 years." One additional side-effect of protracted drought conditions is the increased reliance (=pumpage) on ground water for irrigated agriculture to offset lack of surface water supplies. Regardless of cause, if water-levels in the geothermal aquifer continue to decline, the Service believes all thermal springflows containing Bruneau Hot Springsnails will eventually cease to flow and their habitat will be eliminated.

Issue 3. Some commenters stated that the Bruneau Hot Springsnail is prolific and has "* * * the ability to reproduce at a level that is remarkable with an increase in nine months of several hundred fold", therefore "* * * it does not appear that the snail is endangered, but that the hot springs in which it exists is endangered." They believe the Service should concentrate on "positive" (alternative) measures such as maintaining captive populations or transplanting snails to other springs, rather than listing.

Service Response. Under the Act, 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). Factor A includes "The present or threatened destruction, modification, or curtailment of its habitat or range." Absolute population numbers, total number of extant populations, or the ability to rapidly reproduce are less important to a species' long-term survival if its remaining habitat is threatened and cannot be preserved. In addition, according to section 2(b) of the Act, "* * * the purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved". Once a species becomes listed as threatened or endangered, section 4(f) of the Act directs the Service to develop and implement recovery plans for that species. Recovery is the process by which the deadline of a listed species is arrested or reversed, and threats to its survival are eliminated or neutralized. Two goals of this process are: (1) The maintenance of secure, self-sustaining wild populations of species with the minimum necessary investment of resources, and (2) to restore listed species to a point where they are viable self-sustaining components of their ecosystems, so as to allow 'delisting' (U.S. Fish and Wildlife Service 1990). While the Service recognizes that captive propagation and transplantation can be valid conservation tools and assist in recovery, in the case of the Bruneau Hot Springsnail, these measures would not contribute to "maintenance of secure, self-sustaining" populations. Even if successful transplantion could be achieved, unless measures are taken to reverse the trend of declining thermal spring discharges throughout the Bruneau area, transplanted populations would eventually be subject to the same threats as existing springsnail populations and their habitats.

Issue 4. The Idaho Water Users Association, Inc. maintains that the conservation of the Bruneau Hot Springsnail should be addressed through other existing regulatory mechanisms and not through the listing process. Because "* * * none of the agencies have asked for any specific regulatory consideration for the (Bruneau) area" there may be opportunities to remedy any threats to the Bruneau Hot Springsnail outside of the Act. For example, they believe the Bureau of Land Management (Bureau) should manage the snail's habitat as an Area of Critical Environmental Concern (ACEC).

Service Response: The Service acknowledges that designating an ACEC for the species on Bureau lands would recognize the unique attributes of the springsnail and its habitats. Although this designation might result in increased protection for springsnail habitats from cattle grazing on public lands, such recognition would not and could not address the primary threat to the survival of the species, which is further habitat loss due to ground water withdrawal from adjacent private lands. In any event, ACEC designations are within the purview of the Bureau and not the Service. To date, the Bureau has not considered an ACEC designation for Bureau lands associated with the Bruneau Hot Springsnail (Fred Minckler, Bureau, Boise, pers. comm.). The Idaho Department of Water Resources (IDWR) regulates ground water development in the Bruneau area. In 1982, the IDWR established the Bruneau-Grandview Ground Water Management Area (GWMA), an administrative tool which allows the

IDWR to continue to receive and retain without action applications for water permits until it can be demonstrated that sufficient water is available and the withdrawal will not adversely impact other water rights within the Bruneau area (IDWR 1992). Due to declining water levels and pressures in the area, none of the 17 applications for withdrawal within the GWMA, except those for domestic purposes, have been approved since the area was designated. Therefore, while IDWR can limit the development of new wells from the regional geothermal aquifer system, impose water conservation measures, and require meters on existing wells, IDWR possesses no authority under existing Idaho State Law to shut down existing wells for the sole purpose of protection and recovery of the springsnail. See the discussion under Factor D in "Summary of Factors Affecting the Species" for a complete discussion on the inadequacy of existing regulatory mechanisms for the Bruneau Hot Springsnail.

Issue 5. One commenter requested that the Service prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA) for the proposed listing action. It was also requested that the assessment should include a determination of the geographic area which might be affected by any potential restrictions on future ground water development and withdrawal.

Service Response: As discussed in the NEPA section of this rule, it has been determined that such analyses are not required 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).

Issue 6. Several commenters were concerned with the impacts to agriculture that would result from listing and the potential designation of critical habitat for the Bruneau Hot Springsnail. They requested the Service to designate critical habitat during the final rulemaking process so that potential economic impacts could be evaluated.

Service Response: Under section 4(a)(3)(A) of the Act, the Secretary may designate critical habitat to the maximum extent prudent and determinable at the time a species is determined to be threatened or endangered. Critical habitat is not a management plan, but a legally described list of those areas considered essential for the conservation of the species. In the proposed rule, the Service found that determination of critical habitat was not prudent for the Bruneau Hot Springsnail. As discussed under the "Critical Habitat" section below, the Service continues to find that designation of critical habitat for the Bruneau Hot Springsnail is not prudent at this time. Because many of the remaining populations of this species are in accessible, localized springs on public land, such designation might increase the degree of vandalism, collecting, and other human activities. Protection of this species' habitat will be addressed through the recovery process. It should be noted that a designation of critical habitat does not create a wildlife refuge or wilderness area, nor does it close the area to human activity. It applies only to Federal agencies which propose to fund, authorize, or carry out activities that may destroy or adversely modify areas within designated critical habitat. Although critical habitat may be designated on private or State lands, activities on these lands would not be restricted by a designation unless a Federal permit or other Federal involvement is present.

Issue 7. Many comment letters were received expressing concerns with the potential economic impacts to existing and future agricultural development in the Bruneau River Basin. They suggested that the Service prepare an economic analysis prior to any listing decision.

Service Response: Under section 4(b)(1)(A) of the Act, the listing process is based solely on the best scientific and commercial information available and economic considerations are not applicable. The legislative history of the Act clearly states the intent of Congress to "ensure" that listing decisions are "based solely upon biological criteria and to prevent non-biological considerations from affecting such decisions." H.R. Rep. No. 97–835, 97th Congress 2nd Session 19 (1982). Because the Service is specifically precluded from considering economic impacts in the listing process, the Service has not addressed such impacts in this final rule. Economic factors are considered in a designation of critical habitat and during the development of a recovery plan.

Issue 8. Several commenters questioned whether the Bruneau Hot Springsnail is endemic or indigenous to the area. They stated that tropical fish have been introduced into several of the thermal springs in the Bruneau basin as far back as prior to the 1940's, therefore, the snail may also have been introduced along with the fish.

Service Response: The Service has considered available scientific evidence and concludes that the Bruneau Hot Springsnail is endemic to southwestern Idaho. Hershler, in his 1990 description of the species, stated that "* * * *Pyrgulopsis bruneauensis* appears closest morphologically to *P. amargosae* from the Death Valley System to the south * * *", although the species is also biogeographically similar to other regional *Pyrgulopsis*. Hershler also believes that local endemism of the springsnail appears likely. Additionally, there are no historic records for the springsnail from the U.S. or elsewhere, and a helicopter survey of several thermal springs in the Bruneau and Jarbridge River Basins in southwest Idaho and the Owyhee River in southeastern Oregon conducted during January, 1987, did not reveal additional populations. If at some future time the species is found to be more widespread than previously thought, and threats to its continued existence are removed, the Service would consider downlisting or delisting the species.

In summary, although recent studies have noted additional thermal springflows containing Bruneau Hot Springsnails, no substantive comments were received indicating that the species is found outside of the Bruneau River Basin near Hot Creek or under a lesser degree of threat than originally thought. Opposing comments were based primarily upon concerns that listing of the springsnail would affect the allocation of water and impact agricultural development in the Bruneau Valley, rather than information concerning the species' status. Some opposing comments questioned the adequacy of the Service's data. The Service has continued to gather information regarding the status of the species since publication of the proposed rule in 1985 and believes that this final rule is thorough and appropriate. As discussed in detail in the "Summary of Factors Affecting the Species" section, the Service concludes that nearly all of the remaining populations of the Bruneau Hot Springsnail are at risk.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Bruneau Hot Springsnail should be classified as an endangered species. Procedures found at section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. Under the Act, a

species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Bruneau Hot Springsnail (*Pyrgulopsis bruneauensis*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Activities that threaten the continued existence of the Bruneau Hot Springsnail include further agricultural-related ground water withdrawal and livestock grazing.

Ground water withdrawal and pumping threaten the springsnail through a reduction or loss of thermal spring habitats from depletion of the geothermal aquifer underlaying the Bruneau area. Within the past 25 years, discharge from many of the thermal springs along Hot Creek have decreased, thus restricting the springsnails' habitat area (Berenbrock, USGS, written communication; Young et al. 1979). This is specially true for the Indian Bathtub springs, where the species was first discovered, and where springflows have now ceased and the springsnail has been eliminated. Spring discharge in 1964 was almost 2,400 gpm and had declined by the summer of 1990 to zero discharge. Beginning in the late 1890's, when ground water development for domestic and agricultural purposes began in the Bruneau area, through 1991, an estimated 275,000 acre-feet of thermal water was discharged from Indian Bathtub springs (Berenbrock, USGS, written communication). Of this amount, only 1,400 acre-feet was discharged from the spring during 1981 to 1991. The decline in discharge from the Indian Bathtub springs was noted beginning in the mid-1960's and coincided with the accelerated increase in ground water withdrawal associated with a rapid increase in the amount of lands irrigated with ground water throughout the Bruneau area. As recently as 1991, the USGS estimated that ground water withdrawals exceeded the estimated historic rate of natural recharge by about 12,000 acre-feet (Berenbrock, USGS, written communication). It should be noted that ground water withdrawals have actually declined over the past 10 years, primarily due to cropland retired from production through participation in the Conservation Reserve Program (CRP). Yet water levels in the geothermal aquifer continue to decline. The Service is concerned that the number of withdrawals may again increase in the next few years as croplands will again enter production when the current 10 year CRP program expires and/or is not renewed. In any event, if present water management practices continue, water levels in the aquifer will either continue to decline or eventually stabilize at some lower level. The decline in spring flows has been documented at the Indian Bathtub in upper Hot Creek and at least two additional springs (Berenbrock, USGS, written communication); however, springflow data has not been collected in the remaining 125 springs containing springsnails, most of which are at elevations lower than the Indian Bathtub springs. If ground water levels in the geothermal aquifer continue to decline, the Service anticipates that all remaining thermal spring habitats containing Bruneau Hot Springsnails will eventually cease to flow, causing the extinction of the species.

Cattle grazing also impacts springsnail habitats, especially those along Hot Creek. Although approximately 160 acres along Hot Creek canyon was fenced in 1990 to protect it from livestock, trespassing cattle have been observed grazing within the enclosure on several occasions since 1990 (Mladenka 1992). The cattle have trampled instream substrates and habitats causing direct springsnail mortality and displacement. For example, Mladenka noted in his study the lowest abundance estimates of springsnails at one monitoring site occurred on the same date that several hundred cattle were observed in the vicinity of the stream site. Cattle also browse and remove riparian vegetation that shades Hot Creek, allowing temperatures to reach levels affecting reproduction or possibly lethal to the species. Additionally, livestock grazing in the adjacent watershed, combined with ongoing drought conditions, has basically denuded soils and vegetation to such an extent that periodic flash floods now dump sediment into Hot Creek that has covered over and totally eliminated springsnail seep/spring habitats for almost 150 m (492 ft).

Recreational access may also be impacting habitats of the Bruneau Hot Springsnail along the Bruneau River. Makeshift dams are sometimes constructed by bathers to form thermal pools and improve conditions for bathing. Construction of these pools impacts springsnails through habitat modification as rock substrates are moved, flow is altered and sediments are trapped. These pools also alter and possibly destroy the madicolous algal habitats preferred by the springsnail as pool water levels are raised.

In summary, the cumulative effects of these factors continue to threaten the increasingly fragmented populations of the Bruneau Hot Springsnail and their thermal habitats

B. Overutilization for Commercial Recreational, Scientific, or Educational Purposes

There are no known commercial uses for this species. Recreational use of the thermal springs and outflows, except as described in Factor A above for bathing, is not considered a significant threat. However, since whitewater boating is increasing on the Bruneau River adjacent to these thermal outflows, recreational bathing activities may have to be more closely regulated in the future. Other mollusc species have become vulnerable to unauthorized collection for scientific purposes following listing. Because the distribution of the Bruneau Hot Springsnail is restricted and generally well known, overcollection is a potential threat to the species.

C. Disease or Predation

Juvenile springsnails appear vulnerable to a variety of predators (Mladenka 1992). Damselflies (Zygoptera) and dragonflies (Anisoptera) were observed feeding upon snails in the wild. The presence of a large population of introduced guppies in Hot Creek and several of the other small thermal springs downstream along the west bank of the Bruneau River has been suggested as potentially threatening the springsnail. Mladenka (1992) observed guppies feeding upon snails in the laboratory. In addition to guppies, a species of *Tilapia* has ascended into and reproduced in Hot Creek (Bowler 1992). The presence of this new exotic predator may also constitute a threat to the Bruneau Hot Springsnail. It should be noted that madicolous habitats support neither of these two exotic fishes or dragonflies, but do harbor numerous damselflies.

D. The Inadequacy of Existing Regulatory Mechanisms

At least three State agencies in Idaho have as part of their goals and objectives the identification and protection of rare taxa and their habitats. The Idaho Department of Parks and Recreation has authority under Idaho Code Section 18–3913, 1967, to protect only plants, with animals not given special protection on Idaho lands. The Department of Fish and Game, under Idaho Code Section 36–103, is mandated to preserve, protect, perpetuate, and manage all wildlife. However, these mandates do not extend protection to invertebrate species.

The Idaho Department of Water Resources (IDWR) regulates water development in the Bruneau area. It is the policy of IDWR to regulate and conserve ground water resources from depletion or 'mining'. In *Baker* v. *Ore-Ida Foods, Inc* 95 Idaho 575 (1973), it was established that "* * * where continued withdrawal of the aquifer results in mining, the withdrawal would violate the Ground Water Act." However, any conservation measures imposed by IDWR to manage ground water 'mining' are only for the purpose of fulfilling senior water rights and not for the protection of fish and wildlife. At present, there is no specific allocation of either surface or ground water in the Bruneau area for the protection and conservation of fish and wildlife. In 1982, the IDWR established the Bruneau-Grandview Ground Water Management Area (GWMA) pursuant to provisions of Idaho Code Section 42–233a "* * * to identify the area as approaching the conditions of a critical ground water area" (IDWR 1992). This GWMA designation has allowed the IDWR to continue to receive and hold without action applications for water permits until it can be demonstrated that the proposed withdrawal will not adversely impact other water rights in the GWMA. Due to the continued decline in water levels in the geothermal aquifer, none of the 17 applications for withdrawal within the GWMA submitted since 1982, except those for domestic purposes, have been approved. Without recovery of water levels, IDWR does not anticipate modification of the GWMA designation any time soon. In any event, GWMA designations are intended only to maintain sufficient ground water to fulfill existing water rights and supply the needs of irrigation, and not for the protection and conservation of fish and wildlife.

The Bruneau area is located entirely within the area of an ongoing water rights adjudication (Snake River Basin Adjudication). Through a Director's Report from IDWR due in 1994, the adjudication will clarify existing water rights and water uses and will permit IDWR to eliminate water rights that are of record but are no longer utilized. The IDWR also believes the adjudication process will need to be completed prior to the development and implementation of ground water conservation measures on behalf of the springsnail that may affect existing water rights and uses since "without completing this adjudication process there is no effective way to determine the existence or validity of water rights to serve as the basis for delivery".

Under the Idaho Ground Water Act, IDWR also regulates the construction and maintenance of geothermal (Idaho Code Section 42–238(4)) and artesian (Idaho Code Sections 42–1601 & 42–1603) wells so that they operate to conserve ground water resources and prevent unnecessary flow and waste. The IDWR in 1990 identified several artesian wells in the Bruneau area "* * * leaking water at land surface or potentially wasting water in the subsurface due to inappropriate well construction techniques" (IDWR 1992). To date no action has been taken to have these leaking wells rehabilitated so that the aquifer pressures can be preserved or increased.

In summary, the IDWR has authority to control ground water 'mining' and can limit the development of new wells in a critical ground water area, impose water conservation measures, and also require meters on existing wells. However, IDWR has stated that "* * * the Director has no authority under State law to shut down prior vested water rights in order to protect an endangered species" (IDWR 1992); or in this instance for the sole purpose of protection and recovery of habitats for the Bruneau Hot Springsnail.

The Bureau of Land Management (Bureau) manages all of the public lands containing springsnails and their habitats along Hot Creek and the Bruneau River. The Bureau issues permits for livestock grazing on these lands and grants authorizations that would lead to the drilling of new wells or increased ground water use on Bureau lands. In the past, the Bureau has shown an interest in conserving the species and has solicited input from the Service regarding impacts that may result from any proposed activities. However, the Service's comments regarding candidate species are advisory in nature. The Bureau has developed a Cooperative Agreement to fence and regulate livestock use along Hot Creek, but has not taken steps to impose additional conservation measures to protect remaining springsnail habitats on Bureau lands.

With this listing of the Bruneau Hot Springsnail, the Bureau is required to initiate consultation pursuant to section 7 of the Act on any Bureau activity or project that may affect the species. Formal consultation would result in a Biological Opinion on whether or not the activity proposed to be authorized is likely to jeopardize the continued existence of the species. With listing, the Bureau is required to insure that any activity or project they authorize would not be likely to jeopardize the continued existence of the springsnail. Conditions that would provide protection to the springsnail and their habitats could be incorporated into permits issued or authorizations granted. The provisions of section 7 of the Act are more fully discussed later in this rule.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Flash flood sedimentation of springsnail habitats is a threat to this speices. Recent summer floods and mudflows during 1991 and 1992 delivered significant amounts of sand, silt and gravel to upper Hot Creek, and as of July 1992, the Indian Bathtub was completely filled with sediment (Robinson et al. 1992). Based on comparisons made with historical photographs, a meter or more of the seep/rockface springsnail habitats in the Bathtub had been covered. Following sediment delivery from an even more recent flash flood event during late October 1992, additional springflows have been completely covered over and springsnail habitat eliminated from approximately 150m (492 ft) in upper Hot Creek below the Indian Bathtub (Committee for Idaho's High Desert 1992). While flash floods probably occurred historically, the effects of declining springflows coupled with drought conditions have resulted in the permanent elimination of springflows and filling in of spingsnail habitats at the Indian Bathtub and upper Hot Creek. Additionally, livestock grazing, compounded by protracted drought conditions in southwestern Idaho, has basically denuded soils and vegetation in the upper Hot Creek watershed to such an extent that periodic flash floods deliver sediment that cannot be flushed by the remaining weak and declining springflows. Measures to protect springsnail spring/seep habitats in the Indian Bathtub and Hot Creek from the effects of flash flooding were proposed by the Bureau of Land Management years ago but never implemented. These measures included the construction of small retention dams in the Hot Creek watershed to trap runoff sediment while still maintaining thermal seep habitats.

As mentioned in Factor A, cattle graze and trample the habitat along Hot Creek. Trampling also occurs instream, causing direct Bruneau Hot Springsnail mortality.

Determination

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Bruneau Hot Springsnail in determining

to issue this rule. Based on this evaluation, the preferred action is to list the Bruneau Hot Springsnail as endangered. Today the species persists in a few isolated thermal springs and seeps in Hot Creek and along an 8.5 km (5.28 miles) reach of the Bruneau River characterized by temperatures ranging from 15 to 35° C. Most of these sites are no more than small seeps less than 1 square m in size separated by distances less than 1 m (3.28 ft) to greater than 2,000 m (6,562 ft). The free-flowing thermal spring and seep environments required by the Bruneau Hot Springsnail have been impacted by and are vulnerable to continued reduction from agricultural-related ground water withdrawal/pumping. The species and its habitat are also vulnerable to habitat modification from the effects of livestock grazing, recreational access and flash floods. The remaining complex of thermally related springs and their immediate outflows are not protected from the potential threats previously discussed. Existing regulations do not provide adequate protection to prevent further direct or indirect habitat losses.

Because the Bruneau Hot Springsnail is in danger of extinction throughout all or a significant portion of its range, the species fits the definition of endangered as defined in the Act. For reasons discussed below, critical habitat is not being designated at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service has determined that critical habitat designation for this species is not prudent at this time. Remaining populations are restricted to a small geographic area along the Bruneau River in southwestern Idaho and vandalism could occur if their whereabouts were widely known. Regulations implementing section 4 of the Act provide that a designation of critical habitat is not prudent when a species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat (50 CFR 424.12). Publication of critical habitat descriptions would make this species even more vulnerable to such acts and increase enforcement problems.

Protection of this species' habitat will be addressed through the recovery process and through the jeopardy standard of the section 7 consultation process. The Service believes that Federal involvement in the areas where Bruneau Hot Springsnails persist can be identified without the designation of critical habitat. In addition, all private land owners will be notified concerning this species' habitat and the importance of protecting it. Therefore, it would not now be prudent to determine critical habitat for the Bruneau Hot Springsnail.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions may be initiated following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed threatened or endangered species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Bureau of Land Management (Bureau) is the Federal agency that is most likely to be affected by this rule. Changes in management on Bureau lands containing springsnail habitats would be subject to consultation with the Service. Bureau actions that may be affected by this proposal include the issuance of livestock grazing permits and granting authorizations that would lead to drilling of new wells or increase ground water use. The Department of Agriculture (Department) may be required to consult with the Service on any of the following actions: An APHIS spraying program (for grasshopper and other insect control) proposed for the Bruneau-Grandview area; Department subsidized agricultural conservation or best management practices (BMP) program; and all agricultural crop subsidy programs. Other Federal or federally assisted programs affecting Federal direct loan and grant programs, loan guarantee programs, home and mortgage assistance and capital improvement loan programs, including annual operating loans of the Farmers Home Administration, would also be subject to the provisions of section 7.

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

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Requests for copies of the regulations on listed wildlife and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish Wildlife Service, room 432, 4401 North Fairfax Drive, Arlington, VA 22203–3507 (703/358–2104).

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).

References Cited

Berenbrock, C. 1992. Effects of well discharges on hydraulic heads in and spring discharges from the geothermal aquifer system in the Bruneau area, Owyhee County, Southwestern Idaho. Water Resources Investigations, U.S. Geological Survey. Preliminary Report (written communication).

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Committee for Idaho's High Desert. Letter dated November 3, 1992 to the Boise Field Office containing information and photographs concerning changing habitat conditions in the Indian Bathtub/Hot Creek area. 3 pp with photographs.

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Mladenka, G.C. 1992. The ecological life history of the Bruneau Hot Springs Snail (*Pyrgulopsis bruneauensis*). Stream Ecology Center, Department of Biological Sciences, Idaho State University, Pocatello, Idaho. Final Report to the U.S. Fish & Wildlife Service, Boise Field Office. 116 pp.

Robinson, C.T., G.W. Minshall, and K. Sant. 1992. Bruneau Hot Springs Snail. Annual Monitoring Report to Bureau of Land Management. 17 pp.

Taylor, D.W. 1982. Status review on Bruneau Hot Spring Snail. Unpublished report submitted to the U.S. Fish and Wildlife Service's Boise Endangered Species Field Office.

U.S. Fish & Wildlife Service. 1990. Policy and guidelines for planning and coordinating recovery of endangered and threatened species. Service Document, May 1990.

Young, H.W. and R.E. Lewis. 1982. Hydrology and geochemistry of thermal ground water in southwestern Idaho and North-Central Nevada, U.S. Geological Survey Professional Paper 1044–J. 20 pp.

Young, H.W., R.E. Lewis, and R. L. Backsen. 1979. Thermal groundwater discharge and associated convective heat flux, Bruneau-Grandview area, southwest Idaho. U.S. Geological Survey Water-Resources Investigations 79–62, Open File Report.

Author

The primary author of this rule is Stephen D. Duke, Boise Field Office, U.S. Fish and Wildlife Service, 4696 Overland Road, room 576, Boise, Idaho (208/334/1931).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

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

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

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

2. Amend § 17.11(h) by adding the following, in alphabetical order, under SNAILS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Snails							
*	*	*	*	*	*	*	
Springsnail, Bruneau Hot	*Pyrgulopsis bruneauensis.*	U.S.A. (ID)	NA	E	489	NA	NA
*	*	*	*	*	*	*	

Dated: January 13, 1993.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–1605 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 58, No. 14
Monday, January 25, 1993

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–93–1]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received March 26, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132

FOR FURTHER INFORMATION CONTACT: D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on January 15, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Rulemaking

Docket No. 27044.

Petitioner: Mr. John E. Gillick,

Regulations Affected: 14 CFR 93.123(c). Description of Rulechange Sought: To authorize airlines to use commuter slots at LaGuardia International Airport and Washington National Airport to operate aircraft certificated with a maximum passenger seating capacity of up to 80 passengers. Petitioners Reason for the Request: The FAA has amended the High Density Traffic Airports Rule as it applies to operations at O'Hare International Airport, and this petition seeks similar treatment for LaGuardia and Washington National so aircraft with up to 80 seats would be permitted to use commuter air carrier slots to provide quiet, efficient jet service with new technology, State-3 aircraft.

[FR Doc. 93–1670 Filed 1–22–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92–NM–101–AD]

Airworthiness Directives; Airbus Industrie Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Industrie Model A310 series airplanes, that would have required conducting an integrity test to detect corrosion in the wing tip brake solenoids, and replacement of corroded solenoids, if necessary. That proposal was prompted by several incidents in which wing tip brake solenoids failed as a result of corrosion in the solenoid coils. This action revises the proposed rule by adding a requirement for repetitive integrity tests of the wing tip brake solenoids until all 8 solenoids have been replaced with modified ones. This action also revises the applicability of the proposed rule by including additional airplanes. The actions specified by this proposed AD are intended to prevent wing tip brake valve failure, which could lead to reduced controllability of the airplane.

DATES: Comments must be received by March 3, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–101–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, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, 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, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 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 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–101–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–101–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to certain Airbus Industrie Model A310 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on June 18, 1992 (57 FR 27191). That NPRM would have required conducting an integrity test to detect corrosion in the wing tip brake solenoids, and replacement, if necessary. That NPRM was prompted by several incidents in which wing tip brake solenoids failed as a result of corrosion in the solenoid coils. That condition, if not corrected, could result in wing tip brake valve failure, which could lead to reduced controllability of the airplane.

Since the issuance of that NPRM, the FAA has received a comment requesting that the applicability statement of the AD be changed from the proposed "Model A310 series airplanes having manufacturer's serial numbers (MSN) 1 through 432, inclusive, 440, and 441; on which Modification 6725 has not been accomplished," to "all Model A310 series airplanes on which Modification 6725 has not been accomplished." The commenter feels that the applicability statement as proposed in the notice is not clear and could confuse operators. In addition, the commenter states that the suggested change in the applicability statement would make it consistent with that of the parallel French Airworthiness Directive 92–010–129(B), dated January 8, 1992. The FAA concurs with the commenter's suggestion. The FAA has determined that any Model A310 series airplane on which Modification 6725 has not been accomplished is subject to the same subject unsafe condition addressed by this proposed AD. The applicability statement of the proposed rule has been changed accordingly.

This same commenter notes that the replacement of one solenoid does not constitute, in itself, the terminating action for subsequent integrity tests of the wing tip brake solenoids. This commenter suggests that proposed paragraph (b) be revised to eliminate reference to such terminating action, and to include a requirement for repetitive integrity tests of the wing tip brake solenoids until all 8 solenoids have been replaced with modified ones. Further, this commenter notes that the integrity test procedure as described in Airbus Industrie Service Bulletin A310–27–2042, Revision 1, dated December 11, 1986, specifies continued repetitive tests of replaced solenoids at intervals not to exceed 350 flight hours. The FAA concurs. Upon further review, the FAA has determined that, in order to ensure the reliability of the wing tip brake solenoids, repetitive integrity tests must continue until all 8 solenoids have been replaced with modified ones. Paragraph (b) of this supplemental notice reflects this additional requirement.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 22 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2.5 work hours per airplane to accomplish the proposed actions, and that 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 $3,025, or $138 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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. App. 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–101–AD.

Applicability: Model A310 series airplanes on which Modification 6725 has not been accomplished; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent wing tip brake valve failure, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 350 flight hours after the effective date of this AD, conduct an integrity test to detect corrosion of the wing tip brake solenoids, in accordance with Airbus Industrie Service Bulletin A310–27–2042, Revision 1, dated December 11, 1986. Thereafter, repeat the integrity test at intervals not to exceed 350 flight hours.

(b) If corrosion in any wing tip brake solenoid is detected as a result of any integrity test required by paragraph (a) of this AD, prior to further flight, replace the corroded solenoid with a modified one having part number 500A000–03. After such replacement, continue to perform integrity tests on all 8 solenoids at intervals not to exceed 350 flight hours until all 8 solenoids have been replaced with modified solenoids.

(c) Installation of Modification 6725 in accordance with Airbus Industrie Service

Bulletin A310–27–2046, Revision 1, dated November 24, 1989, which involves the installation of modified solenoids on all 8 solenoid valves in the wing tip brake, constitutes terminating action for the integrity testing required by paragraphs (a) and (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the 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 January 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1620 Filed 1–22–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–CE–60–AD]

Airworthiness Directives; Rockwell International/Collins Air Transport Division DME–700 Distance Measuring Equipment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Rockwell International/Collins Air Transport Division (Collins) DME–700 distance measuring equipment (DME) installed on certain aircraft. The proposed action would require modifying these DME units to ensure that they are functioning properly. The Federal Aviation Administration (FAA) has received several reports of the affected DME units failing to process and update distance outputs, and establishing a continuous restart mode upon power application, which prevents distance information from being provided to the flight management computer system. The actions specified by the proposed AD are intended to prevent improper operation of this equipment, which could result in navigational errors.

DATES: Comments must be received on or before April 9, 1993.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–60–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that is discussed in this proposed AD may be obtained from Rockwell International/Collins Air Transport Division, 400 Collins Road, NE.; Cedar Rapids, Iowa 52498. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roger A. Souter, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4134; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the 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 that summarizes 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 No. 92–CE–60–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–60–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports of improper operation of Collins DME–700 distance measuring equipment (DME). These DME units are installed on, but not limited to, the following airplanes:

Manufacturer	Models
Boeing	B737, B747–400, B767.
McDonnell Douglas	MD 80, MD 11.
Airbus	A320.

This equipment measures the slant-range (line-of-sight) distance from aircraft to ground stations and provides continuous distance information to the flight management computer system for high-accuracy position fixing.

Reports indicate that the following conditions are occurring: (1) The DME unit fails to process and update Aeronautical Radio, Inc. (ARINC) 429 distance outputs (referred to as "sleeping DME"); and (2) The DME unit establishes a continuous restart mode upon power application (referred to as "deaf DME"), which prevents continuous distance information from being provided to the flight management computer system. If not detected and corrected, improper operation (sleeping or deaf DME's) of the DME–700 distance measuring units could result in navigational errors.

Collins has issued the following service bulletins (SB): (1) SB 20, revision 1, DME–700–34–20, dated August 30, 1991, which specifies procedures for incorporating a modification that prevents "sleeping DME's"; and (2) SB 24, DME–700–34–24, dated May 15, 1992; SB 25, DME–700–34–25, dated November 11, 1992; and SB 26, DME–700–34–26, dated October 21, 1992, which specify procedures for incorporating modifications that prevent "deaf DME's".

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to correct the unsafe condition.

Since the condition described is likely to exist or develop in other Collins DME–700 distance measuring equipment of the same type design installed in aircraft, the proposed AD would require modifying these DME units to ensure that they are functioning properly. The proposed actions would

be accomplished in accordance with the service bulletins described above.

The condition specified by this proposed AD concerning the Collins DME–700 distance measuring equipment is not caused by actual hours time-in-service (TIS) of the airplane that the equipment is installed in. There is no correlation between improper operation of the equipment and the age or number of times the equipment is utilized. Based on this, the compliance time of the proposed AD is presented in calendar time instead of hours TIS.

The FAA estimates that 651 airplanes (1,302 DME–700 units) in the U.S. registry would be affected by the proposed AD, that it would take approximately 7 workhours per airplane (3.5 workhours per unit) to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts would be provided by the manufacturer at no cost to the owner/operator. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $250,635.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, 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 has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Rockwell International/Collins Air Transport Division

Docket No. 92–CE–60–AD.

Applicability: DME–700 distance measuring equipment (serial numbers 1 through 4247) (part numbers 622–4540–020, 622–4540–021, 622–4540–120, and 622–4540–121), that are installed on, but not limited to, the following model airplanes (all serial numbers), certificated in any category:

Manufacturer	Models
Boeing	B737, B747–400, B767.
McDonnell Douglas	MD 80, MD 11.
Airbus	A320.

Note 1: The modifications required by this AD have been or will be incorporated during production beginning with serial number 4248.

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

To prevent improper operation of these DME units, which could result in navigational errors, accomplish the following:

(a) Ensure that Aeronautical Radio, Inc. (ARINC) 429 distance outputs are processed and updated by modifying the distance measuring equipment in accordance with the Accomplishment Instructions section of Collins Service Bulletin (SB) 20, revision 1, DME–700–34–20, dated August 30, 1991.

(b) Ensure proper initialization by modifying the distance measuring equipment in accordance with the Accomplishment Instructions section of Collins SB 24, DME–700–34–24, dated May 15, 1992, or Collins SB 25, DME–700–34–25, dated November 11, 1992; and Collins SB 26, DME–700–34–26, dated October 21, 1992.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Rockwell International/Collins Air Transport Division, 400 Collins Road, NE.; Cedar Rapids, Iowa 52498; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 14, 1993.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1621 Filed 1–22–93; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 76

[AD–FRL–4555–6]

Acid Rain Program; Nitrogen Oxides Emission Reduction Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The EPA is extending the comment period on its proposed rule on the Acid Rain Nitrogen Oxides Emission Reduction Program. The Extension was requested by the Class of '85 Regulatory Response Group.

DATES: The comment period on this proposed rule is extended until February 8, 1993.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket Section (A–131), Attention, Docket No. A–92–15, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. *Docket.* Docket No. A–92–15, containing supporting information used in developing the proposed rule, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room 1500, 1st Floor, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying. Additional data and information pertaining to the proposed rule may be found in Docket No. A–90–39.

FOR FURTHER INFORMATION CONTACT: Doris Price, Chief, Technology and Information Systems Section, at (202) 233–9067, Source Assessment Branch, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule on November 25,

1992 (57 FR 55632) that would implement the initial phase of section 407 of the Clean Air Act ("the Act") by establishing nitrogen oxides (NO_x) emission limitations for certain coal-fired utility units, as specified in section 407(b)(1), and other requirements and procedures for all coal-fired utility units subject to NO_x emission limitation requirements under Phase I or Phase II of the Acid Rain Program. The comment period of the proposed rule was scheduled to expire on January 25, 1993, however, EPA is extending the comment period for an additional 14 days until February 8, 1993. This extension is at the request of the Class of '85 Regulatory Response Group, which is an informal coalition of 27 electric utilities.

Dated: January 15, 1993.

Eileen B. Claussen,

Director, Office of Atmospheric Programs.

[FR Doc. 93-1672 Filed 1-22-93; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1023 and 1162

[Ex Parte No. MC-100 (Sub-No. 6)]

Single State Insurance Registration

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to revise its regulations pertaining to registration by motor carriers with States. The Commission is acting pursuant to the requirements of the Intermodal Surface Transportation Efficiency Act of 1991. The proposed regulations will replace a multi-State motor vehicle and operating authority registration system with a simplified, single-State insurance-based registration system.

DATES: Comments must be submitted by February 24, 1993.

ADDRESSES: The original and 10 copies of comments identified as such and referring to Ex Parte No. MC-100 (Sub-No. 6) must be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz, (202) 927-5316 or Richard B. Felder, (202) 927-5610 (TDD for hearing impaired: (202 927-5721).

SUPPLEMENTARY INFORMATION: Section 4005 of Title IV of the Intermodal Surface Transportation Efficiency Act of 1991 significantly amended 49 U.S.C. 11506—Registration of Motor Carriers by a State. The new law, at 49 U.S.C. 11506(c)(1) requires that the Commission prescribe amendments to the regulations governing the existing registration system. The Commission must replace the existing multi-State motor vehicle and operating authority registration system with a simplified, single-State insurance-based registration system. The present regulations are codified at 49 CFR part 1023 and 49 CFR 1162.7 and 1162.8.

In a decision served May 8, 1992, and an Advance Notice of Proposed Rulemaking published at 57 FR 20072-20073 on May 11, 1992, the Commission examined the new law and requested the public to participate in the formulation of revised regulations. The Commission now is proposing regulations drafted in light of the comments received from the insurance and trucking industries, State regulatory agencies, and other interested parties.

The attached proposed regulatory text does not include proposed rules concerning the insurance receipts that the registration States will issue motor carriers. The Commission is considering alternate regulations in this area, as follows:

First Alternative

Section 1023.5 Insurance Receipts

(a) On compliance by a motor carrier with the annual or supplemental registration requirements of § 1023.4 of this Part, the registration State must issue the carrier a receipt reflecting that the carrier has filed the required proof of insurance and paid fees in accordance with the requirements of that section.

(1) The receipt must be in the form appended to this Part and must contain information identifying the carrier and specifying the total amount of fees paid. Supplemental receipts need contain only information relating to their underlying supplemental registrations. Receipts may not contain information regarding numbers of vehicles declared and/or States of operation.

(2) [Reserved]

(b) Receipts issued pursuant to a filing made during the annual registration period specified in § 1023.4(b)(2) must be issued by the 10th day of December of the year preceding the registration year. All other receipts must be issued by the 20th day following the date of filing of a fully acceptable supplemental registration application. All receipts and authorized copies shall expire on the 31st day of December of the registration year for which they were issued.

(c) A carrier is permitted to operate its motor vehicles only in those participating States with respect to which it has paid appropriate fees.

(d) A motor carrier may make copies of receipts to the extent necessary to comply with the provision of paragraph (e) of this section. However, it may not alter a receipt or a copy of a receipt.

(e) A motor carrier must maintain in each of its motor vehicles a copy(ies) of its receipts(s), indicating that it has filed the required proof of insurance and paid the required fees.

(f) A motor carrier may transfer its copies of its receipts between its motor vehicles or from vehicles taken out of service to their replacement vehicles. However, it may not operate more motor vehicles in a participating State than the number with respect to which it has paid fees.

(g) The driver of a motor vehicle must present a copy(ies) of a receipt(s) for inspection by any authorized government personnel on reasonable demand.

(h) No registration State shall require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by a motor carrier.

Second Alternative

Section 1023.5 Insurance Receipts

(a) On compliance by a motor carrier with the annual or supplemental registration requirements of § 1023.4 of this part, the registration State must issue the carrier a receipt reflecting that the carrier has filed the required proof of insurance and paid fees in accordance with the requirements of that section. The registration State also must issue a number of official copies of the receipt equal to the number of motor vehicles for which fees have been paid.

(1) The receipt and official copies must be in the form appended to this part and must contain information identifying the carrier and specifying the number of vehicles declared and amounts of fees paid with respect to each participating State. Supplemental receipts and official copies need contain only information relating to their underlying supplemental registrations.

(i) On request, a registration State must issue without charge, in place of receipts and official copies representing multiple filings, unified receipts and official copies containing the information pertaining to all annual and/or supplemental registrations covering a particular registration year.

(ii) [Reserved]

(2) [Reserved]

(b) Receipts and official copies of receipts issued pursuant to a filing made during the annual registration period specified in § 1023.4(b)(2) of this part must be issued by the 10th day of December of the year preceding the registration year. All other receipts and official copies must be issued by the 20th day following the date of filing of a fully acceptable supplemental registration application. All receipts and official copies shall expire on the 31st day of December of the registration year for which they were issued.

(c) A motor carrier may not copy or alter a receipt or an official copy of a receipt.

(d) A carrier is permitted to operate its motor vehicles only in those participating States with respect to which it has paid appropriate fees, as indicated on the receipts and official copies of receipts.

(e) A motor carrier must maintain in each of its motor vehicles an official copy(ies) of its receipt(s) indicating that it has filed the required proof of insurance and paid appropriate fees for each State in which it operates.

(f) A motor carrier may transfer its official copies of its receipts between its motor vehicles or from vehicles taken out of service to their replacement vehicles. However, it may not operate more motor vehicles in a participating State than the number with respect to which it has paid fees.

(g) The driver of a motor vehicle must present an official copy(ies) of a receipt(s) for inspection by any authorized government personnel on reasonable demand.

(h) A motor carrier may apply to its registration State for the replacement of a lost or stolen receipt(s) or official copy(ies) of a receipt(s). An application for such replacement must be accompanied by an affidavit detailing the facts supporting it. Within 10 days following the receipt of such an application, the registration State must issue replacements without charge.

(i) No registration State shall require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by a motor carrier.

As seen, under one rule, a registration State would issue a single receipt that a carrier would copy to the extent necessary. Under the alternate rule, a registration State would issue a receipt and the necessary numbers of official copies, which a motor carrier would not be permitted to reproduce. The Commission specifically requests comments addressing the two alternatives.

In addition, the Commission still is considering proposals for the two new forms that the rules will require: one to be used for annual and supplemental registration applications, and the other to be used for receipts. The Commission requests commentors to submit suggested forms consistent with the proposed and contemplated rules.

The Commission invites interested parties to submit comments focusing on new issues raised as well as any matters left unresolved. The Commission encourages parties that are in agreement to submit joint filings.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Initial Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we preliminarily conclude that our proposed action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose of our action is to reduce a regulatory burden. The economic impact on small entities, if any, will be to reduce administrative costs and is not likely to be significant within the meaning of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 1023

Insurance, Motor carriers, Surety bonds.

49 CFR Part 1162

Administrative practice and procedure, Motor carriers.

Decided: January 13, 1993.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Walden. Vice Chairman McDonald commented with a separate expression. Commissioner Simmons dissented in part with a separate expression. Commissioner Walden did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, Title 49, Chapter X, Parts 1023 and 1162 of the Code of Federal Regulations are proposed to be amended as follows:

1. Part 1023 is proposed to be revised to read as follows:

PART 1023—STANDARDS FOR REGISTRATION WITH STATES

Sec.

Authority: 49 U.S.C. 10321 and 11506; 5 U.S.C. 553.

§ 1023.1 Definitions.

(a) *The Commission.* The Interstate Commerce Commission.

(b) *Motor carrier* and *carrier.* A person authorized to engage in the transportation of passengers or property, as a common or contract carrier, in interstate or foreign commerce, under the provisions of 49 U.S.C. 10922, 10923, or 10928.

(c) *Motor vehicle.* A self-propelled or motor driven vehicle operated by a motor carrier in interstate or foreign commerce under authority issued by the Commission.

(d) *State.* A State of the United States or the District of Columbia.

§ 1023.2 Participation by States.

(a) A State is eligible to participate as a registration State and to receive fee revenue only if:

(1) As of January 1, 1991, it charged or collected a fee for a vehicle identification stamp or a number pursuant to the provisions of the predecessor to this Part; and

(2) It continuously participates in the registration program beginning (with the effective date of these regulations).

(b) An eligible State that intends to cease participating in the registration program must publish notice of its intention by the 1st day of July of the year preceding the registration year in which it will cease participating.

§ 1023.3 Selection of registration State.

(a) Each motor carrier required to register and pay filing fees must select a single participating State as its registration State. The carrier must select the State in which it maintains its principal place of business, if such State is a participating State. A carrier that maintains its principal place of business outside of a participating State must select the State, or one of the States, to which it will pay the largest amount of fees during the next registration year.

(b) A carrier may not change its registration State unless it changes it principal place of business or its registration State ceases participating in the program, in which case the carrier must select a registration State for the next registration year under the standards of paragraph (a) of this section.

(c) A carrier must give notice of its selection to the State commission of its selected registration State, and, if pertinent, the State commission of its prior registration State, as soon as practicable after it has made its selection. If it is not feasible to give notice by the 1st day of October of the year preceding the next registration year, the carrier may continue to use its prior registration State, if any, for the next registration year.

(d) A carrier must give notice of its selection to its insurer or insurers as soon as practicable after it has made its selection.

§ 1023.4 Requirements for registration.

(a) Except as provided in paragraph (e)(1) of this section with regard to a carrier operating under temporary authority, only a motor carrier holding a certificate or permit issued by the Commission under 49 U.S.C. 10922 or 10923 shall be required to register under these standards.

(b) A motor carrier operating in interstate or foreign commerce in one or more participating States under a certificate or permit issued by the Commission shall be required to register annually with a single registration State, and such registration shall be deemed to satisfy the registration requirements of all participating States.

(1) The registration year will be the calendar year.

(2) A carrier must file its annual registration application between the 1st day of October and the 20th day of November of the year preceding the registration year. A carrier that intends to commence operating during the current registration year may register at any time, but it must do so before it commences operating.

(3) The registration application must be in the form appended to this part and must contain the information and be accompanied by the fees specified in paragraph (c) of this section. There will be no prorating of fees to account for partial year operations.

(4) A carrier that has changed its registration State since its last filing must identify the registration State with which it previously filed.

(c) A motor carrier must file the following with its registration State:

(1) Copies of its certificates and/or permits. A carrier must supplement its filing by submitting copies of any new operating authorities as they are issued. Once a carrier has submitted copies of its authorities, it may thereafter satisfy the filing requirement by certifying that the copies are on file. A carrier may, with the permission of its registration State, submit a summary of its operating authorities in lieu of copies if submitting copies would be unduly burdensome. A carrier granted emergency temporary authority or temporary authority having a duration of 120 days or less is not required to file evidence of such authority, but it must otherwise comply with the requirements of this section;

(2) A copy of its proof of public liability security submitted to and accepted by the Commission under 49 CFR part 1043 or a copy of an order of the Commission approving a public liability self-insurance application or other public liability security or agreement under the provisions of that part. A carrier must supplement its filings as necessary to ensure that current information is on file. Once a carrier has submitted a copy of its proof or order of the Commission, it may thereafter satisfy the filing requirement by certifying that it has done so and that is security, self-insurance, or agreement remains in effect;

(3) A copy of its designation of an agent or agents for service of process submitted to and accepted by the Commission under 49 CFR part 1044. A carrier must supplement its filings as necessary to ensure that current information is on file. Once a carrier has submitted a copy of its designation, it may thereafter satisfy the filing requirement by certifying that its designation is on file; and

(4) A fee for the filing of proof of insurance. In support of such fee, the carrier must submit the following information:

(i) The number of motor vehicles it intends to operate in each participating State during the next registration year;

(ii) The per vehicle fee each pertinent participating State charges, which fee must equal the fee, not to exceed $10, that such State collected or charged as of November 15, 1991;

(iii) The total fee due each participating State; and

(iv) The total of all fees specified in paragraph (c)(4)(iii) of this section.

(d) A carrier must make such supplemental filings at any time during the registration year as may be necessary to specify additional vehicles and/or States of operation and to pay additional fees.

(e) The charging or collection of any fee that is not in accordance with the fee system established above is deemed a burden on interstate commerce.

(f) A motor carrier must submit to its insurer of insurers a copy of the supporting information, including any supplemental information, filed with its registration State under paragraph (c)(4) of this section.

(g) To the extent any State registration requirement imposes obligations in excess of those specified in this Part, the requirement is an unreasonable burden on transportation within the Commission's jurisdiction under 49 U.S.C. 10521(a).

§ 1023.5 Insurance receipts. [Reserved]

§ 1023.6 Registration State accounting.

(a) A participating State must, on or before the last day of each month, allocate and remit to each other participating State the appropriate portion of the fee revenue registrants submitted during the preceding month. Each remittance must be accompanied by a supporting statement identifying registrants and specifying the number of motor vehicles for which each registrant submitted fees. A participating State must submit a report of "no activity" to any other participating State for which it collected no fees during any month.

(b) A participating State must maintain records of fee revenue received from and remitted to each other participating State. Such records must specify the fees received from and remitted to each participating State with respect to each motor carrier registrant. A participating State must retain such records for a minimum of 4 years.

(c) A participating State must keep records pertaining to each of the motor carriers for which it acts as a registration State. The records must, at a minimum, include copies of annual and supplemental registration applications containing the information required by § 1023.4(c). A registration State must retain all such records for a minimum of 4 years.

§ 1023.7 Violations unlawful; criminal penalties and civil sanctions.

Any violation of the provisions of these standards is unlawful. Nothing in these standards shall be construed to prevent a State from imposing criminal penalties or civil sanctions upon any person or organization violating any provision of them.

PART 1162—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) PROCEDURES UNDER 49 U.S.C. 10928

2. The authority citation for part 1162 continues to read as follow;

Authority: 49 U.S.C. 10321; 10928; 5 U.S.C. 559.

§ 1162.7 and 1162.8. [Removed]

3. Sections 1162.7 and 1162.8 are removed.

[FR Doc. 93–1779 Filed 1–22–93; 8:45 am]
BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 58, No. 14
Monday, January 25, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Attained Harvest Closure, Federal Subsistence Hunting Season, Alaska Game Management Unit 5(A)—Moose

AGENCY: Forest Service, USDA; and Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Federal subsistence hunting season for moose on Federal public lands in the portion of Game Management Unit (GMU) 5(A) west of the Dangerous River has been closed. Title VIII of the Alaska National Interest Lands Conservation Act requires the Secretary of the Interior and the Secretary of Agriculture to assure the continued viability of fish and wildlife populations in the implementation of title VIII mandates. Federal subsistence management regulations at 36 CFR 242.25(m)(5) and 50 CFR 100. 25(m)(5)—Moose, provide for closure of this season after the harvest quota has been reached. The moose harvest quota has reached the maximum acceptable level.

EFFECTIVE DATE: October 26, 1992.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Subsistence Office, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 271–2326. National Forest System, Norman R. Howse, Assistant Director for Subsistence, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628, telephone (907) 586–8890.

SUPPLEMENTARY INFORMATION: Pursuant to Subsistence Management Regulations for Public Lands in Alaska at 50 CFR 100.25(m)(5) and 36 CFR 242.25(m)(5)—Moose, the Federal subsistence hunting season is closed on Federal public lands in that portion of GMU 5(A) west of the Dangerous River. The regulations state "The season will be closed in that portion west of the Dangerous River when 30 bulls have been taken in that area." The maximum acceptable number of 30 moose have been harvested from that area. Therefore, the Federal subsistence hunting season on Federal public lands in GMU 5(A) west of the Dangerous River is closed to moose hunting effective October 26, 1992.

Curtis V. McVee,
Chair, Federal Subsistence Board.
Michael A. Barton,
Regional Forester, USDA—Forest Service.
[FR Doc. 93–1597 Filed 1–22–93; 8:45 am]
BILLING CODE 4310–55–M

Federal Subsistence Caribou Hunt Opening, Galena Area, Alaska Game Management Unit 21(D)

AGENCY: Forest Service, USDA; and Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Federal Subsistence Board has opened a temporary winter season for subsistence caribou hunting on Federal public land in that portion of Game Management Unit (GMU) 21(D) north of the Yukon River and east of the Koyukuk River. The temporary season opens on November 11, 1992, and will extend through March 31, 1993. Title VIII of the Alaska National Interest Lands Conservation Act requires the Secretary of the Interior and the Secretary of Agriculture to assure the continued viability of fish and wildlife populations in the implementation of title VIII mandates. Federal subsistence management regulations at 36 CFR 242.25 and 50 CFR 100.25, Subsistence Taking of Wildlife, call for a temporary winter season to be announced only when sufficient animals from the Western Arctic Caribou Herd are present.

EFFECTIVE DATE: November 11, 1992.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Subsistence Office, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 271–2326. Koyukuk/Nowitna National Wildlife Refuge, Galena, Alaska; telephone (907) 656–1231.

SUPPLEMENTARY INFORMATION: Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.25 and 36 CFR 242.25, Subsistence Taking of Wildlife, provide for a temporary winter caribou hunt in GMU 21(D) north of the Yukon River and east of the Koyukuk River, with the dates to be announced by the Federal Subsistence Board. Dates are not included in the regulations in order to afford managers the flexibility to open the season only when sufficient animals from the Western Arctic Caribou Herd are present. The intent is to provide harvest opportunities to harvest caribou from the expanding Western Arctic Caribou Herd without risking overharvest of caribou from the smaller Galena Mountains Caribou Herd which is resident to the same general area. Large numbers of Western Arctic caribou have now moved into GMU 21(D) from the northwest and outnumber the Galena Mountains caribou in sufficient numbers to provide adequate protection. Therefore, a temporary winter season will open on November 11, 1992 and extend no later than March 31, 1993. If the Western Arctic caribou leave the area, the season may be closed prior to March 31, 1993. The bag limit is two caribou in addition to any caribou harvested during the August 10–September 30 season. Only rural residents of GMU 21(D) west of the Koyukuk and Yukon rivers and rural residents of GMU's 22(A), 22(B), 23, 24, and 26(A) are eligible to participate in the Federal season.

Curtis V. McVee,
Chair, Federal Subsistence Board.
Michael A. Barton,
Regional Forester, USDA-Forest Service.
[FR Doc. 93–1603 Filed 1–22–93; 8:45 am]
BILLING CODE 4310–55–M

COMMISSION ON CIVIL RIGHTS

Montana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will be held from 12:30 p.m. until 3:30 p.m. on Friday, February 12, 1993, at the Sheraton Hotel, 27 North 27th Street, Billings, Montana 59101. The purpose of the meeting is to

discuss current issues, review the Committee's current project and plan future activities.

Persons desiring additional information should contact Committee Chairperson, Donald Dupuis, or William F. Muldrow, Director of the Rocky Mountain Regional Division, (303) 866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, January 12, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–1679 Filed 1–22–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration (ITA).

Title: Information Services Order Form.

Agency Form Number: ITA–4096P.

OMB Approval Number: 0625–0143.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,366 hours.

Number of Respondents: 7,659.

Avg Hours Per Response: Ranges between 5 minutes and 1 hour.

Needs and Uses: ITA's U.S. and Foreign Commercial Service District Offices offer their clients Department of Commerce programs, market research, and services to enable clients to begin exporting or to expand existing exporting efforts. Specific information is required in order to determine the client's interests and needs. This information collection is designed to elicit such data and allow the District Office trade specialists, serving as export counselors to the firms, to make knowledgeable recommendations on which services or programs would best help a variety of clients to meet individual goals.

Affected Public: State or local governments; businesses or other for–profit institutions; Federal agencies or employees; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395–7340, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Dealer Purchases and Trip Interview Family of Forms.

Agency Form Numbers: NOAA 88–30, NOAA 88–142.

OMB Approval Number: 0648–0229.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,756 hours.

Number of Respondents: 1,041 (Number of responses per respondent ranges between 14 and 52).

Avg Hours Per Response: Ranges between 2 and 30 minutes.

Needs and Uses: Information obtained through the use of these forms (catch, effort, area fished, value, etc.) is necessary for stock and economic assessments, monitoring the impact of fishing regulations, development of Fishery Management Plans for conservation and management of the nation's fisheries resources in the Atlantic.

Affected Public: Individuals; businesses or other for–profit institutions; small businesses or organizations.

Frequency: On occasion, weekly, by fishing trip.

Respondent's Obligation: Voluntary for some fisheries; mandatory for others.

OMB Desk Officer: Ron Minsk, (202) 395–3084, Room 3019, New Executive Office Building, Washington, D.C. 20503.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the appropriate OMB Desk Officer listed above.

Dated: January 15, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–1646 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–CW–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: International Trade Administration.

Title: Matchmaker Trade Delegations: Quality Assurance and End-of-Event Surveys.

Form Numbers: Agency—ITA 4106P and ITA 4120P OMB—0625–0203.

Type of Request: Revision of an Approved Collection of Information.

Burden: 480 respondents; 80 reporting hours.

Average Hours Per Response: 10 minutes.

Needs and Uses: The International Trade Administration's U.S. and Foreign Commercial Service (US&FCS), Export Promotion Services, Trade Events Division develops and operates 12 Matchmaker trade delegations annually with an average of 20 delegates. The Quality Assurance Survey is completed 10 months after the Matchmaker events has taken place. The End-of-Event Survey is completed immediately after the Matchmaker event has taken place at the US&FCS overseas posts. These surveys are used to evaluate the overall effectiveness of the Matchmaker program in meeting participants' overseas marketing objectives over the long-term. The information collected by US&FCS will be used for program evaluation and strategic planning.

Affected Public: Business or other for-profit and small business or organizations.

Frequency: On occasion.

Respondents Obligation: Voluntary.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: January 19, 1993.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 93–1713 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of Export Administration

Sensors; Technical Advisory Committee; Notice of Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held February 10, 1993, 9 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: January 15, 1993.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 93–1647 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–DT–M

Telecommunications Equipment; Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held February 11, 1993, 9:30 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis on technical questions that affect the level of export controls applicable to telecommunications and related equipment and technology.

Agenda: General Session

1. Opening remarks by the Chairman.
2. Approval of minutes.
3. Presentation of papers or comments by the public.
4. Other business.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, ODAS/EA/BXA, Room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: January 15, 1993.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 93–1648 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–DT–M

Transportation and Related Equipment; Technical Advisory Committee; Notice of Open Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held February 18, 1993, 9:30 a.m. at the Herbert C. Hoover Building, Room 1617–M2, 14th Street & Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

Agenda: General Session

1. Opening Remarks by the Chairman or Commerce Representative.
2. Introduction of Members and Visitors.
3. Election of Chairman.
4. Presentation of Papers or Comments by the Public.
5. Briefing by the Regulations and Procedures Technical Advisory committee (formerly the MCTL TAC).
6. Discussions of recent revisions to the Export Admin. Regulations.
7. Discussion of recent revisions to the ITAR.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: U.S. Department of Commerce/BXA, Office of Deputy Assistant Secretary for Export Administration, 14th & Constitution Avenue, NW., Room 1621, Washington, DC 20230.

For further information or copies of the minutes, please call (202) 482–2583.

Dated: January 15, 1993.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of the Deputy Assistant Secretary for Export Administration.

[FR Doc. 93–1649 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Henry Crosby From an Objection by the State of South Carolina

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On December 29, 1992, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Henry Crosby (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit under section 404 of the Clean Water Act to place fill material in a wetland for the purpose of constructing an impoundment and installing a water control structure in Colleton County, South Carolina. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with the State's federally approved Coastal Management Program (CMP). The South Carolina Coastal Council (State), the State of South Carolina's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A).

On September 8, 1989, the State objected to the Appellant's consistency certification for the proposed project on the ground that the proposed project is not in accordance with the State's CMP policies and objectives of providing for the protection of wildlife and fisheries resources from significant negative impacts and productive freshwater wetlands from significant permanent alteration. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the State's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I.

Upon consideration of the information submitted by the Appellant, the State and interested Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121(b): The Appellant's proposed project would adversely affect the natural resources of the coastal zone by permanently altering wetlands, thus causing loss of normal functions and values. The proposed project would therefore cause adverse effects on the resources of the coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its minimal contribution to the national interest. Accordingly, the proposed project is not consistent with the objectives or purposes of the CZMA. Because the Appellant's proposed project failed to satisfy all of the requirements of Ground I, the Secretary did not override the State's objection to the Appellant's consistency certification. Consequently, the proposed project may not be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Mary O'Donnell, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

Dated: January 14, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93–1743 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–08–M

Coastal Zone Management: Federal Consistency Appeal by the Municipality of Barceloneta From an Objection by the Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

On or about June 4, 1990, the Municipality of Barceloneta (Appellant) filed an appeal with the Secretary of Commerce (Secretary) pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations at 15 CFR part 930, subpart H. The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to channelize a portion of the Rio Grande de Manati as part of a flood control project and to dredge 6,233,607 cubic meters of material to create a marina within the Hacienda La Esperanza Natural Reserve, Puerto Rico. In conjunction with the Federal permit application, the Appellant submitted to the Corps for review by the Puerto Rico Planning Board (PRPB), the Commonwealth of Puerto Rico's coastal management agency, under section 307(c)(3)(A) of the CZMA, a certification that the proposed activity is consistent with Puerto Rico's Federally-approved Coastal Management Program (CMP). On April 30, 1990, the PRPB objected to the Appellant's consistency certification for the proposed project on the ground that it would have significant, negative impacts on the ecological systems within the Hacienda La Esperanza Natural Reserve.

The Appellant requested dismissal of its appeal, and the PRPB had no objection to the dismissal of the appeal. Accordingly, the Appellant's consistency appeal has been dismissed. The Appellant may not file another appeal from the PRPB's objection to its permit application.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

Dated: January 14, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93–1744 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of Bangladesh; Correction

January 19, 1993.

On page 60175 of the **Federal Register** published on December 18, 1992 (57 FR 60175), second column, first paragraph, line 2, change "February 1, 1993 through January 31, 1994" to "February 1, 1992 through January 31, 1993."

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–1712 Filed 1–22–93; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the procurement list commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 24, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe adverse impact on the current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List for production by the nonprofit agency listed:

Commodities

Cover, Protective, Life Preserver
4220–00–926–9463 thru –9470
Nonprofit Agency: BESB Industries, West Hartford, Connecticut

Insulation Tape, Electrical
5970–00–419–4290
Nonprofit Agency: Raleigh Lions Clinic for the Blind, Inc., Raleigh, North Carolina

Compound, Corrosion Preventive
8030–00–524–9487
8030–00–251–5048
8030–00–251–5049
8030–00–213–3279
8030–00–262–7358
Nonprofit Agency: The Lighthouse for the Blind, Berkeley, Missouri

Services

Janitorial/Custodial, Department of Transportation, FAA, Air Traffic Control Tower, Murphy Terminal Building, Bradley International Airport, Windsor Locks, Connecticut. Nonprofit Agency: Human Resources Unlimited, Inc., Springfield, Virginia.

Janitorial/Custodial, Federal Building, U.S. Post Office and Courthouse, 515 Murray Street, Alexandria, Louisiana. Nonprofit Agency: Louisiana Industries for the Disabled, Inc., Baton Rouge, Louisiana.

Janitorial/Custodial, Flight Service Station, Lewistown, Montana. Nonprofit Agency: Regional Services for South, Central and Eastern Montana, Inc., Billings, Montana.

Order Processing, GSA, Northeast Distribution Center, Burlington, New Jersey. Nonprofit Agency: Bestwork Industries for the Blind, Inc., Westmont, New Jersey.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–1725 Filed 1–22–93; 8:45 am]

BILLING CODE 6820–33–M

Procurement List Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and deletions from procurement list.

SUMMARY: This action adds to the procurement list a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the procurement list commodities previously furnished by such agencies.

EFFECTIVE DATE: February 24, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 30 and December 4, 1992, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (55 FR 56569 and 57425) of proposed additions to and deletions from Procurement List:

Addition

After consideration of the material presented to it concerning capability of qualified workshops to provide the service, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to Procurement List: Janitorial/Grounds Maintenance, U.S. Army Reserve Center, 4722 McArdle Road, Corpus Christi, Texas.

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed

below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Shirt, Women's
8410–01–104–7948
8410–01–224–6125

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–1726 Filed 1–22–93; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar and Cocoa Exchange Proposed Futures and Futures Options on Cheddar Cheese and Nonfat Dry Milk

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Coffee, Sugar and Cocoa Exchange (CSCE or Exchange) has applied for designation as a contract market in cheddar cheese futures and nonfat dry milk futures and options on those two futures. The Director of the Division of Economic Analysis (Division of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before February 24, 1993.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CSCE futures and options on cheddar cheese or nonfat dry milk.

FOR FURTHER INFORMATION CONTACT: Please contact Frederick Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CSCE in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CSCE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 15, 1993.

Gerald D. Gay,

Director.

[FR Doc. 93–1562 Filed 1–22–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 10–11 February 1993.

Time of Meeting: 0800–1700, each day.

Place: Ft. Belvoir, Virginia.

Agenda: The Army Science Board Ad Hoc Panel on "Space Systems and Future Army Operations" will meet for discussions focussed on current operational concepts, space simulations, integrated planning, and associated technologies. This meeting will be closed to the public in accordance with section 552b.(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C. appendix 2, subsection 10(d). The classified and non-classified information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–1680 Filed 1–22–93; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for a Proposed Municipal Water Supply Project, Central City, Colorado

AGENCIES: U.S. Army Corps of Engineers, U.S. Bureau of Land Management, U.S. Forest Service.

ACTION: Notice intent.

SUMMARY: The City of Central, Colorado proposes to construct a new water supply and storage project to supplement the water supply, transmission, and storage facilities currently serving the city. The Corps of Engineers has received a letter of intent from Central City stating that it intends to submit an application for a permit pursuant to section 404 of the Clean Water Act for construction of the proposed project. Construction of the pipeline would also require a Special Use Permit from the U.S. Forest Service for construction on Araapahoe National Forest lands and a Right-of-Way from the U.S. Bureau of Land Management for construction on public lands. Both the U.S. Forest Service and U.S. Bureau of Land Management actions would be pursuant to the Federal Land Policy and Management Act.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft EIS can be answered by: Candace M. Thomas, Planning Division, U.S. Army Corps of Engineers, 215 North 17th Street, Omaha, Nebraska 68102–4978. Telephone: 402–221–4885.

SUPPLEMENTARY INFORMATION: Section 404 of the Clean Water Act (33 U.S.C. 1344) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill material into the waters of the United States at specified disposal sites. The Federal Land Policy and Management Act authorizes the U.S. Forest Service and Bureau of Land Management to approve certain uses of public lands in accordance with the resource management plans developed for management of those lands.

Although the City has not yet applied for a 404 permit, its tentatively preferred alternative consists of a 70-foot-high dam in chase Gulch, located in the

northwest ¼ of Section 2., T.3S., R.73W., Gilpin County, Colorado. In addition, a pump station would be included immediately below the dam and a pipeline to the existing raw water supply pipeline owned by the city. The reservoir would be supplied with water from the city's existing raw water collection system during the peak runoff period and with water diverted from North Clear Creek. Storage capacity would be 600 acre-feet.

The City has recently experienced significant commercial growth since the introduction of limited stakes gaming in October 1991. This growth has brought corresponding increases in the demand for raw and treated water for all municipal purposes. Thus far, the City has constructed a new water treatment facility and water storage tank, has replaced or upgraded its entire water distribution system, has adopted several water conservation measures, and has pursued other water acquisition measures. In addition, the City has placed a moratorium on issuing new building permits in the city. Despite these measures, the existing water supply is insufficient to meet projected future demand.

Alternatives to the tentatively preferred project identified to date include:

1. Construction of a diversion in Clear Creek in the vicinity of Idaho Springs and construct a raw water transmission line along various possible routes. Included in each Clear Creek alternative is either new construction, expansion, or acquisition of existing storage rights in the Clear Creek Basin.

2. Construct one or more smaller reservoirs in Eureka Gulch and/or New York Gulch together with a raw water transmission line, diversion structure and pump station on either North Clear Creek or the main stem of Clear Creek.

3. Construct a raw water transmission line from the James Peak and Echo Lake storage facilities (owned by the City of Central) in the South Bolder Creek drainage basin to the City's existing treatment plant located in Eureka Gulch.

4. Construct with one or more public or private water suppliers in the Clear Creek drainage basin for a treated or raw water supply and construct a transmission line to the City's existing treatment plant located in Eureka Gulch.

5. Develop ground water resources in the North Clear Creek Basin with the necessary pipelines to the City's Eureka Gulch treatment plant.

6. Construct one or serveral configurations and capacities for the Chase Gulch Reservoir project.

7. No Federal action.

The proposed public involvement program involves a widely publicized public scoping meeting, as well as an agency scoping meeting, to solicit public input on issues, studies needed, alternatives to be evaluated, and other related matters. Written comments will also be requested. Due to the relatively short time period between scoping meetings and the anticipated public release of the Draft EIS, additional public involvement will focus on coordination with the cooperating agencies and other interested agencies, the applicant and other locals. Central City's monthly city council meetings will also serve as a forum for public involvement.

Significant issues identified thus far include indirect and secondary impacts of development associated with the water supply project, particularly on the Historic Landmark status of the area.

Other applicable and pertinent environmental review and consultation requirements will be undertaken simultaneously with the NEPA process, including requirements of the Endangered Species Act, Fish and Wildlife Coordination Act, Clean Water Act, National Historic Preservation Act, Protection of Wetlands, Clean Air Act, and others.

The Draft Environmental Impact Statement is anticipated to be made available to the public in the late spring 1993.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–1681 Filed 1–22–93; 8:45 am]

BILLING CODE 3710–62–M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet February 11–12, 1993, from 9 a.m. to 4 p.m., at the Center for Naval Analyses, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy requirements for stealth and stealth countermeasures systems. The entire agenda for the meeting will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302–0268, telephone (703) 756–1205.

Dated: January 13, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–1684 Filed 1–22–93; 8:45 am]

BILLING CODE 3810–AE–F

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet February 18–19, 1993, from 8:00 a.m. to 5:00 p.m., in Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda of the meeting will consist of discussions of key issues regarding task force deliberations, intelligence, military roles and missions, and future security environment. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Alexandria 22302–0268, phone (703) 756–1205.

January 14, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

FR Doc. 93–1683 Filed 1–22–93; 8:45 am]

BILLING CODE 3810–AE–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0061]

Clearance Request Regarding Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0061).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Transportation Requirements.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR part 47 and related clauses contain policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies and acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items. This information is required to ensure proper and timely shipment of Government supplies.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 65,000; responses per respondent, 5; total annual responses, 325,000; hours per response, .23; and total response burden hours, 74,750.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

Dated: January 13, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–1685 Filed 1–22–93; 8:45 am]

BILLING CODE 6820–34–M

[OMB Control No. 9000–0065]

Clearance Request for Overtime

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0065).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Overtime.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal solicitations normally do not specify delivery schedules that will require overtime at the Government's expense. However, when overtime is required under a contract and it exceeds the dollar ceiling established during negotiations, the contractor must request approval from the contracting officer for overtime. With the request, the contractor must provide information regarding the need for overtime.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 1,270; responses per respondent, 1; total annual responses, 1,270; preparation hours per response, .5; and total response burden hours, 635.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0065, Overtime, in all correspondence.

Dated: January 13, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–1686 Filed 1–22–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before February 24, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5)

Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: January 15, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Policy and Planning

Type of Review: Revision.
Title: Evaluation of Upward Bound.
Frequency: One-time.
Affected Public: Individuals or households; Non-profit institutions.
Reporting Burden:
Responses: 5,140.
Burden Hours: 3,598.
Recordkeeping Burden:
Recordkeepers: 0. *Burden Hours:* 0.
Abstract: The evaluation of Upward Bound will include case studies of 20 Upward Bound grantees.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Extension.
Title: Application for New and Continued Participation in the Bilingual Fellowship Program.
Frequency: Annually.
Affected Public: Individuals or households; Non-profit institutions.
Reporting Burden:
Responses: 45. *Burden Hours:* 900.
Recordkeeping Burden:
Recordkeepers: 40.
Burden Hours: 600.
Abstract: Form is used by institutions of higher education to request approval of their graduate programs of study so that they may nominate students for fellowship awards. The student nomination form becomes part of the award document and is used by institutions to report annually on the amount of funds spent per fellowship.

Office of Educational Research and Improvement

Type of Review: New.
Title: Survey of Employers—National Assessment of Vocational Education Data Collection and Analysis Project.
Frequency: One time.
Affected Public: Businesses or other for-profit.
Reporting Burden:
Responses: 2,409.
Burden Hours: 2,910.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This survey will be used to gather information from a nationally representative sample of employers concerning their familiarity with involvement in, and attitudes toward vocational education programs in their communities. The Department will use the information to report to Congress.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Application for Innovative Projects for Community Service.
Frequency: Annually.
Affected Public: State or local governments; non-profit institutions; small businesses or organizations.
Reporting Burden:
Responses: 150.
Burden Hours: 2,400.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by State Educational Agencies to apply for funding under the Innovative Projects for Community Service Program. The Department will use the information to make grant awards.

[FR Doc. 93–1658 Filed 1–22–93; 8:45 am]
BILLING CODE 4000–1–M

[CFDA No. 84.183F]

Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects

In the matter of the notice extending the closing date for transmittal of applications for new awards for fiscal year (FY) 1993.

Deadline for Transmittal of Applications: On September 21, 1992, a notice was published that established the closing date for transmittal of applications for the FY 1993 competition under the Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects (57 FR 43520, 43518, 43520–21). The purpose of this notice is to extend the closing date for transmitting applications. This action is taken as a result of an anticipated regulatory change affecting eligibility for this competition. Because of this, the closing date for applications is extended from January 19, 1993 until March 22, 1993.

Applications Available: January 29, 1993.

For Applications or Information Contact: The Fund for the Improvement of Postsecondary Education (FIPSE), FY 1993–F Competition, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information. Hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 3211.

Dated: January 13, 1993

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–1659 Filed 1–22–93; 8:45 am]
BILLING CODE 4000–01–M

[CFDA No.: 84.235]

Transportation Services Demonstration Projects; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To provide transportation services in geographic areas that do not have fixed route transportation or comparable paratransit services for individuals with disabilities who are employed or seeking employment or are receiving vocational rehabilitation services.
Eligible Applicants: States and public or nonprofit agencies and organizations.
Deadline for Transmittal of Applications: April 5, 1993.
Deadline for Intergovernmental Review: June 7, 1993.
Applications Available: January 29, 1993.
Available Funds: $2,000,000.
Estimated Range of Awards: $300,000–$500,000.
Estimated Average Size of Awards: $400,000.
Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.
Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85 and 86.

In accordance with section 802(a) of the Rehabilitation Act of 1973, as amended, the Secretary awards grants under this competition to States and public or nonprofit agencies and organizations to provide transportation services to individuals with disabilities who are employed or seeking employment or are receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

Each application submitted under this priority must provide assurances that—(1) The transportation services will be provided on a regular and continuing basis between the home of the

individual and the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services; (2) A charge for the transportation will be imposed on each employed eligible individual who uses the transportation service, and the amount of the charge for an instance of use of the transportation for the distance involved will be a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas; and (3) A report containing a description of the goals of the program carried out with the grant, a description of the activities and services provided under the program, a description of the number of eligible individuals served under the program, a description of methods used to ensure that the program serves eligible individuals most in need of the transportation services provided under the program, and any additional data specified by the Secretary will be submitted by December 31 of the fiscal year following the fiscal year for which the grant is made.

Each application submitted under this competition must also demonstrate how its project will address the needs of individuals with disabilities from minority backgrounds.

Each project grantee must advise the individuals with disabilities it provides services to or, as appropriate, the parents, guardians, family members, advocates, or authorized representatives of those individuals, of the availability and purposes of the State's Client Assistance Program, including information on seeking assistance from that program.

Selection Criteria

In evaluating applications for grants under this competition, the Secretary uses the EDGAR selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the additional 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

For Applications: Telephone (202) 205–9343. Deaf and hearing impaired individuals may call the Federal Dual Relay Service at 1–800–877–8339 (in the Washington, D.C. 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

FOR FURTHER INFORMATION CONTACT: Pamela Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 3414, Switzer Building, Washington, DC 20202–2740. Telephone: (202) 205–8494.

Program Authority: Section 802(a) of the Rehabilitation Act of 1973, as amended by section 801(a) of Public Law 102–569, 106 Stat. 4344.

Dated: January 13, 1993.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–1564 Filed 1–22–93; 8:45 am]

BILLING CODE 4000–01–U

National Assessment Governing Board; Hearings

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of hearings.

SUMMARY: The Council of Chief State School Officers, under contract to the National Assessment Governing Board (NAGB), U.S. Department of Education, is announcing three public hearings. These hearings will be conducted as part of the Council's contract with NAGB for the purpose of developing an assessment framework and specifications for the 1996 National Assessment of Educational Progress (NAEP) Arts Education Consensus Project. Public and private parties and organizations with an interest in the arts education assessment are invited to present written and oral testimony to the Council.

Each hearing will focus on the issues in arts education which will be assessed in the examinations given to a national sample of students in grades 4, 8, and 12. The results of the hearings are particularly important because they will provide broad public input in developing the arts education assessment framework to be used in the planned national NAEP examination in 1996. This assessment will measure American students' progress in arts education. These hearings are being conducted pursuant to Public Law 100–297, Section 6(E), which states that "Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public."

DATES: The dates of the three public hearings have been set as follows:

- February 4, 1993 in San Francisco, California.
- February 9, 1993, in Orlando, Florida.
- February 24, 1993 in New York, New York.

A second series of public hearings will be held in September 1993 to gather recommendations on the draft assessment framework. No specific dates or locations have been set as yet.

The first hearing in February is scheduled 9:30 a.m. to 12:30 p.m., in coordination with the Getty Center for Education in the Arts Conference, in San Francisco. The second hearing will be held during the 1993 Conference on Elementary-Secondary Education Management Information Systems at the Orlando Florida Marriott from 4:30 p.m. to 8:00 p.m. The third hearing will be held from 1 p.m. to 4 p.m. at Metropolitan Life Foundation on 24th Street in New York, New York. Persons desiring to present oral statements at the hearing shall submit a notice of intent to appear, postmarked no fewer than ten (10) days prior to the scheduled meeting date. The scheduling of oral presentations cannot be guaranteed for notices of intent received fewer than 10 days prior to the hearing.

Notices of intent to present oral statements shall be mailed to: Council of Chief State School Officers, One Massachusetts Avenue NW., suite 700, Washington DC, Attn: Bonnie Verrico—Public Hearings.

Individuals may also request a copy of a draft issues paper, prepared by the Arts Education Consensus project staff. This paper will serve as a starting point for deliberations by the consensus committees, and may provide useful background information to persons who plan to testify at the hearings. Requests for the issues paper may be made to the Council (address above), or by phone to the numbers listed below.

Locations: For detailed information on the exact locations of all public hearings, please contact Council offices at (202) 336–7021 or (202) 336–7046.

Written Statements: Written Statements may be submitted for the public record in lieu of oral testimony up to 30 days after each hearing. These statements should be sent directly to the Council (see aforementioned address) in the following format:

I. Issues and Questions Addressed

Testimony should respond to one or more issues identified and discussed in the paper prepared by the NAEP Arts Education Consensus project staff (available from CCSSO), and the following questions:

1. How can the 1996 Arts Education Assessment combine feasibility and vision?

2. What counts as arts education?
3. What counts as learning in the arts?
4. What form might an arts education assessment take?
5. What kinds of contextual information can and should be gathered?
6. How might the results be reported most effectively?
7. How could this assessment contribute to the creation of a resonant system of curriculum, instruction, and assessment?

II. Summary

Briefly summarize the major points and recommendations presented in the testimony.

III. Discussion

The narrative should provide information, points of view and recommendations that will enable the Council to consider all factors relevant to the question(s) the testimony addresses. Respondents are encouraged to limit this section of their written statements to five (5) pages. The discussions may be appended with documents of any length providing further explanation. Written statements presented at each hearing will be accepted and incorporated into the public record. All written statements should follow the above format, as much as possible.

Hearings Objectives and Procedures: The Council seeks participation in the hearings from a broad spectrum of individuals and organizations in the sharing of opinions and recommendations regarding arts education proficiencies, knowledge, and those skills and strategies to be assessed at grade levels 4, 8, and 12. The list of speakers, shall, on the one hand, provide a wide range of viewpoints and interests, but also be organized to respect the time constraints of the hearing schedule.

The goal of the hearings is to provide a medium for maximum input and guidance from teachers, curriculum specialists, local school administrators, parents and concerned members of the general public. Following a brief introduction to the project by the Council of Chief State School Officers, the majority of the session will be devoted to presentations by scheduled speakers.

As listed in the "Dates" section above, speakers wishing to present statements shall file notices of intent. To assist the Council in appropriately scheduling speakers, the written notice of intent to present oral testimony should include the following information:

(1) Name, address and telephone number of each person to appear;
(2) affiliation (if any);
(3) a brief statement of the issues and/or concerns that will be addressed; and
(4) whether a written statement will be submitted for the record.

Individuals who do not register in advance will be permitted to register and speak at the meeting in order of registration, if time permits. Speakers should plan to limit their total remarks to no more than five (5) minutes. While it is anticipated that all persons will have an opportunity to speak, time limits may not allow this to occur. The Council will make the final determination on selection and scheduling of speakers.

All written statements presented at the hearings will be accepted and incorporated into the public record. Written statements submitted in lieu of oral testimony should be received no later than 30 days after each hearing in order to be included in the public record. However, while written statements received after this date will be accepted, inclusion in the public record cannot be guaranteed.

A staff member from the Council of Chief State School Officers will preside at each of the hearings. The proceedings will be audiotaped. The hearings can also be signed for the hearing-impaired, upon advance request.

Additional Information: Additional information is available from the Council offices. A brochure and informational paper have been developed by the Council and its subcontractors. A draft issues paper will be made available to interested parties prior to the hearings in February, and a draft framework will be provided prior to the September hearings. Individuals wanting additional information on a specific hearing should contact Council offices at (202) 336–7021 or (202) 336–7046.

Steps After Hearing: The Council will review and analyze all comments and opinions received in response to this announcement. A report of the outcomes of these hearings will be made available to the public upon request after December 1993.

The results of this public testimony, along with the Council's Arts Education Consensus committee work, will be used to formulate recommendations for the 1996 NAEP Arts Education Assessment for the National Assessment Governing Board. The Board, charged with developing the assessment framework and specifications, will take final action on the Council's recommendations in the spring of 1994.

A record of all Council proceedings will be kept at the offices of the Council of Chief State School Officers until March 1994, at which time all records will be transferred to the National Assessment Governing Board, and will be available for public inspection.

Dated: January 15, 1993.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 93–1553 Filed 1–22–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Unsolicited Financial Assistance Award; Pittsburgh Energy Technology Center

AGENCY: Bartlesville Project Office and Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Acceptance of an unsolicited proposal application of a grant award with Stanford University.

SUMMARY: The U.S. Department of Energy (DOE), Bartlesville Project Office (BPO), announces that pursuant to 10 CFR 600.14 (D) and (E), it intends to award a grant through the Pittsburgh Energy Technology Center (PETC) to Stanford University for "Productivity and Injectivity of Horizontal Wells."

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT: Karen S. Olean, Contract Specialist, (412) 892–6202.

SUPPLEMENTARY INFORMATION:

Grant No.

DE–FG22–93BC14862

Title of Research Effort

"Productivity and Injectivity of Horizontal Wells".

Awardee

Stanford University.

Term of Assistance Effort

Sixty (60) months.

Cost of Assisted Effort

The total estimated value if $1,980,643.00.

Objective

The objective of this project is designed to develop and analyze means of predicting prouducibility in horizontal wells. This is a highly

disciplined proposal to develop the complex understanding necessary to predict how horizontal wells will effect reservoir fluid movement and, therefore, producibility relative to vertical wells.

Work under this project will be carried out in eight phases. The overall thrust being to determine horizontal well performance sensitivity to reservoir heterogeneities, pressure drops upon well producing action, directional permeabilities and other key influences by establishing the modeling (methodology) capability to confidently predict horizontal well performance (oil producibility) under a range of common reservoir and fluid conditioins.

In accordance with 10 CFR 600.14, Stanford University has been selected as the grant recipient. DOE support of the activity would enhance the pbulic benefits to be derived by improvement of its technology transfer activities. This activity represents a unique idea and a method which would not be eligible for financial assistance under solicitation. The DOE has determined that a competitive solicitation would be inappropriate.

Dated: January 5, 1993.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 93–1719 Filed 1–22–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 2712–004, et al.]

Hydroelectric Applications [Bangor Hydro-Electric Co., et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* New Major License.

b. *Project No.:* 2712–004.

c. *Date Filed:* December 30, 1991.

d. *Applicant:* Bangor Hydro-Electric Company.

e. *Name of Project:* Stillwater Project.

f. *Location:* On the Stillwater Branch of the Penobscot River, Penobscot County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Frederick S. Samp, Bangor Hydro-Electric Company, 13 State Street, Bangor, ME 04401, (207) 945–5621.

i. *FERC Contact:* Robert Bell (dt) (202) 219–2806.

j. *Comment Date:* Initial Comments March 15, 1993, Reply Comments April 28, 1993.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached standard paragraph D9.

l. *Description of Project:* The Stillwater Project's principal features consist of a very long, meandering dam, a powerhouse, an impoundment, and appurtenant facilities. The project has a total nameplate generator capacity of 1.95 megawatts (MW) and an average annual generation of about 13,120 megawatt-hours (MWH). In detail, the project is described as follows:

(1) A main concrete gravity dam, totaling about 1,720 feet long, with a maximum height of 22 feet at crest elevation 91.65 feet National Geodetic Vertical Datum (NGVD), consisting of thirteen sections: (a) A non-overflow section, totaling 63 feet long, which serves as an abutment and wingwall, containing a 6-foot-wide unused stoplog sluice gate; (b) a 381-foot-long primary spillway section, with a maximum height of 22 feet at a crest elevation of 91.65 feet (NGVD), topped with 2.0-foot-high pin-supported flashboards; (c) an 85-foot-long by 2-foot-wide by 2.5-foot-high leveling concrete course; (d) a 43-foot-long concrete sill section on top of a ledge island; (e) a 174-foot-long ogee section, with varying heights from 4 to 20 feet, topped with 2.0-foot-high pin-supported flashboards; (f) a 52-foot-long ogee section, with a maximum height of 9 feet, topped with a concrete curb, 15 inches wide by 25 inches high; (g) a 105-foot-long spillway section, with an average height of 6 feet; (h) a 42-foot-long spillway section, with a maximum height of 8 feet, topped with 1-foot-high pin-supported flashboards; (i) a 73.5-foot-long abutment section, with an average height of 4 feet; (j) a 187-foot-long non-overflow section, with varying heights from 3 to 12 feet, which abuts an abandoned powerhouse; (k) a 63-foot-long non-overflow section, which is part of the abandoned powerhouse's foundation; (l) a 197.5-foot-long section, with varying heights from 2 to 4 feet, abutting the old and existing powerhouses; and (m) a 162.5-foot-long non-overflow section, with a downstream-facing earth backfill, having a maximum height of 12 feet, topped with a 2-foot-high concrete curb and a driveway on top of the earth backfill;

(2) A concrete and wooden powerhouse, about 83.5 feet long by 32 feet wide by 45 feet high, equipped with four horizontal hydro-electrical generating units: (a) three of which are rated at 450-kW each, with a net head of 18 feet and a hydraulic capacity range from 380 to 1,140 cubic feet per second (cfs), (b) and one rated at 600-kW, with a net head of 18 feet and a hydraulic capacity of 560-cfs; and (c) all totaling a rated capacity of 1,950-kW, a hydraulic capacity range from 380 to 1,700-cfs, an average annual generation of about 13,120-MWh;

(3) An impoundment, about 3.1 miles long, having (a) a surface area of about 300 acres; (b) a gross storage capacity of 3,040 acre-feet; (c) a normal headwater surface elevation of about 93.65 feet NGVD; and (d) a normal tailwater surface elevation of about 73.65 feet NGVD; and

(4) Appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $850,880.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Bangor Hydro-Electric Company 33 State Street, Bangor, ME 04401, (207) 945–5621.

2.a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11353–000.

c. *Date filed:* October 23, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of Project:* Salt Lake.

f. *Location:* In Box Elder County, Utah, near the town of Ogden. T.7N, R.5W, sections 8 and 9.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Rick S. Koebbe, Vice President, Peak Power Corporation, 10 Lombard Street, Suite 410, San Francisco, CA 94111, (415) 362–0622.

i. *FERC Contact:* Mr. Michael Spencer on (202) 219–2846.

j. *Comment Date:* March 29, 1993.

k. *Description of Project:* The proposed project would consist of (1) A 200-foot-high, 1,900-foot-long earthen dam; creating (2) a 77-acre reservoir with a storage capacity of 2,200 acre-feet

and a surface elevation of 5,290 feet msl, to be used as the upper reservoir; (3) a 1,350-foot-long, 14-foot diameter tunnel; (4) a 4,900-foot-long, 12-foot-diameter penstock; (5) a powerhouse containing two pump-turbines with a combined installed capacity of 200 MW, producing an estimated average annual energy output of 12,500 GWh; (6) a 5-foot high, 2,300-foot-long earthen dam surrounding an excavation, creating; (7) a 41-acre reservoir with a storage capacity of 2,200 acre-feet at elevation 4,200 feet msl, to be used as the lower reservoir; and (8) and 25-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $1,000,000.

l. *Purpose of Project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

3.a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11354–000.

c. *Date filed:* October 23, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of Project:* Pokes Point.

f. *Location:* In Box Elder County, Utah, near the town of Ogden. T.6N, R.5W, sections 2 through 5, 10, and 11.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Rick S. Koebbe, Vice President, Peak Power Corporation, 10 Lombard Street, Suite 410, San Francisco, CA 94111, (415) 362–0622.

i. *FERC Contact:* Mr. Michael Spencer on (202) 219–2846.

j. *Comment Date:* March 29, 1993.

k. *Description of Project:* The proposed project would consist of (1) A 120-foot-high, 1,500-foot-long earthen dam; creating (2) a 53-acre reservoir with a storage capacity of 2,510 acre-feet and a surface elevation of 5,400 feet msl, to be used as the upper reservoir; (3) a 4,020-foot-long, 14-foot-diameter tunnel; (4) a 7,265-foot-long, 12-foot diameter penstock; (5) a powerhouse containing two pump-turbines with a combined installed capacity of 200 MW, producing an estimated average annual energy output of 12,500 GWh; (6) a 5-foot-high, 2,000-foot-long earthen dam surrounding an excavation, creating; (7) a 47-acre reservoir with a storage capacity of 2,510 acre-feet at elevation 4,200 feet msl, to be used as the lower reservoir; and (8) a 24-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $1,000,000.

l. *Purpose of Project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

4.a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11355–000.

c. *Date Filed:* October 23, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of project:* Hell's Kitchen.

f. *Location:* In Utah County, Utah, near the town of Provo. T.7S, R.1W, sections 10 through 12.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Rick S. Koebbe, Vice President, Peak Power Corporation, 10 Lombard Street, suite 410, San Francisco, CA 94111, (415) 362–0622.

i. *FERC Contact:* Mr. Michael Spencer on (202) 219–2846.

j. *Comment Date:* March 16, 1993.

k. *Description of Project:* The proposed project would consist of (1) A 40-foot-high, 300-foot-long earthen dam; creating (2) a 29-acre reservoir with a storage capacity of 2,000 acre-feet and a surface elevation of 6,600 feet msl, to be used as the upper reservoir; (3) a 2,520-foot-long, 14-foot-diameter tunnel; (4) a 6,300-foot-long, 12-foot-diameter penstock; (5) a powerhouse containing two pump-turbines with a combined installed capacity of 200 MW, producing an estimated average annual energy output of 12,500 GWh; (6) a 130-foot-high, 1,400-foot-long earthen dam, creating; (7) a 42-acre reservoir with a storage capacity of 2,000 acre-feet at elevation 5,190 feet msl, to be used as the lower reservoir; and (8) an intertie with Utah Power's transmission system at the lower reservoir.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $1,000,000.

l. *Purpose of Project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B,C, D2.

5.a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11356–000.

c. *Date filed:* October 26, 1992.

d.. *Applicant:* Long Park Hydro Associates, dba Current Power Technologies, Inc.

e. *Name of Project:* Long Park Power Project.

f. *Location:* On Sheep Creek in Daggett County, Utah near the town of Manila. T.2N., R.18E; sections 2, 11, and 14. Salt Lake Base and Meridian; T.12N., R.11W; sections 10, 11, 12, 15, 16, 20, and 21, Principal Meridian.

The project would occupy land within the Ashley National Forest and Land administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Gene Deveraux, 1190 North Spring Creek Place, P.O. Box 870, Springville, UT. 84663–0870, (801) 489–0089; Mr. Frank Haws, 719 North 400 East, Logan, UT 84321.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* March 16, 1993.

k. *Description of Project:* The proposed project would consist of: (1) The Sheep Creek Irrigation Company's existing 110-foot-high, 855-foot-long earthfill dam with a crest elevation at 8,652.5 feet msl; impounding (2) the 400-acre Long Park Reservoir with a storage capacity of 13,700 acre-feet and a water surface elevation of 8,645.5 feet msl; (3) a 42-inch-diameter, 9,600-foot-long steel penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 10,000 kW, producing an estimated average annual energy output of 26 million kWh; (5) a pumping station and 16-inch-diameter pipeline near the powerhouse; (6) a tailrace; and (7) a 10.5 mile-long 64-kV transmission line tying into an existing line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit at $250,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility or a state municipality.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6. a. *Type of Application:* Preliminary Permit.

b. *Project No.* 11357–000.

c. *Date filed:* October 26, 1992.

d. *Applicant:* Moon Lake Hydro Associates, dba Current Power Technologies, Inc.

e. *Name of Project:* Moon Lake Power Project.

f. *Location:* On the West Fork of the Lake Fork River in Duchesne County, Utah near the town of Mountain Home. T.2N., R.5W, sections 7, 18 and 19.; T.2N. R.6W, sections 1, 12, and 13. Unitah Special Base and Meridian.

The project would occupy land within the Ashley National Forest, and lands administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Gene Deverau, 1190 North Spring Creek Place, P.O. Box 870, Springville, UT 84663–0870, (801) 489–0089; Mr. Frank Haws, 719 North 400 East, Logan, UT 84321.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* March 16, 1993.

k. *Description of Project:* The proposed project would consist of: (1) The Bureau of Reclamation's existing 101-foot-high, 663-foot-long Moon Lake earthfill dam with a crest elevation at 8,145 feet msl; impounding (2) the 770-acre Moon Lake Reservoir with a storage capacity of 49,500 acre-feet and a water surface elevation of 8,137 feet msl; (3) a 62-inch-diameter, 7,610-foot-long steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 7,200 kW, producing an estimated average annual energy output of 23 million kWh; (5) a tailrace; and (6) a 350-foot-long 69–kV transmission line tying into the existing line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit at $250,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility or a state municipality.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

7. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11358–000.

c. *Date filed:* October 26, 1992.

d. *Applicant:* Guardsman Way Hydro Associates, dba Current Power Technologies, Inc.

e. *Name of Project:* Guardsman Way Power Project.

f. *Location:* On the Salt Lake City Terminal and Park Reservoirs transmission line to Guardsman Way in Salt Lake County, near the town of Salt Lake City. The project will be constructed to become part of the City's water system.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Gene Deveraux, 1190 North Spring Creek Place, P.O. Box 870, Springville, UT 84663–0870, (801) 489–0089; Mr. Frank Haws, 719 North 400 East, Logan, UT 84321.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* March 29, 1993.

k. *Description of Project:* The proposed project would consist of: (1) The existing 8 million gallon Park Reservoir; (2) the two existing Terminal Reservoirs, each 20 million gallons; (3) an existing 36-inch-diameter steel transmission pipeline; (4) a new underground powerhouse containing a single generating unit with an installed capacity of 553 kW, producing approximately 4 million kWh of energy annually; and (5) a substation.

The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $35,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility or a state municipality.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11361–000.

c. *Date filed:* November 18, 1992.

d. *Applicant:* May Creek, Inc.

e. *Name of Project:* May Creek.

f. *Location:* On Lake Isabel in the Mt. Baker—Snoqualmie National Forest near the town of Goldbar in Snohomish County, Washington. Township 28N, Range 9E sections 35 and 36.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Gary P. Marcus, May Creek, Inc., 1580 Valley River Drive, Eugene, OR 97401–2148, (503) 683–5200.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* March 16, 1993.

k. *Description of Project:* The proposed project would consist of: (1) A submerged, screened pipe intake on the bottom of Lake Isabel; (2) a 12,100-foot-long, 36-inch-diameter steel penstock; (3) a powerhouse containing a generator with a capacity of 4,890 kW and an average annual generation of 20,406 MWh; and (4) a 0.7-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $350,000.

l. *Purpose of Project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

9. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11367–000.

c. *Date filed:* December 16, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of Project:* Sheep Mountain Modular Pumped Storage Project.

f. *Location:* Predominantly on lands administered by the Bureau of Land Management in the Sheep Mountains, approximately 19 miles south of Las Vegas, in Clark County, Nevada. R60E, T22S to T25S.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Rick S. Koebbe, Peak Power Corporation, 10 Lombard Street, suite 410, San Francisco, CA 94111, (415) 362–0887.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* March 17, 1993.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) A 140-foot-high dam and 46-acre upper reservoir; (2) a 13.5-foot-diameter, 3,340-foot-long penstock connecting the upper reservoir with a lower reservoir; (3) a 50-foot-high dam and 65-acre lower reservoir; (4) a powerhouse with a total installed capacity of 200 MW; (5) a 17.5-mile-long transmission line interconnecting with an existing Nevada Power Company transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $1,000,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant

desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 15, 1993 for Project No. 2712–004). All reply comments must be filed with the Commission within 105 days from the date of this notice. (April 28, 1993 for Project No. 2712–004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: January 14, 1993, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 93–1572 Filed 1–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–152–000, et al.]

Northwest Pipeline Corp., et al.; Natural Gas Certificate Filings

January 14, 1993.

Take notice that the following filings have been made with the Commission:

1. Northwest Pipeline Corp.

[Docket No. CP93–152–000]

Take notice that on January 7, 1993, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158 filed in Docket No. CP93–152–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate the new James River Meter Station in Clark County, Washington for the delivery of transportation gas from Northwest's Grant Pass Lateral to a non-jurisdictional pipeline to be constructed by James River Corporation (James River) to serve its existing paper mill facility at Comar, Washington under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that it proposes to construct and operate the James River Meter Station to be used for the delivery of transportation gas directly to James River. Northwest also states that it proposes to construct a meter station consisting of two eight-inch turbine

meter runs, two three-inch regulators, two six-inch hot taps and associated appurtenances. The estimated cost of the station is approximately $495,890.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

2. Columbia Gas Transmission Corp.

[Docket No. CP93–155–000]

Take notice that on January 11, 1993, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP93–155–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish an additional point of delivery for transportation service to Minard Run Oil Company 0 (MRO) in McKean County, Pennsylvania, under its blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia Gas states that it proposes to establish the new point of delivery to MRO at an existing 4-inch tap to provide interruptible transportation service. Columbia Gas further states that the interconnecting facilities would consist of a 4-inch meter, 8′ by 8′ building, filter separator and less than 20 feet of 8-inch pipeline. Columbia Gas says that the estimated cost to establish this point of delivery would be approximately $25,500 and would be reimbursed by MRO.

The estimated quantities of natural gas to be delivered at the new point of delivery would be 950 Dth per day and 346,750 Dth annually.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Co.

[Docket No. CP93–159–000]

Take notice that on January 12, 1993, Northern Natural Gas Company (Northern), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP93–159–000 a request pursuant to § § 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to operate and maintain eight existing delivery points in order to accommodate unrestricted gas service for Peoples Natural Gas Company, Division of UtiliCorp United, Inc. (Peoples), under the blanket certificate issued in Docket No. CP82–401–000, pursuant to section 7(c) 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.

Northern proposes to operate eight existing town border stations located in Nebraska, Kansas, Iowa, and Minnesota originally authorized to be constructed and operated pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and § 284.3(c) of the Commission's Regulations. Northern states that it proposes to use the facilities to accommodate natural gas deliveries to Peoples not limited to those delivered under section 311 of the NGPA. Northern proposes no increase in capacity of those facilities. It is indicated that the end use of gas deliveries through these facilities would be residential, commercial and industrial.

It is stated that deliveries to Peoples through the delivery points would be made pursuant to Northern's currently effective rate schedules. It is also stated that delivery of volumes through the existing delivery points would not impact Northern's peak day and annual deliveries. In addition, Northern advises that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request. Also, it is indicated that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Northern's other customers.

Comment date; March 1, 1993, in accordance with Standard Paragraph G at the end of this Notice.

4. K N Energy, INC.

[Docket No. CP93–156–000]

Take notice that on January 12, 1993, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP93–156–000 a request pursuant to § § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 211) for authorization to construct and operate sales taps under K N's blanket certificate issued in Docket No. CP83–140–000, *et al.* pursuant to section 7 of the Natural Gas act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

K N proposes to construct and operate 15 sales taps for sale of gas to end-users, located along its jurisdictional pipelines, in accordance with K Ns current rate schedules authorized by the applicable state and local regulatory bodies having jurisdiction over the sales. K N states that the customers would reimburse it for a portion of the construction costs through a connection charge which varies by state as follows: Kansas-$250, Nebraska-$400, Colorado-$400, and Wyoming-$400. K N describes the customers as resident/occupants and provides related information as shown in the attached Appendix.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this Notice.

Customer	Location	Approximate quantities, Mcf		End use	Estimated cost of facilities
		Peak day	Annual		
92–108 Kenneth Goeglein	Yuma Co., Colorado	89	5,340	Commercial	$1,150
92–109 Sheridan County Pork	Sheridan Co., Nebraska	50	3,000	Commercial	1,150
92–110 Danhauer Farms, Inc	Hamilton Co., Nebraska	6	360	Commercial	850
92–111 Midwest Energy, Inc	Rooks Co., Kansas	50	3,000	Commercial	1,150
92–112 CY Cattle, Inc	Gove Co., Kansas	5	30	Commercial	1,150
92–113 Clayton Nichols	Haskell Co., Kansas	36	1,190	Irrigation	1,150
92–114 Leonard Anderson	Franklin Co., Nebraska	28	980	Irrigation	1,150
92–115 James Oberlander	Fillmore Co., Nebraska	30	990	Irrigation	1,150
92–116 Melvin Johnson	Sheridan Co., Kansas	24	790	Irrigation	850
92–117 Chris Meyer	Nuckolls Co., Nebraska	2	120	Domestic	850
92–118 Everette Gardner	Buffalo Co., Nebraska	4	240	Domestic	850
92–119 Jack Adams	Kearny Co., Kansas	3	180	Domestic	850
92–120 Curtis E. Wolff	Hamilton Co., Nebraska	6	360	Domestic	850
92–121 Monte Trampe	Buffalo Co., Nebraska	4	240	Domestic	850
92–122 Larry Kliewer	Hamilton Co., Nebraska	100	917	Grain Dryer	2,500

5. El Paso Natural Gas Co.

[Docket No. CP93–154–000]

Take notice that on January 11, 1993, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP92–154–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain sales lateral facilities in Texas and Arizona, under El Paso's blanket certificate issued in Docket No. CP82–435–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to abandon in place approximately 8.5 miles of pipeline segments of various diameters, previously used for deliveries to Southwestern Public Service Company, the City of Mesa, Arizona and Phelps Dodge Corporation. El Paso proposes to abandon by sale to Southwest Gas Corporation (Southwest) approximately 1.6 miles of pipeline used for deliveries to Southwest. It is stated that the facilities proposed to be abandoned in place are no longer needed and that the facilities proposed to be abandoned by sale would be used by Southwest as distribution facilities. It is asserted that no customers would lose service as a result of the proposed abandonments and that the customers previously served by the facilities have consented to the proposed abandonments.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

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. 93–1571 Filed 1–22–93; 8:45 am]

BILLING CODE 6717–01–M

Morgantown Energy Technology Center

Financial Assistance Award; (Award of Cooperative Agreement/Renewal)

AGENCY: Morgantown Energy Technology Center, U.S. Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i)(A) the DOE, Morgantown Energy Technology Center (METC), gives notice of its plans to award a cooperative agreement/renewal to Sun Refining and Marketing (SUN), Applied Research and Development, P.O. Box 1135, Marcus Hook, Pennsylvania 19061–0835, in the amount of approximately $12.2M, of which $4M will be funded by the DOE. DOE intends to provide funding in the amount of $1M for the first budget period of the renewal period. The project period will be extended by four years for a total project period of seven years, and will be increased by approximately $12.2M, for an estimated total project value of $14.4M.

FOR FURTHER INFORMATION CONTACT: D. Denise Riggi, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, telephone: (304) 291–4241, Procurement Request No. 21–93MC26029.501.

SUPPLEMENTARY INFORMATION: The purpose of the cooperative agreement/renewal is to provide continued financial assistance to SUN in support of its program entitled "Catalytic Conversion of Light Alkanes." The research is designed to develop a new family of catalysts for the conversion of light alkanes to liquid fuels through alcohols as intermediates. New catalysts have been discovered under the current agreement activity; the requested renewal will provide for the development of these catalysts to the proof of concept stage. One of DOE/METC's missions is to conduct research and development on the efficient exploitation of natural gas resources. This project fits well within the METC Natural Gas to Liquids Program. By providing financial support, METC expects to stimulate utilization of natural gas reserves by developing a relatively simple, cost effective, process suitable for installation at the well-head for conversion of methane to transportable liquid.

Issued in Washington, D.C. January 15,1993.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 93–1707 Filed 1–22–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4554–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before February 24, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Reporting and Recordkeeping Requirements for the New Source Performance Standards (NSPS) for Industrial-Commercial-Institutional Steam Generating Units, Subpart Db (ICR No. 1088.06; OMB No. 2060–0072).

Abstract: This ICR is a reinstatement of an expired information collection in support of the Clean Air Act, as described under the general NSPS at 40 CFR 60.7–60.8 and 60.13, and the specific NSPS Subpart Db for nitrogen oxide (NOx), particulate matter (PM), and sulfur dioxide (SO2) emissions from Industrial-Commercial-Institutional Steam Generating Units at 40 CFR 60.40. The information will be used by the EPA to direct monitoring, inspection, and enforcement efforts, thereby ensuring compliance with the NSPS.

Under this ICR, owners or operators of affected facilities must provide EPA, or the delegated authority, with one-time notifications, reports, and recordkeeping required of all facilities subject to the general NSPS requirements. In addition, facilities subject to this subpart must provide EPA, or the delegated authority, with information that may include: (1) Semiannual reports of monitoring

results and excess emissions; (2) performance test data and results; and (3) quarterly reports of monitoring results and excess emissions. Where applicable, facilities must maintain records related to NOx, SO2, or PM emissions that may include: (1) Amounts of fuels fired; (2) annual capacity factors; (3) opacity measurements; and/or (4) nitrogen content of fuels.

Presently, there are 464 facilities subject to this regulation with an estimated increase in the regulated universe at 58 sources per year, for an average of 551 facilities over the next three years. Facility records related to compliance must be maintained for two years.

Burden Statement: Public reporting burden for facilities subject to this collection of information is estimated to average 129 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Annual recordkeeping burden is estimated to average 156 hours per respondent.

Respondents: Owners or operators of subject steam generating units that commenced construction, modification or reconstruction after June 19, 1984 and are operating with heat input capacities greater than 100 million British Thermal Units (BTU)/hour.

Estimated Number of Respondents: 551.

Estimated Number of Responses Per Respondent: 4.

Estimated Total Annual Burden on Respondents: 369,722 hours.

Frequency of Collection: One-time notifications and reports for new facilities; quarterly reporting for subject existing facilities.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW.,Washington, DC, 20460.

and

Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC, 20503.

Dated: January 15, 1993.

Paul Lapsley,

Director, Regulatory Management Division

[FR Doc. 93–1732 Filed 1–22–93; 8:45am]

BILLING CODE 6560–50–F

[FRL 4555–8]

Open Meeting of the Policy Dialogue Committee on Mining Wastes

AGENCY: Environmental Protection Agency.

ACTION: FACA Committee meeting—Policy Dialogue Committee on Mining Wastes.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), we are giving notice of the date and location of the next meeting of the Policy Dialogue Committee on Mining Waste. The purpose of the meeting is to obtain updates on current mine waste related activities, discuss EPA's proposed mine waste activities, and to discuss potential future roles for the Policy Dialogue committee. The meeting is open to the public without advance registration. An opportunity for public comment will be offered at the end of the day.

DATES: The meeting will be held on February 17, 1993 from 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Sheraton City Centre, 1143 New Hampshire Avenue, N.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the mining waste program should call Steve Hoffman, Office of Solid Waste, U.S. EPA, (703) 308–8413; 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: January 15, 1993.

Deborah Dalton,

Designated Federal Official, Deputy Director, Consensus and Dispute Resolution Program, Office of Policy, Planning and Evaluation.

[FR Doc. 93–1671 Filed 1–22–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4555–3]

Superfund Response Action Contractor Indemnification

AGENCY: Environmental Protection Agency.

ACTION: Final guidelines.

SUMMARY: The Environmental Protection Agency (EPA) is issuing final guidelines to implement section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9619) and Public Law 101–584. Section 119 provides the President with discretionary authority to indemnify response action contractors (RACs) for releases of a hazardous substance or pollutant or contaminant arising out of negligence in conducting response action activities at sites on the National Priorities List (NPL) and removal action sites. As delegated by the President, EPA has authority to extend indemnification to RACs working at NPL or removal action sites for EPA, states, political subdivisions of states, federally recognized Indian tribes, and potentially responsible parties (PRPs).

EFFECTIVE DATE: January 25, 1993.

ADDRESSES: Rick Colbert, U.S. Environmental Protection Agency, 5502–G, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Rick Colbert, (703) 603–8932.

SUPPLEMENTARY INFORMATION: Detailed Summary of Final Guidelines:

- *Diligent Efforts:* To be eligible for indemnification by EPA, a RAC must have made diligent efforts to obtain insurance coverage from non-federal sources. Under a multisite contract, the RAC must agree to continue to make such diligent efforts each time it begins work at a new site.
- *Prime contracts:* For future contracts, EPA does not intend to offer any indemnification unless it did not receive a sufficient number of qualified bids or proposals, and the lack of response can be linked to the absence of indemnification. In such a situation, EPA may issue a new or amended solicitation and offer indemnification. RACs with EPA indemnification coverage under current contracts will be offered coverage under these guidelines. They may negotiate with EPA on the limit and deductible, but the upper limit that they may choose from is determined by the dollar amount of the contract. Coverage of $75 million is the top limit (with co-payments above $50 million), and it is available for RACs with contracts of long duration (greater than five years) only. The maximum top limit for other RACs is $50 million.
- A $15 million aggregate limit per cost-reimbursement contract of long duration (greater than five years) will be added to provide indemnification solely for specialty subcontractors with $5 million as the maximum amount available on any one subcontract.
- *Innovative technology RACs:* For current contracts and new contracts

where indemnification is offered, the RAC who provides innovative technologies during remedial action (RA) construction may select from a range of limits. However, the deductibles associated with a specific limit will be lower for these contractors than for other contractors. Eligible RACs may be prime contractors or subcontractors (receiving indemnification from the prime contractor) under fixed-price contracts or subcontractors under cost-reimbursement contracts.

- *PRP RAC contractors:* These RACs will not receive EPA indemnification.
- *SITE Participants and CERCLA 126(g) hazardous workers training grantees:* These RACs may be offered indemnification, but the upper limit available to them will be lower than for other RACs. In addition, the deductibles associated with those limits will be lower than for other RACs.
- *Term of coverage:* The term of coverage will be ten years.
- *Surety firms:* Firms that provide performance bonds inherit the indemnification agreement of the defaulting RAC if the bond is activated.
- *Renegotiating existing contracts:* EPA believes that given the temporary nature of indemnification under its interim guidance (OSWER Directive 9835.5), i.e., the statutory requirement for promulgation of final guidelines subject to public comment, RACs understood that this protection lacked any permanence and was offered on a "claims made" basis. EPA will terminate the contracts of RACs who do not agree to modify the indemnification terms under their existing contracts so that they are consistent with the final guidelines.

I. Introduction

These guidelines meet the statutory requirements of CERCLA section 119(c)(7), which requires the development of guidelines to implement CERCLA § 119 before promulgation of regulations. Since october 1987, EPA has offered indemnification to RACs under an interim guidance, OSWER Directive 9835.5, "EPA Interim Guidance on Indemnification of Superfund Response Action Contractors Under Section 119 of SARA." The interim guidance required a $100,000 deductible, but it did not state a limit in coverage for the indemnification as required by CERCLA section 119. The interim guidance did not attempt to assess whether indemnification is necessary to encourage RAC participation in the Superfund program, and it assumed that EPA's indemnification is an adequate substitute for insurance.

In the spring of 1989, EPA sent letters to the then-current RACs stating that it had determined that some insurance may be available. The letter instructed the RACs to make diligent efforts to seek insurance from the private sector and forward proof of their diligent efforts to the EPA contracting officer.

On October 31, 1989, EPA published proposed guidelines in the **Federal Register** (54 FR 46012) and requested public comment. EPA stated that during an information gathering process, it had not been able to gather adequate information to determine the amount of insurance (coverage) that any particular RAC should maintain. EPA further stated that it had not been able to determine the extent to which indemnification should be offered to meet the Agency's objectives, if at all. As stated in the proposal these objectives are:

- Provide RACs with a temporary comparable substitute for commercial pollution insurance, in the absence of affordable and adequate commercial insurance coverage or other viable private sector risk transfer mechanisms;
- Encourage the insurance industry to provide RACs with adequate and affordable pollution insurance products;
- Encourage the development of other private sector mechanisms that provide RACs with adequate and affordable prospective pollution risk transfer mechanisms;
- Maintain EPA's fiduciary responsibility to ensure that the Superfund monies are used to clean up sites to the maximum extent possible;
- Assure that an adequate pool of qualified RACs will be available to keep the Superfund program operative;
- Maintain strong RAC incentives to prevent and reduce RAC induced release incidents throughout a given Superfund response action contract;
- Maintain strong RAC incentive to continue to seek commercial insurance coverage and/or develop alternative risk transfer mechanisms.

EPA stated that the indemnification limit and deductible scheme should be based on the assumption that the RAC itself is best able to determine its required level of insurance or indemnification coverage. However, EPA believed that the RAC will overstate its required indemnification limit unless a disincentive to overstate is included. Therefore, EPA proposed tying the size of the deductible to the size of the limit.

EPA proposed a "sliding scale" for cost-reimbursement contracts; these are the contracts under which contractors work on EPA-directed tasks on an hourly basis and are reimbursed for costs incurred while performing the work. The contracts are multi-site, with the work at various locations determined after contract award through work assignments issued by EPA. Under the proposal, a RAC could choose a coverage limit it believed it needed up to $50 million. However, as the limit increased, the deductible would also slide upwards; the deductible paired with a $50 million limit was $3.5 million.

For RACs with fixed-price contracts, i.e., Army Corps of Engineer remedial action (RA) contracts, state-lead contracts, and removal site-specific contracts, EPA proposed market incentives to encourage RACs not to request EPA indemnification. That is, EPA would put a value on its indemnification, either as a price charged to the RAC or as an adjustment to a bid reflecting the amount of indemnification requested by a RAC.

The General Accounting Office (GAO) in a 1989 report to Congress, "SUPERFUND: Contractors Are Being Too Liberally Indemnified by the Government," recommended that EPA attempt to use the procurement system to see if RACs would work at EPA sites absent indemnification. EPA believed that the use of market incentives to encourage RACs not to ask for EPA indemnification paralleled GAO's recommendation to use the market place to help meet EPA's goals. EPA concurred with the GAO recommendation and believed that this approach would maintain EPA's responsibility to ensure that Superfund monies are used to the maximum extent possible to clean up sites, and at the same time maintain an adequate number of contractors willing to work at EPA sites.

EPA concluded in the proposal that "given the limited data which EPA has had available to it in shaping this scheme, the Agency is particularly interested in receiving further information that may support this or alternative schemes."

EPA received a variety of comments on the proposal; almost all comments were negative. In the summer of 1990, EPA retained a third-party facilitator, Endispute Incorporated, to meet and interview representatives of interested parties to attempt to gain insight into commenters' views. The facilitator met with representatives of EPA, including personnel from the Office of Emergency and Remedial Response, the Office of Waste Programs Enforcement, the Office of General Counsel, and the Office of Policy, Planning, and Evaluation. The

facilitator met with representatives of the Army Corps of Engineers and the Office of Management and Budget. The facilitator also met with representatives of external groups such as trade organizations, RAC interest groups, and the insurance industry. On February 14, 1991, Endispute presented its report to EPA, "Report on the Results of the EPA-Sponsored Consultation Process on the Proposed Guidance for Section 119 of CERCLA, as Amended." A copy of the report is in the docket for this notice. The report further clarifies the commenters' positions, which are stated in the Response to Comment section of this notice.

In short, commenters asserted that the limits were too low and the deductibles were too high. Most commenters also linked the perceived low limits to a possible negative effect on subcontractors hired by EPA's prime contractors. Most commenters stated that if the prime contractor does not believe that it has adequate coverage, it will not be willing to share any of its indemnification with its subcontractors.

Despite the large number of comments, commenters did not provide additional factual information that would support any specific alternative indemnification scheme. Commenters reiterated the risks that are perceived to be associated with hazardous waste sites. In short, these risks are:

- Superfund sites present high risks to people and property.
- Remediation technology is new and continually changing. The statute encourages the use of innovative technologies.
- Underground work is inherently risky.
- EPA, which is subject to community and other socio-political pressures, does not always accept the RAC's recommendation for the best method to clean up the site.

A large majority of commenters recommended an upper indemnification limit of $200 or $250 million, but did not present a factual basis for their recommendation. These commenters stated that these higher limits are needed to protect the RAC from a possible catastrophic claim. However, all parties acknowledged that there has been no such claim in the history of the Superfund program. The few potential claims that EPA has received under section 119 or under the Federal Acquisition Regulation (FAR) indemnification (that preceded § 119 indemnification) have all been relatively small dollar amounts.

Some commenters stated that EPA should not offer indemnification, and that RACs should bear all responsibility for their negligent actions. Inquiries made by EPA have revealed that some RACs are willing to work for other federal agencies, states, and PRPs without indemnification or with very low coverage.

The Agency was, therefore, in the same situation that it was in before the proposal was published; if EPA offers indemnification it must set a limit and a deductible for the indemnification even though little factual data exists on which to base them, or even to determine whether indemnification is needed.

The approach that EPA has decided to take in the final guidelines draws from the first three alternatives outlined in the 1989 FR notice:

- Provide no indemnification;
- Provide indemnification subject to statutory requirements;
- Offer indemnification with market incentives to purchase commercial insurance.

The goal of these guidelines is to ensure that an adequate pool of qualified RACs is willing to work at Superfund sites. This goal must be balanced with EPA's responsibility to protect the financial exposure of the government so that Superfund monies may be used to clean up the maximum number of waste sites. EPA's authority to provide indemnification to RACs for negligent actions is discretionary and is a temporary vehicle. EPA's indemnification authority will only be used to the extent adequate commercial liability insurance is not available.

General Approach

Prime Contracts

For future contracts (or contracts with other agencies or local governments having an inter-agency agreement or cooperative agreement with EPA to clean up Superfund sites), EPA will offer indemnification only if there is a lack of adequate competition for a solicitation due to the absence of indemnification. If this is the case, EPA will offer a new or amended solicitation, and the selected RAC will be eligible for indemnification under these guidelines.

For RACs with fixed-price contracts, EPA proposed in 1989 to use market incentives to encourage RACs not to request indemnification. Under the proposal, RACs would be permitted to determine whether they wanted EPA indemnification and the amount, but their bid would be adjusted higher to reflect the indemnification request. After further consideration, EPA has concluded the proposed adjustment procedure would be unworkable and present considerable obstacles for EPA. EPA decided that, as with new cost-reimbursement RACs, the solicitation process will be used to determine if RACs will work without indemnification.

If EPA offers indemnification to RACs, it still maintains that the RAC is in the best position to know the coverage that it needs. However, to compensate for a RAC's tendency to overstate its needs, EPA will tie the size of the limit with the size of the deductible. These RACs will be able to choose from a range of limits (and associated deductibles) for the coverage that best meets their needs. The deductible associated with the limit increases as the coverage increases, similar to the scale presented in the 1989 proposal. For the highest level of coverage available for long duration (longer than five years) cost-reimbursement contracts, the RAC must make dollar-for-dollar co-payments for coverage above a certain level. Under this proposal, a RAC will not overstate its needed coverage, and the RAC will retain increasing financial responsibility for smaller claims in proportion to the coverage that it seeks from EPA. EPA believes that the guidelines will promote the development of a private insurance market and encourage RACs to seek alternative coverage from the private sector and permit the private sector to grow absent the need to compete with generous coverage from the federal government. As the RAC community turns to the private sector for coverage, its ability to provide desired products should increase.

EPA believes that it would be in the government's best interest to have the least disruption to the clean-up effort. EPA will negotiate with its RACs to replace their indemnification coverage under the interim guidance with coverage under these guidelines and thereby avoid the need to terminate current contracts. Therefore, EPA will offer modified indemnification agreements with limits and deductibles to RACs and their subcontractors that currently have contracts to perform Superfund work. Since a RAC operating under a current contract will not have to compete in the open market to receive indemnification, EPA cannot use a competitive test to determine if this RAC would work at particular sites without indemnification.

Subcontractors

EPA has tried to address the issue of subcontractor indemnification where the use of subcontractors meets special EPA objectives, such as the use of small and disadvantaged businesses or innovative technologies. In contracts of

long duration (greater than five years), which currently are only the Alternative Remedial Contracting Strategy (ARCS) contracts (regional ten-year contracts for the planning and clean up of CERCLA sites), the prime contractor will have $15 million (above its own indemnification limit) available to flow down to subcontractors in the subcontracting pool. This pool is generally where small and small and disadvantaged businesses have an opportunity to be involved in Superfund contracting. EPA will also permit RACs, whether they are prime or subcontractors, who provide innovative technologies under a contract to provide remedial action (RA) construction services to obtain indemnification with smaller deductibles than are available to other contractors.

Subcontractors performing remediation work for a cost-reimbursement prime may be eligible to receive additional indemnification for that work. When EPA issues work assignments to prime cost-reimbursement contractors to implement remedial action (RA), the prime contractor is required to initiate the RA through a subcontract (rather than EPA issuing its own solicitation for the work). Under the guidelines, the subcontractor awarded the RA work may be eligible to receive, through the prime contractor, indemnification at the same level of indemnification as contractors hired directly by EPA. However, EPA will require its prime cost-reimbursement contractors to follow the same solicitation procedures as followed by EPA when hiring contractors directly. That is, the prime contractor's original solicitation must not offer indemnification. If there is not an adequate response to the solicitation because of the lack of indemnification, the subcontractors which respond to a new or amended solicitation will be eligible to receive indemnification through the prime contractor. To receive indemnification, the subcontractor must meet all the requirements of these guidelines, including the diligent efforts requirements.

Length of Coverage

The length of coverage was another area where EPA received a great deal of comment. EPA proposed that it was considering a period of coverage of ten years. Many commenters stated that ten years was too short a period and suggested that EPA adopt a thirty-year period. EPA did consider these requests, but concluded that commenters that argued for a greater length of coverage did not justify a longer term. EPA retained the ten-year period as balance between the need to provide coverage to retain a qualified pool of RACs to work at EPA sites and EPA's responsibility to limit the exposure of the Superfund.

A. Executive Order 12291

Under Executive Order No. 12291, EPA must determine whether a rule is "major" and thus subject to the requirement of a Regulatory Impact analysis. The notice published today is not major because the proposed guidelines will not result in an effect on the economy of $100 million or more, will not have significant adverse effects on competition, employment, investment, productivity and innovation and will not significantly disrupt domestic or export markets. Therefore, EPA has not prepared a Regulatory Impact Analysis under the Executive Order. The proposed guidelines were submitted to the Office of Management and Budget as required by Executive Order No. 12291.

B. Regulatory Flexibility Act

Whenever an agency is required by law to publish a general notice of proposed rulemaking, the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, generally requires that the agency prepare a Regulatory Flexibility Analysis (RFA) describing the impact of the proposed rule on small entities. Because EPA was not required to publish the guidelines as a notice of proposed rulemaking under § 553 of the Administrative Procedure Act (5 U.S.C. 553) or any other law, they are not subject to the RFA requirements of the Regulatory Flexibility Act.

C. Paperwork Reduction Act

The information collection requirements in these guidelines have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These requirements are not effective until OMB approves them, and a technical amendment to that effect is published in the **Federal Register**. An Information Collection Request document has been prepared by EPA (ICR No. 1595.01) and a copy may be obtained from, Chief, Information Policy Branch (PM–223); U.S. Environmental Protection Agency; 401 M St., SW.; Washington, DC 20460 or by calling (202) 382–2706.

Public reporting burden for this collection of information is estimated to be 132 hours per response, including time for review of the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden to, Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency; 401 M St., SW.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 marked: "Attention Desk Officer for EPA."

II. Response to Major Public Comment

Indemnification Limits and Deductibles for Cost-Reimbursement Contracts

Comment: In its proposed guidelines, EPA presented a sliding scale of limits and deductibles that would allow the RACs to choose the indemnification coverage that they felt met their firms' needs. Under this scale, the higher the limit the RAC chose, the higher the associated deductible would be. At the top end of the scale, a RAC could select a maximum of $50 million of indemnification coverage with an associated deductible of $3.5 million. EPA received the most comments on this aspect of the proposal.

Many commenters stated that the $50 million limit was inadequate to cover what many commenters believe is the inherent risk of working at Superfund sites and the exposure of a catastrophic event which could bankrupt many companies. Commenters stated that if a RAC is forced into bankruptcy by a claim greater than its indemnification limit, the public may be left uncompensated for damages that may have occurred due to the clean-up action. Commenters suggested $100 million to $300 million in limits or full indemnification without limits, although there were some comments that no indemnification should be offered. No commenters gave a factual basis for their suggested limits, although many cited an EPA sponsored document that they claim recommended a limit of $200 million. In addition, some commenters noted that the limit was especially inadequate for multiple site contracts of long duration with numerous subcontractors seeking a share of the indemnification. They stated that if the limits were not raised prime contractors would choose not to share the limited indemnification with subcontractors and possibly choose not to work at Superfund sites.

Commenters also overwhelmingly spoke against the deductibles as being too high. Under the proposal, there would not be a contract aggregate limit

to the RAC's deductible. That is, the RAC would be required to pay the deductible amount each time a claim is made, regardless of the number of claims. Most commenters believed that this represented too great a burden on RACs given the profit margins on contracts to perform response actions. Commenters stated that even if a firm chose to purchase insurance from the private sector to cover the deductible, it would be too costly and would provide limited coverage due to policy exclusions. Many commenters stated that EPA should reimburse RACs for the cost of insurance if a RAC did purchase a policy to cover the deductible. In addition, commenters stated that to have the indemnification limit on a contract aggregate basis but to have the deductible on an "occurrence basis" (no contract aggregate limit) would lead to unlimited liability for the RACs and would be inconsistent with insurance policies in the private sector. Commenters stated that the deductibles were especially high for small businesses, grantees training hazardous waste workers, and innovative technology RACs.

Commenters did agree with the concept of a sliding scale in that it would permit RACs to choose a deductible and limit that met their particular needs. Some commenters thought, however, that the deductibles should be reflective of the contract value, and, therefore, the profit margin of the contract. They suggested that the deductible should be limited to a percentage (1% to 3%) of the contract value.

Response: Based on the comments and EPA's current knowledge, it believes that its basic approach of paired limits and deductibles chosen by the RAC is still appropriate. EPA's indemnification agreements must have limits and deductibles because of the statutory requirements to do so.

EPA proposed the sliding scale of limits and deductibles based on the concept that the RAC could best determine its required indemnification coverage. EPA included higher limits to provide coverage to RACs that believed such coverage would be necessary. EPA believed that a RAC requesting a high limit should be responsible for small claims so that it assumes some financial responsibility for its negligent actions, and, therefore, paired a higher limit with a higher deductible. Also, EPA believed that the deductibles should stand as a disincentive to the RAC to prevent it from overstating its indemnification needs, and as an incentive to maintain proper performance.

As supported by the comments, EPA continues to believe that it may be appropriate to offer indemnification in some cases. However, as some commenters have noted, the fact that some RACs are willing to work for others, including other federal agencies, and at some EPA Superfund sites without indemnification is persuasive that offering indemnification may not be necessary in all cases. EPA has decided the best way to determine when indemnification is needed is to attempt to obtain contractors without offers of indemnification and to offer indemnification only when a solicitation has not attracted an adequate number of qualified offerors/bidders because of the absence of indemnification.

Therefore, for future contracts, EPA will offer indemnification only if there is a lack of adequate competition to a solicitation due to the absence of indemnification. If this is the case, EPA may issue a new or amended solicitation, and the RAC will be eligible for indemnification once it has met the criteria (including diligent efforts) outlined in the guidelines. EPA believes that this approach will use the market place to determine when it is necessary for EPA to use its discretionary authority to offer indemnification. In this manner, EPA will maintain its fiduciary responsibility to ensure that Superfund moneys are used to the maximum extent possible to clean up sites, and at the same time maintain an adequate number of contractors willing to work at EPA sites.

Many RACs have argued that other contractor situations are not analogous to performing response work at EPA sites. At many of the sites where EPA is funding work, there are no viable owners or operators with whom contractors can, by contract or otherwise, seek to share liability. At many, if not most, private or federal facilities, this possibility for risk transfer (or sharing) exists. EPA does not take a position on this distinction. Regardless of the distinction, EPA maintains that the Congressional intent of providing EPA with the discretionary authority to offer RACs indemnification against negligence was only to ensure that an adequate number of qualified RACs are willing to participate in the Superfund program. To follow a policy that tests the RAC community's willingness to participate without indemnification through future solicitations is the best method to determine the number of qualified RACs willing to participate in the Superfund program without indemnification.

Although the "market-test" approach is reasonable to use for future contracts, it is not appropriate for use for current contracts that will need to be modified to be consistent with the final guidelines. Since a RAC operating under a current contract will not have to compete in the open market to receive indemnification, EPA cannot use a competitive test to determine if this RAC would work at particular sites without indemnification. Further, EPA believes that it would be in the government's best interest to have the least disruption to the cleanup effort. Therefore, EPA will negotiate with its RACs to replace their indemnification coverage under the interim guidance with coverage under these guidelines and thereby avoid the need to terminate current contracts for Superfund work.

With respect to indemnification limits, EPA is persuaded by many commenters' concerns that a limit higher than the $50 million in the proposal is needed, in some cases, to attract or keep RACs at Superfund sites. That is, many RACs have indicated to EPA that RACs may desire greater coverage in exchange for greater deductibles. EPA believes that these higher limits would be needed primarily to cover a possible catastrophic event. EPA believes that without adequate limits, the number of qualified contractors willing to do work for EPA might be unacceptably reduced, and that those willing to perform the work would raise their prices for EPA work due to a lack of adequate competition. At the same time, EPA must be cognizant of its own ability to absorb claims.

Although commenters did not provide support for specific limits above the $50 million proposed by EPA, EPA is persuaded that RACs with current multiple-site contracts of long duration (longer than five years) with numerous subcontracts, which are generally ARCS contracts, may need limits higher than $50 million.

EPA believes that higher limits may be needed for these contracts of long duration because:

- ARCS contracts (regional contracts for the planning and cleanup of CERCLA sites) have a ten-year term, more than double the duration of other Superfund contracts. ARCS work assignments will be of a complex nature with assignments ranging from remedial investigation/feasibility study (RI/FS), the investigation and planning phase, to managing remedial construction.
- ARCS contracts have, on average, two or three team subcontractors, i.e., subcontractors named in the contract that remain as part of the cleanup effort

for the life of the contract. Therefore, under one ARCS contract there are subcontractors with whom RACs may need to share their indemnification. The ARCS contractors will need higher limits to be able to share the indemnification with these subcontractors.

• ARCS contractors cannot identify in advance the sites at which they will work over a ten-year period as a RAC with a site-specific contract who can adjust its bid to reflect the perceived risk. Under the ARCS contracts, sites are assigned by EPA. While it is true that Emergency Response Cleanup Services (ERCS) and Technical Assistance Team (TAT) contractors must also accept work as EPA assigns it, their assignments are generally less complex and shorter in duration, such as surface spill clean up.

• Much of the ARCS contractor's work is below ground activity which adds to the complexity of the work and to the unknown aspects of the job.

• ARCS contractors will need to subcontract with numerous specialty contractors, whose specific activities have a higher potential for increasing the risk of potential liability for releases. This is additional exposure that other RACs that have contracts of shorter duration, fewer sites, and more above ground work will not have.

• RACs doing the remedial action (construction) are performing a very complex portion of the Superfund program, and one which may be the most likely to cause releases of contaminants. EPA concludes that some underwriters in the private sector agree since some insurance policies presented to EPA will cover multiple sites and multiple activities but not the RA work. For RA work, some underwriters in the private sector have provided only site-specific policies.

Several comments urged adoption of a $200 million indemnification limit which was recommended by Tillinghast, Nelson, and Warrenby, a consulting firm engaged by EPA to research liability issues. The firm's recommendation, which was made in a letter dated August 7, 1987, was prefaced with a caveat that "there is no credible data available for use in setting deductibles and limit levels." In its final guidelines, EPA is providing a $75 million per occurrence/contract aggregate limit for existing cost-reimbursement contracts of long duration (longer than five years), such as ARCS contracts. EPA believes that this limit will provide adequate coverage to contractors. The associated deductible is $2 million, and the RAC must make dollar-for-dollar co-payments above $50 million for a maximum coverage up to $75 million. EPA believes that in return for increased coverage, the RAC must assume financial responsibility for some portion of the claim. That is, EPA will permit a RAC to choose a higher limit to protect itself from a catastrophic claim, but in so doing the RAC must assume the financial responsibility for smaller claims. In this manner, RACs will share the risk with EPA. EPA believes that the RACs are generally able to purchase adequate insurance coverage from the private sector to cover the deductible (not the co-payment portion), if they choose.

EPA has introduced a three-tiered system that will govern the upper limit of coverage that a RAC may choose based on the dollar value of the contract at the time of award. RACs will be permitted to choose the limit and associated deductibles based on their own needs, but the upper limit of that choice will be controlled by the dollar amount (size) of their contract. EPA believes that contracts with work assignments for few sites or with smaller dollar values hold less risk and potential exposure to liability than do larger contracts, therefore, these RACs will be limited in the choice that they may make. Conversely, RACs with larger contracts will be permitted to choose higher limits. (Small and large are defined in the three-tiered system.)

EPA did not add a contract aggregate to the deductible as some commenters suggested. An aggregate deductible would only benefit those RACs who are the subject of negligence lawsuits on multiple occasions. Further, by removing the financial incentive for a RAC to act non-negligently, use of an aggregate deductible might increase the probability that negligent behavior would occur. EPA disagrees with commenters who stated that per occurrence deductibles are inconsistent with insurance policies provided in the private sector. All policies that EPA has received from its RACs for review have stated that the self-retention or deductibles have been on a per claim basis (*e.g.*, per occurrence basis). The limits offered have always been stated as per occurrence/per aggregate.

The guidelines do not attempt to provide total indemnification to RACs. EPA has used the deductible and copayments as a mechanism by which RACs will accept the initial financial responsibility and higher range financial responsibility for catastrophic coverage for any negligent actions that result in a release of any hazardous substance or pollutant or contaminant. The following considerations were the basis for the final deductible and co-payment requirements:

• The deductibles are generally tied to the profit margin in the contracts. Sound business practices would prevent RACs from bidding on work at EPA sites where the RAC would be exposed to a deductible that is bigger than the profit it could make from the work.

• EPA's deductibles are not required to mirror commercial insurance practices. The federal government has broader goals, social and economic, from the private sector. EPA's primary goal is to have an adequate number of qualified RACs participating in the Superfund program.

• The RACs requested higher limits for catastrophic claims. However, by its very nature, a catastrophic event caused by a negligent action is quite serious. EPA believes that companies needing this coverage at a very high range are generally large firms with substantial resources to protect. Therefore, these companies should be able to bear the financial responsibility of their negligent actions at the higher range by matching payments with EPA at the $50 million to $75 million range.

Finally, in response to commenters' concerns that higher deductibles could lead, in cases where the RAC could not meet its financial responsibilities, to situations where successful third-party suits would not receive proper compensation, EPA has stated its goals and the rationale for the size of its deductibles. Victim compensation is not a goal of the § 119 indemnification program. EPA's primary responsibility is to protect the exposure of the Superfund so that it can be used to the maximum extent possible to clean up hazardous sites. EPA believes that the approach taken in the final guidelines will satisfy that goal and encourage non-negligent behavior by its contractors. Moreover, RACs may purchase insurance in the private sector to cover the deductible in their § 119 indemnification agreements.

Fixed-Price (Sealed Bid) Contracts

Comments: In 1989, EPA proposed to indemnify RACs with fixed-price (sealed bid) contracts by placing an explicit price on its indemnification and adding it to a RAC's bid for a fixed-price contract. Commenters responded that the proposal did not provide the methodology for EPA's determination of a fair price for indemnification, and questioned EPA's ability to use underwriting criteria to determine the value of its indemnification as stated in the proposal. Commenters also stated that the proposed scheme conflicts with federal procurement law.

Response: EPA has considered the obstacles to adjusting a sealed bid, and after further consideration, EPA believes that it should change its position. Instead, EPA will use the same approach for fixed-price contracts as stated for cost-reimbursement contracts. That is, EPA will not offer indemnification unless there is an inadequate response to a solicitation and the lack of response can be linked to the absence of indemnification.

The guidelines for fixed-price contracts, when indemnification is offered, are designed to permit the RAC to determine its indemnification requirements, and to provide strong incentives for a RAC not to overstate its indemnification needs. EPA has adopted in the final guidelines the same set of limits and associated deductibles as for cost-reimbursement contracts. This approach ties the amount of the indemnification to the contract value and, therefore, roughly to the scope of the work and the RAC's profit margin. EPA believes that this approach is consistent with sound business decisions RACs make in choosing whether to work at EPA sites.

Term

Comments: The majority of commenters responding to EPA's proposed period of coverage for the indemnification stated that ten years beyond the contract term was too short. Although there is no substantial claims history, they contended it might well take years before a release is known, and therefore, a claim is made. Commenters also noted that the regulations for the Resource Conservation and Recovery Act (RCRA) require owner/operators to monitor RCRA sites for thirty years after site closure. These commenters suggested a period of coverage from twenty years to perpetuity.

One commenter stated that ten years was too long a period for the indemnification coverage. The commenter cited the private sector insurance policies that require annual renewals and only provide a few years additional coverage for additional premiums.

Response: As with the limits and deductibles, EPA proposed a ten year period, requesting comments and supporting rationale with the comments. EPA acknowledges that the lack of historical data for the Superfund program can be cited to either support or oppose a proposal to extend the period of coverage beyond ten years. EPA does not believe that a comparison to the RCRA requirement to monitor sites for thirty years is valid. In the case of the RCRA requirement, the decision to require monitoring for thirty years was based on the economic burden of monitoring to the owner/operator.

Conversely, EPA is not convinced by the argument that since current insurance policies are of short duration, EPA's indemnification should also be of short duration. EPA believes that insurance companies are offering policies of short duration to limit their exposure. Part of EPA's statutory mandate is to attempt to encourage the insurance industry to increase its current insurance coverage so that EPA's indemnification will not be necessary. EPA's action to extend coverage to ten years may encourage the private sector to increase its period of coverage. EPA is also attempting to fill in the gaps in coverage that the insurance industry currently does not address.

Commenters argued that the length or term of EPA's indemnification should extend beyond ten years based on the RAC's perceived need for long-term coverage. In cases where EPA will offer indemnification, it will be done because EPA believes that absent indemnification RACs will not work at Superfund sites. When offering indemnification, EPA must be very mindful of the potential liability it assumes for the RAC's negligence. After careful consideration, EPA believes that any period beyond ten years would be an unreasonable burden to the Trust Fund and possibly to the U.S. Treasury. EPA is not willing to assume such liability without market-based data that RACs will not work at Superfund sites without an indemnification agreement with a term greater than ten years.

RAC Liability

Comments: Many commenters discussed the RAC's liability and stated that EPA's proposal would place an unfair burden on the RAC. Most of these comments focused on discussions of strict liability and stated that EPA's indemnification should be expanded to include coverage for strict liability. Commenters requested that the language of paragraph 8(c) in the 1989 proposal, which states that EPA indemnification will not apply if a RAC is found to be both negligent and strictly liable and the cause of action is not divisible, be changed. Commenters believed that EPA's indemnification should apply in this case. Commenters did not cite any language in the statute that they believed authorized indemnification against strict liability.

Other commenters questioned paragraph 8(a) of the proposal, which states EPA will indemnify RACs against third-party liability. The commenters asked whether this could mean that EPA's indemnification will not cover possible CERCLA liability. Other commenters pointed out that state statutes vary and asked that the final guidelines be written to pre-empt state statutes and indemnify RACs against state liabilities.

Response: CERCLA Section 119 gives EPA the discretionary authority to indemnify RACs against negligence only. Congress did not authorize EPA to indemnify RACs for any liability associated with gross negligence, intentional misconduct or standard of strict liability nor to pre-empt liability under state law.

EPA is indemnifying RACs under section 119 against third-party liability arising from releases caused by their negligence. Section 119 waives CERCLA liability unless the RAC was negligent, grossly negligent, or engaged in intentional misconduct.

Other Federal Agencies

Comments: EPA received comments to delete paragraph 16(a) of the proposal which states in part "* * * that if other federal agencies choose to indemnify their RACs under CERCLA authority, then that indemnification must not be inconsistent with these guidelines." Commenters stated that if these guidelines become regulations they would unnecessarily bind other federal agencies and create unintended rights for RACs. Some commenters stated that CERCLA section 120(a), which generally requires other federal agencies' actions to be consistent with CERCLA, was written to address the technical aspects of remediation only.

One commenter asked that EPA clarify whether section 119 indemnification authority could be used by other federal agencies at non-NPL sites.

Response: EPA has not deleted this language. CERCLA section 119(c)(7) directs the President to develop guidelines and regulations for carrying out the indemnification provisions of CERCLA section 119. The President delegated this authority to EPA in Executive Order 12580 (Jan. 23, 1987), sections 2(b) and 11(g), 52 FR 2923, 2924, and 2929 (Jan. 29, 1987). The President tasked EPA with promulgating CERCLA section 119 guidelines and regulations, and specified that this authority was "to be exercised in consultation with the NRT." The NRT (National Response Team) is an interagency organization, established by section 1 of the Executive Order, which consists of representatives from EPA and other federal agencies and departments.

The Executive Order contains limited delegations of CERCLA section 119 authority to other federal agencies and departments. Their delegated authority is limited "to releases or threatened releases * * * from any facility or vessel under the[ir] jurisdiction, custody, or control * * *." E.O. 12580, sections 2(d) and 2(e)(2). The CERCLA section 119 authority delegated to the other agencies and departments is "subject to," among others, the Executive Order provision delegating CERCLA section 119(c)(7) authority (to issue indemnification guidelines and regulations) to EPA. Read together, the exclusive delegation of CERCLA section 119(c)(7) authority to EPA and the limited delegations of section 119 authority to other agencies and departments indicate that the EPA indemnification guidelines are being issued on behalf of the President, and are to be followed by all federal agencies and departments when providing CERCLA section 119 indemnification.

EPA also believes that interpreting E.O. 12580 to require that federal agencies and departments follow the indemnification guidelines when providing CERCLA section 119 indemnification is consistent with CERCLA section 120.

EPA interprets the phrase "must not be inconsistent" to mean that other federal agencies and departments must comply with the general terms and conditions set forth in these guidelines when providing CERCLA section 119 indemnification. For example, an effort must be made to get contractors to work with-out indemnification before indemnification offers under CERCLA section 119 authority can be made. The indemnification agreements may contain numerical values which differ from those in these guidelines. Such numerical differences, if justified for a particular agency or response action contract, would not make the other agency's indemnification agreement inconsistent with these guidelines.

With regard to the use of section 119 authority by other federal agencies or departments at non-NPL sites, section 119(c)(1), as implemented by E.O. 12580, authorizes federal agencies and departments to agree to indemnify "any response action contractor" meeting certain specified requirements. Section 119(e)(2) generally defines a "response action contractor" as any person who enters into a response action contract and any person hired to perform response work under such a contract. A "response action contract" is defined, in pertinent part, as a written contract or agreement "to provide any remedial action under this chapter [i.e., under CERCLA] at a facility on the National Priorities List * * *". Section 119(e)(i). Thus, the statute provides no authority for the indemnification of contractors under CERCLA section 119 performing remedial action work at sites which are not on the National Priorities List.

Diligent Efforts

Comments: EPA received many comments addressing the diligent efforts requirements. In the proposal, EPA stated that a RAC must submit the names and addresses of at least three commercial insurers or alternative risk financiers to whom it has submitted applications. Also, RACS must submit copies of their applications, insurance policies offered, rejection letters, and other correspondence between the RAC and the underwriter. All commenters stressed the burden that this requirement places on the RACs and particularly small-business RACs. Commenters offered suggestions on how they believed this burden could be lessened. These included exempting RACs from the diligent efforts requirement, restricting the schedule for making diligent efforts, or having EPA survey the market and thus perform the diligent efforts. Some commenters focused on the requirement that RACs must prove that applications have been submitted to three insurance underwriters. Finally, other commenters asked for clarification of when and how EPA would review the RACs' diligent efforts.

Response: EPA recognizes that the diligent efforts requirement may be somewhat burdensome to RACs. However, CERCLA section 119 clearly requires RACs to make diligent efforts to obtain private insurance coverage in order to be eligible for indemnification. RACs with multiple-site contracts are specifically required to continue to make diligent efforts each time a RAC begins work at a new site. EPA has no authority to relieve RACs of these statutory requirements. EPA does not believe that surveying the market would alleviate the RACs' burden. RACs, through the conduct of normal business, certainly know which insurance underwriters are offering pollution liability insurance. Most RACs have insurance brokers that perform this service for them. EPA is unable to perform diligent efforts for RACs because the statute requires the RACs to make their own diligent efforts. In any event, for EPA to begin this activity would be contrary to the Congressional intent that EPA limit its involvement in the insurance industry. By entering this area, EPA might be seen as endorsing one underwriter over another, or stifling another firm's entrance into this market.

EPA has tried to lessen the burden by modifying the proposed requirement that RACs seeking indemnification make applications to three underwriters, since at times there have not been three underwriters able to provide a RAC with its desired coverage. EPA has also added the opportunity for a RAC to use the actions and experience of its broker to satisfy the diligent efforts requirement. EPA believes this is a logical approach because most RACs use the services of a broker, and it will be easier for the RAC to submit the broker's work than applications that may be unnecessary in some circumstances. Also, the RAC may submit a statement from the broker that insurance is unavailable and the rationale for its unavailability.

EPA will review the diligent efforts of its prime contractors. Based on this review and additional instructional material from EPA, the prime will be required to review the diligent efforts of its subcontractors. EPA lacks privity of contract with subcontractors and is not directly indemnifying the subcontractors. It is, therefore, the prime's responsibility to review in the first instance its subcontractors' diligent efforts.

Indemnifying Equipment Suppliers

Comment: EPA received a late comment from a supplier of incinerator equipment requesting clarification as to whether equipment providers who are not prime contractors to EPA are RACs and, if so, whether these suppliers would receive indemnification on the same basis as service providers. As to the first question, the commenter noted that the statutory definition of response action contract clearly covers contracts for the provision of equipment under prime contracts, that is, contracts entered into directly with the government (or a PRP). The statutory definition of a RAC does include subcontractors but only those "retained or hired * * * to provide services * * *," which may not include equipment providers. The commenter also noted that the definitions of "RAC" and "response action contract" in the proposed guidelines do not precisely follow the statutory definitions. Specifically, the definition of RAC in the proposal is "* * * any person who enters into a response action contract to provide services and any person hired or retained by such person." By restricting the modifier phrase "to provide services" to prime contractors, the commenter argued that equipment providers would be RACs if they are

retained by prime contractors providing services.

Response: EPA did not intend to define RAC so as to indemnify equipment providers, as opposed to service providers. The definition of RAC in the proposed guidelines was intended to convey this. The interpretation provided by the commenter was not intended by EPA, and the definition in the final guidelines is being modified to clarify that only service providers, whether prime contractors or subcontractors, are to be eligible for indemnification.

The commenter argued that providers of equipment to a Superfund site are in danger of being involved in a toxic tort action of major financial proportions without any present hope of protection from insurance, which invariably excludes protection against pollution-related claims or that provides limited coverage at a high cost. EPA, however, has not found that it is necessary to offer indemnification to obtain equipment and does not anticipate the need to do so in the future. EPA will continue to monitor this issue, however.

In addition to the clarification to the definition of RAC noted above, EPA is also clarifying that service providers include persons performing construction. This clarification is being made because in some instances, such as in the FAR, service contracts do not include construction contracts. Construction is commonly considered to be a service, and EPA intended in the proposal to use "service" in this broader sense.

Legal Defense Costs

Comments: In the proposal, EPA stated that expenses of litigation would be subject to all the terms and conditions of EPA indemnification, including the negligence standard and the applicable deductible. Commenters addressed many aspects of legal defense and its costs. Several commenters stated that defense costs should be fully reimbursed (i.e., not subject to a deductible) if the RAC is found free of negligence. Other commenters asked if EPA would pay litigation expenses as the costs are incurred. A few comments suggested that EPA should assume a duty to defend RACs and include such a provision in the guidelines since private sector insurance policies contain this provision.

Response: EPA indemnification is not intended to offer total protection to RACs from their negligent acts at Superfund sites. The choice of limits and associated deductibles will permit a RAC to choose a lower deductible if it wishes to have more of its potential legal defense costs subject to indemnification coverage. EPA will not use the standard language of insurance policies which asserts that the insurance company maintains the right but not the duty to defend the insured in case of a claim. EPA's indemnification clause states: "The Government may direct, control, or assist the settlement or defense of any such claim or action." This language is consistent with the legislative history of CERCLA section 119, which makes clear that the government generally should not directly defend RACs against claims that are subject to indemnification.

Notification of Claims

Comments: Some commenters suggested changes to the language of paragraph 8(d)(i) of the proposal which defines "prompt" action as action within twenty days of the date when the RAC knew or should have known of the claim or event. Commenters stated that twenty days was too short a period for claim reports to pass from subcontractors to the prime contractor and through the prime's corporate offices to EPA. Commenters also stated that some of the language in the paragraph was ambiguous, such as the phrase "should have known," and sought clarification on use of the terms "claim" and "event." Most commenters recommended that EPA adopt the language found in private insurance policies.

Response: EPA is not persuaded by the commenters' argument that twenty days is too short a period for reporting a claim or that the provision contains ambiguous language. EPA does, however, believe that clarification is needed with regard to the notification period. EPA has defined the period as twenty working-days. This means that a prime would have twenty working-days to notify EPA after a subcontractor has notified it of a claim or action. The subcontractor in this example would have twenty working-days to notify the prime contractor.

Retroactivity

Comments: The proposal stated that the terms and conditions of the final guidelines "will be applicable retroactively to the date of enactment of SARA, or to the starting date of the contract, whichever is later." Commenters suggested that EPA reconsider the retroactive application of these guidelines. They argued that RACs indemnified under the interim guidance (OSWER Directive 9835.5) should be permitted to remain subject to that guidance. Commenters stated that there would be no incentive for RACs to agree to switch to coverage under the final guidelines.

Response: EPA has considered these comments but cannot agree to change its approach as suggested. EPA's intent all along, as indicated by the term "interim," has been to formulate final guidelines that would be the basis for modification of the indemnification provisions in current contracts. The Agency intended to do so in its capacity as steward of the Trust Fund since the interim guidance contains a small deductible and no specific limit on coverage.

RACs that have received EPA indemnification have in their agreements a clause that confers indemnification and states in part that, "This clause * * * will be modified by the mutual agreement of the parties hereto within 180 days of the EPA's promulgation of final guidelines for carrying out the provisions of § 119 * * *." In addition, EPA has corresponded with its RACs to affirm this position and has stated that RACs that refuse to agree to modify their agreements will not receive additional work under that contract.

Given the obvious temporary nature of EPA indemnification under the interim guidance, EPA believes that RACs understood that this protection lacked permanence and was on a "claims made" basis. Therefore, if RACs do not accept modification of their existing contracts to conform to the final guidelines, the contracts will be terminated, and EPA's potential liability under the interim guidance effectively will cease as of the date of contract termination.

Surety Issues

Comments: Many commenters stated that EPA indemnification must be extended to surety firms. Commenters stated that surety firms would not provide bonds for RACs without a clear sense of the potential risks to which the firm would be exposed. Commenters stated that if a surety did receive indemnification these uncertainties would be alleviated. Commenters stated that EPA indemnification would protect sureties from liability under a bond that it never intended to cover.

Response: In November 1990, the President signed into law an amendment to section 119 (Pub. L. 101–584) that is designed to give sureties whose bonds are activated the same protection from federal liability and access to indemnification that their RACs have under section 119. Consistent with the purpose of the amendment, EPA's final guidelines extend a RAC's indemnification

coverage to its surety if the performance bond is activated. EPA is limiting its indemnification to firms that provide performance bonds because it believes that firms that provide bid or payment bonds are not at risk for a RAC's negligence. If a performance bond is activated, the surety will stand in the shoes of the defaulted RAC and inherit its indemnification coverage. EPA believes that since the surety, at most, is responsible for completing a RAC's work (as opposed to initiating a new job), it will not be exposed to any additional liability.

Indemnification of Subcontractors

Comments: The proposal stated that the prime contractor would pick the limit and deductible best suited for its needs. Commenters stated that even at the maximum limit offered of $50 million, the prime contractor would retain all of the coverage for itself due to greater perceived potential liability. Almost all of the commenters addressing indemnity of subcontractors said that the proposed guidelines would discourage prime contractors from extending indemnification to subcontractors with consequent impacts upon the small business contractor community. The commenters suggested that for subcontractors to receive indemnification, EPA should indemnify them directly.

Response: EPA agrees that some contractors may be reluctant to share their indemnification with their subcontractors. However, EPA does not believe that the solution is to indemnify subcontractors directly. EPA does not have a direct contractual relationship with subcontractors, and lacks privity of contract with them. Moreover, the subcontractor approval requirement in section 119(c)(5)(E) confirms that Congress did not intend for EPA to establish a contractual relationship with subcontractors through direct indemnification. Therefore, EPA believes it is inappropriate for EPA to directly indemnify subcontractors.

EPA has, however, addressed the concerns about impacts on small businesses in two ways in the final guidelines. First, it has raised the indemnification limit for existing cost-reimbursement contracts that prime contractors may choose for multiple-site contracts of long duration (longer than five years). With a higher limit, the prime contractor may be more willing to extend its indemnification to subcontractors. Also, EPA will permit those prime contractors to flowdown up to $15 million to some subcontractors in the subcontracting pool; this limit does not affect the primes' limit. This provision will help ensure that prime contractors offer indemnification to protect small businesses with relatively little resources. No one subcontractor may receive more than $5 million coverage. EPA will publish a list of subcontracting services for which it will permit prime contractors to extend this indemnification, but generally the activities eligible for indemnification will be confined to intrusive services performed at the site in the contaminated area.

Indemnification of Innovative Technology RACs and SITE Participants

Comments: In the proposal, EPA stated that technology vendors in the Superfund Innovative Technology Evaluation (SITE) program are considered RACs, and further stated if EPA did offer these RACs indemnification, it would be under the same terms and conditions as cost-reimbursement RACs. Commenters stated that EPA was overlooking the value that these RACs add to the Superfund program and pointed out that SARA states a preference for innovative technology in the remedy selection. Commenters felt that most aspects of the indemnification agreements available to RACs with cost-reimbursement contracts were inappropriate for these RACs and might prohibit their entrance into the Superfund program. They stated that the deductibles were too high since many of these RACs are small in size. Some commenters stated that the limits might be beyond their needs.

Response: EPA agrees that these RACs add value to the Superfund program, and that their needs may be different from RACs with cost-reimbursement prime contracts. For example, in addition to the difference in perceived risks posed by the activities of these companies, EPA believes that they are often smaller companies than those that are awarded cost-reimbursement contracts with EPA. As such, they may have difficulty meeting the deductibles set for RACs with cost-reimbursement prime contracts. EPA has tried to address this difference by providing different limits and associated deductibles for both SITE participants and for RACs with innovative technologies. In each case, these RACs will be permitted to choose a limit with an associated deductible based on their particular needs. Where these RACs require higher limits to protect their assets, EPA believes that these companies are in a better position to afford deductibles set for RACs with cost-reimbursement prime contracts. Therefore, the difference between the deductibles available to SITE participants and innovative technology RACs and prime cost-reimbursement RACs for the same limits narrows as the $25 million limit is reached. EPA has restricted the upper limit of coverage for RACs with innovative technologies that are subcontractors and SITE participants to $25 million because it believes their work is of a smaller scope than RACs with prime contracts. EPA will permit RACs with innovative technologies that are prime contractors to also choose limits with lower deductibles up to $25 million to encourage their participation in the Superfund program. These RACs may elect to choose higher coverage than $25 million, but they will not receive the benefits of deductibles that are lower than those available for other RACs. EPA believes that these RACs desiring higher coverage should assume the same financial responsibility as all other RACs.

EPA believes that the market-test approach to indemnification is not suitable for SITE program participants accordingly, they will be eligible for indemnification if they meet the other criteria of the guidelines (e.g., diligent efforts). EPA has also provided similar limits and deductibles for RACs with innovative technologies where they are subcontractors for remedial actions.

Indemnification of RACs Working for States

Comments: EPA stated in the proposal that it will indemnify RACs working for states, political subdivisions or federally-recognized Indian tribes that have entered into a cooperative agreement with EPA for work initiated at NPL or removal sites. Commenters agreed that RACs working for states under cooperative agreements should receive the same indemnification as those working for EPA. A few commenters questioned whether states without their own authority to offer indemnification could indemnify RACs or pay any cost-share towards indemnification claims.

Response: The proposal and final guidelines provide for indemnification of RACs working under EPA cooperative agreements pursuant to federal law, not state law. These indemnification agreements are offered by EPA and implemented through and governed by the terms and conditions of those cooperative agreements. The costs of any indemnification claim will not be a cost-share item that will require payments from states, political subdivisions or federally-recognized Indian tribes that have entered into a cooperative agreement with EPA for work initiated at NPL or removal sites.

States may indemnify RACs pursuant to state law, and some states do. Such state programs are subject to independent state authority (not CERCLA section 119 and these guidelines) and are financed solely with state funds.

Indemnification of RACs Working for Potentially Responsible Parties

Comments: In the proposal EPA stated that it would not exercise its authority to indemnify RACs employed by potentially responsible parties (PRPs). Commenters disagreed with EPA's decision. The rationale they offered to support indemnification of RACs working for PRPs was that these RACs need to be indemnified just as other RACs. One commenter said that it would reduce the number of RACs willing to work for PRPs.

Response: EPA disagrees and will not offer indemnification to RACs working for PRPs. Each time EPA indemnifies a RAC, it increases the exposure of the federal government to payment for indemnification claims. EPA believes that RACs and PRPs will be able to decide upon the terms of their contractual relationship, including those on private-party indemnification, if any, without the involvement of EPA.

EPA believes that its policy will not impede site cleanups by PRPs. In granting EPA discretionary authority for very limited indemnity of RACs working for PRPs, Congress imposed strict requirements that are quite difficult for these RACs to meet. In fact, few requests for such indemnification have been received.

Coverage of On-Site Work

Comments: Commenters disagreed with paragraph 19(a) of the proposal which states that EPA's indemnification will only cover work directly related to site cleanup. They argued that the statutory language does not place this restriction on indemnification.

Response: EPA does not agree. This provision reflects the general and specific limitations imposed by section 119(c) and the use of the term "facility" in the statutory definition of response action contract. In any event, EPA believes as a matter of policy that indemnification should be limited to RACs' activities directly related to site cleanup. EPA also believes that these are the contractors with the most potential to cause a release.

Requirement to Purchase Insurance

Comments: Commenters disagreed with the proposed requirement that RACs with cost-reimbursement contracts annually increase their insurance coverage. The proposal stated that RACs that receive EPA indemnification must increase the amount of pollution liability insurance they purchase by 25% each year unless EPA determines that the increased amount of insurance is not available. Commenters also questioned what criteria EPA would use to make this decision, and how EPA would determine what would be a reasonable price.

Response: This requirement was put in the proposal to decrease a RAC's need for EPA indemnification and to increase the role of the private sector. Insurance is available from the private sector, and some RACs have been directed to purchase insurance under the ARCS contracting program. EPA has reimbursed RACs for the cost of the insurance. EPA has and will continue to produce guidance on insurance prices as the insurance market situation warrants.

Perform Regulatory Flexibility Analysis

Comment: EPA should perform a regulatory flexibility analysis.

Response: Whenever an agency is required by law to publish a general notice of proposed rulemaking, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) generally requires that the agency prepare a Regulatory Flexibility Analysis (RFA) describing the impact of the proposed rule on small entities. Because the guidelines are not required to be published as a notice of proposed rulemaking under section 553 of the Administrative Procedure Act or any other law, they are not subject to the RFA requirements of the Regulatory Flexibility Act.

Section 126 Grantees

Comment: EPA should indemnify organizations that train hazardous waste cleanup workers under CERCLA section 126 grants.

Response: Section 126 grantees are eligible for indemnification under the final guidelines with similar limits and deductibles available to SITE participants.

Guidelines Document EPA Indemnification of Superfund Response Action Contractors

Introduction

These guidelines fulfill the requirement of CERCLA section 119(c)(7), as implemented by Executive Order 12580, that EPA develop guidelines to carry out CERCLA section 119(c).

1. Purpose

These guidelines provide policies and procedures by which the Environmental Protection Agency (EPA) may indemnify response action contractors (RACs) for third-party claims that result from a release of a hazardous substance, pollutant or contaminant due to RAC negligence arising out of response action activities at a National Priorities List (NPL) or removal action site.

2. Authority

These guidelines are required by section 119(c)(7) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601, et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law 99–499. In E.O. 12580, the President delegated to EPA the responsibility for issuing section 119 guidelines (52 FR 2923 (Jan. 29, 1987)).

3. Scope

These guidelines govern indemnification by EPA of all RACs that perform response work under contract at NPL or removal action sites for EPA, for states (or political subdivisions) under CERCLA cooperative agreements with EPA, and for potentially responsible parties (PRPs) under a CERCLA administrative order or consent decree. EPA interprets section 119 to permit the Agency to provide indemnification to RACs working for federally-recognized Indian tribes pursuant to a CERCLA section 104 cooperative agreement with EPA. These guidelines also apply to EPA indemnification of SITE program participants conducting field demonstrations pursuant to CERCLA section 311(b), recipients of training grants under SARA section 126(g), and RACs working for other federal agencies (such as the U.S. Army Corps of Engineers) at EPA-lead sites under a Memorandum of Understanding (MOU) or an Inter-Agency Agreement with EPA. Where other federal departments or agencies indemnify RACs under section 119 authority, the indemnification agreements must not be inconsistent with these guidelines.

4. Application

(a) These guidelines govern EPA's indemnification of RACs for response work initiated after October 17, 1986, the date of enactment of SARA. These guidelines supersede OSWER Directive 9835.5, "EPA Interim Guidance on Indemnification of Superfund Response Action Contractors Under Section 119 of SARA."

(b) These guidelines govern all RAC indemnification by EPA for future response action contracts.

(c) Contract indemnification terms under EPAAR 1552.228–70 rather than these guidelines will apply to work performed at a site after the date of enactment of SARA only if response work at the site was initiated under an EPA contract prior to SARA's date of enactment. Indemnification agreements granted under the terms of OSWER Directive 9835.5 (EPA's Interim Guidance) will be replaced, through a negotiated agreement, with terms and conditions that are consistent with the policies found in these guidelines.

(d) Subject to all the requirements of these guidelines, any indemnification agreement provided by EPA to a prime contractor may be provided by the prime contractor to its subcontractors if the agreement is approved by EPA at the time of the award of the subcontract. That is, the prime contractor can agree to indemnify a subcontractor, and EPA may indemnify the prime contractor with respect to the prime contractor's obligations that may arise as a consequence of its indemnification of the subcontractor (see section 9, below).

(e) Consistent with EPA policy that a fair portion of subcontracts be awarded to small, minority and women-owned businesses, prime contractors shall fully consider the needs of these RACs with regard to indemnification.

5. Abbreviations

CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended)
EPAAR—EPA Acquisition Regulations
FAR—Federal Acquisition Regulations
NPL—National Priorities List
OSWER—EPA's Office of Solid Waste and Emergency Response
PRP—Potentially Responsible Party
RAC—Response Action Contractor
SARA—Superfund Amendments and Reauthorization Act of 1986
SITE—Superfund Innovative Technology Evaluation

6. Definitions

Terms not defined in this section have the meaning given by CERCLA and § 300.5 of the "National Oil and Hazardous Substances Pollution Contingency Plan." (40 CFR 300.5 (1991)).

Claim means the receipt by the RAC of a written demand for money, naming the RAC and alleging a release of any hazardous substance or pollutant or contaminant caused by the RAC's response action activities.

Indemnification, for the purpose of these guidelines, means an agreement under which EPA will compensate certain losses suffered by a RAC, and the actual payment of that compensation.

Non-federal sources means commercial insurance, state indemnification, self-insurance, or other alternative risk transfer mechanisms.

Occurrence, means a release, including continuous or repeated, of any hazardous substance or pollutant or contaminant.

Response Action Contractor, as provided in CERCLA section 119(e)(2), means any person who enters into a response action contract to provide services (including construction) related to any release or threatened release of a hazardous substance or pollutant or contaminant from a facility, and any person, hired or retained by such a person, providing such services. It includes recipients of cooperative agreements under section 311(b) of CERCLA and recipients of grants pursuant to section 126(g) of SARA. It also includes any surety who, after October 16, 1990, and before January 1, 1993, provides a bid, performance or payment bond to a response action contractor, and begins activities to meet its obligations under such bond, but only in connection with such activities or obligations.

Response Action Contract, as provided in CERCLA section 119(e)(1), means any written contract or agreement entered into by a RAC with the President; any federal agency; a state, political subdivision, or a federally-recognized Indian tribe under a CERCLA section 104 cooperative agreement with EPA; or any PRP under an order or decree, to provide remedial action at an NPL site or removal action.

SITE, means the program developed under CERCLA section 311(b) which directs EPA to establish an "Alternative or Innovative Treatment Technology Research and Demonstration Program." This program accelerates the development of, and demonstrates, evaluates, and disseminates information about new and innovative treatment technologies.

Indemnification Requirements, Terms, and Conditions

7. Indemnification Request

(a) EPA will not indemnify RACs that fail to meet the requirements of CERCLA section 119 and of these guidelines. EPA will not enter into an indemnification agreement with a RAC until the RAC submits the documentation required by CERCLA section 119 and described in these guidelines.

(b) To be eligible for indemnification by EPA, the RAC shall submit evidence of the following:

(i) That its potential third-party liability is not covered by pollution liability insurance available at a fair and reasonable price at the time the contract to perform a response action is entered into, and that adequate pollution liability insurance is not generally available;

(ii) That it has made diligent efforts to obtain insurance coverage from non-federal sources (or, if it is a cost-reimbursement RAC, it has satisfied the minimum insurance requirements of section 10(c), below), and;

(iii) Under a multi-site contract, that the RAC also has made (or agrees to continue to make) such diligent efforts (or, if it is a cost reimbursement RAC, it will otherwise satisfy the requirements of section 10(c)) every time it begins work at a new facility.

(c) Due to the variability of market conditions, EPA will determine on a case-by-case basis whether adequate insurance is available at a fair and reasonable price at the time indemnification documentation is submitted. This determination will be based on the documentation submitted in fulfillment of the diligent efforts requirement, or on any other insurance market information available to EPA. In its determination of a fair and reasonable price for insurance, EPA will consider what a prudent business person in the private sector would purchase after weighing the following criteria and other relevant factors:

- The insurance rate applied to each $100 of receipts.
- The deductible or self-retention rate associated with the policy.
- The projected work load and nature of the risk associated with the work to be covered by the policy.
- The amount and type of pollution liability coverage and limit provided by the policy.
- Exclusions and limitations of the policy.
- The effective date of the policy.
- The period of coverage.
- The amount of coverage, if any, extended to subcontractors.
- The receipts used in determining the insurance rate.
- Other risk sharing mechanisms available.

(d) To demonstrate that diligent efforts have been made to obtain non-federal pollution liability insurance coverage, a RAC must submit in writing:

(i) The names and addresses of three commercial insurers or alternative risk financiers to whom the RAC or its broker has submitted applications. If the

number of names and addresses is fewer than three, then a statement justifying the reduced number; and either,

(ii) A statement from a recognized professional insurance broker stating that the broker has attempted to secure pollution liability insurance coverage on behalf of the RAC, and summarizing premiums, terms and conditions; or stating that pollution liability insurance was unavailable and giving the reasons for its unavailability for the RAC.

(iii) A copy of each application submitted, insurance policies offered (including the declaration page), and any rejection letters received. If pollution liability insurance was offered by a commercial insurer, but not accepted by the RAC, an explanation of the reasons why such coverage was rejected must be included; or

(e) EPA will not enter into an indemnification agreement until the RAC has submitted the documentation required in subsection (b) and (d). EPA will not enter into an indemnification agreement if it determines that the documentation submitted is insufficient, or if it determines that the RAC's efforts to obtain insurance were not sufficiently diligent.

(f) If the RAC is working under a multi-site contract, the diligent efforts information must be updated and resubmitted before the RAC begins work at a new facility (as part of the indemnification agreement, the RAC will have agreed to continue to make such diligent efforts each time work is started at a new facility (see subsection (b)(iii), above)). However, if previously purchased insurance covers work at the new facility, then there is no need to submit additional documentation for that site.

(g) EPA reserves the right to change the frequency and content of documentation submittal requirements, and also to direct indemnified RACs to purchase insurance from insurers identified by EPA.

8. Indemnification Terms and Conditions

(a) Where EPA has agreed to indemnify a RAC, EPA will indemnify the RAC against third-party liability (including the expenses of litigation or settlement) for negligence arising from the RAC's performance in carrying out the response action activity. Such indemnification shall apply only to such liability not compensated by insurance or otherwise and shall apply only to liability which results from a release of a hazardous substance, pollutant, or contaminant if such release arises out of the response action activities of the contractor.

(b) EPA indemnification is subject to limits and deductibles. For the purpose of determining the amount of the indemnification limit and deductible, the expenses of litigation or settlement are considered part of the liability covered by the indemnification agreement.

(c) The amount of the indemnification limit and deductible depends on the type and dollar value of the contract entered into (see below).

(i) The indemnification limit is defined on a per occurrence/aggregate basis with a contract aggregate limit.

(ii) The indemnification deductible is on a per occurrence basis.

(d) EPA indemnification will not cover liabilities (including the expenses of litigation or settlement) that were caused by the conduct of the RAC (including any conduct of its directors, managers, staff, representatives or employees) which constituted gross negligence or intentional misconduct. Nor shall the RAC be indemnified for liability arising under strict tort liability, or any basis of liability other than negligence.

(i) EPA indemnification will cover the expenses of litigation or settlement subject to the terms and conditions of the indemnification agreement (such as limits and deductibles). In addition, EPA indemnification will apply if the RAC is found not to be liable for alleged negligence, or if a negligence suit is settled.

(ii) EPA indemnification will not apply if the RAC is found both strictly liable and negligent, and the cause of action is not divisible.

(e) If a RAC has a CERCLA section 119 indemnification agreement with EPA, the RAC must notify EPA of any claim or action against the RAC that may involve EPA indemnification, within twenty working days after receiving notice of any claim or action. The RAC must also notify its insurer(s) of any claim or action that may involve EPA indemnification, even if the RAC believes that its insurance is not applicable to the claim or action, within twenty working days upon receiving notice of any claim or action (or a shorter period if required by the terms of the insurance policy). Indemnification is conditional on EPA's receipt from the RAC of copies of the complaint (or other claim), and of the notice to the insurer within twenty working days of receiving notice of any claim or action. The insurer's response must be forwarded to EPA promptly after receipt by the RAC.

(f) Coverage Term: The coverage term is subject to the other terms and conditions listed in this document.

(i) An EPA indemnification agreement will cover claims arising (and reported to EPA) during the period of performance of the contract, plus claims submitted to EPA within ten years after the contract term.

(ii) For multi-site contracts, the ten-year coverage term, with respect to an individual site, begins with the completion of work (as specified in the Work Assignment or other relevant work order) at the site.

(g) Limits, Deductibles, and Purchased Insurance: Any pollution liability insurance (or self-insurance) acquired or maintained by the RAC to meet the requirements of sections 7 or 10 of these guidelines reduces the limit of EPA indemnification on a dollar-for-dollar basis. Further, the RAC must exhaust both the available insurance coverage and the EPA deductible (found in the indemnification agreement) before EPA will make an indemnification payment.

(h) See section 20 below for additional terms and conditions.

9. Subcontractors—General Provisions

(a) EPA will not agree to indemnify subcontractors directly. However, with the prior written permission of EPA, prime contractors may indemnify their subcontractors. Thus, EPA will provide no more than one indemnification agreement per contract, regardless of the number of sites where work will be performed under the contract, with that agreement affording coverage to the prime contractor, including any obligation the prime contractor may incur as a result of its indemnification agreements with its subcontractors. (See also the approval requirement in subsection (b), below.)

This section does not apply to a prime contractor that chooses to share its indemnification with a team subcontractor. In this situation the coverage received by the team subcontractor would subtract from the prime contractors coverage and not be an additional exposure to EPA.

(b) Under an EPA indemnification agreement, the prime contractor may confer indemnification on the subcontractor by including in the subcontract an indemnification clause by which the prime contractor agrees to indemnify the subcontractor. That indemnification clause must have terms and conditions (except for limits and deductibles, see below) identical to those found in the clause by which EPA agrees to indemnify the prime contractor. EPA will indemnify the prime contractor with respect to any liability incurred by the subcontractor(s) pursuant to an indemnification

agreement between the prime contractor and any subcontractor (subject to the indemnification limits and deductibles specified in the prime contract). EPA, however, must give prior approval (in writing) of the subcontract which contains the indemnification agreement between the prime contractor and subcontractor.

(c) Subcontractors receiving indemnification through the prime contractor are subject to all indemnification requirements, terms, and conditions of these guidelines. These applicable requirements include the reporting requirements of section 7, above. That is, the subcontractor must demonstrate that it has made diligent efforts to obtain pollution liability insurance, and agrees to continue to make such efforts. The subcontractor shall forward all documentation to the prime contractor, and the prime contractor shall forward copies of the documentation to the contracting officer (or other appropriate EPA official). It will be the responsibility of the prime contractor to monitor the diligent efforts of its subcontractors based on the feedback from EPA during EPA's review of the prime contractor's diligent efforts. The contracting officer (or other appropriate EPA official) may consent to the subcontract including the indemnification clause (see section 9(b), above) only if the contracting officer (or other appropriate EPA official) has determined, based on the documentation supplied by the subcontractor to the prime contractor or information supplied by the prime contractor, that the subcontractor has satisfied the reporting requirements of section 7. A demonstration of diligent efforts by the prime contractor is not sufficient to demonstrate that, by implication, insurance is unavailable to the subcontractor.

Indemnification Terms and Conditions for Specific Contract Types

10. RACs Working for EPA Under Cost-Reimbursement Contracts

(a) For cost-reimbursement contracts entered into after the promulgation of these guidelines, EPA will not offer indemnification agreements in its solicitations. If there is a lack of adequate competition in response to the solicitation that can be linked to the absence of indemnification, then a new or amended solicitation may be issued that states that indemnification will be available to the successful offeror. If EPA does offer indemnification, the agreement will be subject to the paired limits and deductibles listed in subsection (g) and (h) below. EPA retains the right to incorporate other provisions of this policy (e.g., coverage for subcontractors) when appropriate.

(b) RACs working for EPA under cost-reimbursement contracts must procure and maintain all insurance required by law or regulation including:

(i) Insurance required by part 28 of the Federal Acquisition Regulations for cost-reimbursement contracts,

(ii) Commercial general liability insurance for bodily injury, death or loss of or damage to property of third persons in the minimum amount of $500,000 per occurrence, and,

(iii) Any additional insurance EPA may require.

(c) Indemnification and Insurance: Any RAC working for EPA under a cost-reimbursement contract who requests that EPA enter into an indemnification agreement must procure and maintain pollution liability insurance for bodily injury, death or loss of or damage to property of third persons in the minimum amount of $1,000,000 per occurrence (or self-insure for the same), *or* it must demonstrate that it has made diligent efforts to obtain such pollution liability insurance and, despite such diligent efforts, has failed to procure reasonably-priced insurance. RACs under a multi-site contract must agree to continue to make such diligent efforts each time work begins at a new site. EPA will not agree to indemnify a RAC who does not purchase the required insurance or demonstrate diligent efforts, nor will EPA make indemnification payments to a RAC who has entered into an indemnification agreement but has failed to demonstrate adequately that it has made diligent efforts each time work started at a new site (except as provided in section 7(f), above).

(i) The RAC must obtain and maintain pollution liability coverage for professional liability and/or general liability, as appropriate.

(ii) The minimum amount of pollution liability insurance to be purchased must increase by 25% per year unless EPA determines that the increased amount of insurance is not generally available at a fair and reasonable price. Thus, where "t" is defined as the number of years elapsed since promulgation of these guidelines, the minimum amount of pollution liability insurance required in year t is equal to:

$1 million * (times) 1.25^t

(iii) The demonstration of "diligent efforts" is defined in section 7(d), above. Those diligent efforts must be deemed satisfactory by EPA.

(d) Reimbursement: RACs working for EPA shall submit to the contracting officer for prior approval all insurance policies (or documentation of all self-insurance plans) for which reimbursement will be sought from EPA.

(e) Any loss incurred within the EPA indemnification deductible amount (see below) will not be reimbursed to the RAC as either a direct or an indirect cost. All deductibles, with the exception of co-payments above $50 million (see below), must be met by the RAC as the first financial obligations of the claim and must be paid by the RAC before any payments are made by EPA. The RAC may purchase insurance to cover the indemnification deductible amount, but the cost of that insurance is not reimbursable (nor is any loss within the deductible amount of that insurance reimbursable as either a direct or indirect cost).

(f) Self-Insurance: If a RAC proposes to self-insure against pollution liability, and seeks reimbursement for the cost of self-insurance or seeks to satisfy the minimum requirement of section 10(c) through self-insurance, it must demonstrate to EPA financial responsibility for the amount of self-insurance proposed. Financial responsibility may be demonstrated by letter of credit, surety bond, trust fund, escrow account, or other method approved by the EPA Contracting Officer.

(i) A demonstration of financial viability, by itself, does *not* constitute an adequate demonstration of financial responsibility.

(ii) To be eligible for reimbursement of the cost of self-insurance, a RAC must satisfy the applicable requirements of 48 CFR Parts 28 (*Bonds and Insurance*), 30 (*Cost Accounting Standards*), and 31 (*Contract Cost Principles and Procedures*), and 4 CFR Part 416 (*Accounting for Insurance Costs*).

(g) Limits and Deductibles for RACs with contracts entered into before the date of promulgation of these guidelines (with indemnification) with EPA, another federal agency working at EPA sites under an inter-agency agreement (IAG), or a state or political subdivision of a state, or a federally-recognized Indian tribe having a cooperative agreement with EPA to clean up Superfund sites: The limit and associated deductible included in the indemnification agreement shall be the subject of negotiation by EPA and the RAC at the time of contract modification in one of the following amounts as

governed by the restrictions in subsection (h) below:

Limit (occurrence/aggregate)	Deductible (occurrence)
$2 million	$20,000.
5 million	50,000.
10 million	100,000.
25 million	250,000.
50 million	1.0 million.

(h) The RAC may select from the limits/deductibles as follows:

- A RAC with a single-site contract of less than $10 million may choose any pair of limits/deductibles that has a limit of $10 million or less.
- A RAC with a single-site contract of $10 million to $25 million or a multi-site contract of less than $25 million may choose any pair of limits/deductibles that has a limit of $25 million or less.
- A RAC with a contract of $25 million or more may choose any pair of limits/deductibles that has a limit of $50 million or less.

(i) For contracts of long duration (longer than five years), the RAC may choose a higher limit of $75 million, with a $2 million deductible and co-payments (dollar for dollar) by the RAC above $50 million.

(j) Subcontracts: (i) For subcontractors that perform services and are retained through the subcontracting pool of cost reimbursement contracts subject to subsection (i) above, the prime contractor may flowdown up to $15 million coverage in the aggregate to subcontractors. This coverage is separate from the prime's limit and cannot be used by the prime contractor for additional coverage above its limit as described in this section. The prime may not grant more than $5 million coverage to any single subcontractor under this paragraph, and the associated deductible shall be $50,000 per contract aggregate for each indemnification agreement with a subcontractor.

(ii) EPA may offer indemnification to innovative technology subcontractor RACs who provide innovative technologies under a contract to provide remedial action (RA) construction services and that fall within the definition of a RAC under CERCLA section 119(e)(2)(B) if EPA determines that the technology has special value to the Superfund program. These RACs must have made diligent efforts to obtain pollution liability insurance from non-federal sources which were unsuccessful. These RACs may choose from the following limit and deductible pairs:

Limit (occurrence/aggregate)	Deductible (occurrence)
$2 million	$10,000
5 million	25,000
10 million	50,000
25 million	200,000

(iii) Subcontractors under contracts subject to section 10(i) performing remedial action (RA) work will be subject to the same requirements as RACs under section 11 below. Prime contractors may not offer EPA indemnification in their solicitations for remedial action (RA) work unless there is a lack of adequate competition in response to the solicitation that can be linked to the absence of an indemnification. Then EPA may permit a new or amended solicitation to be offered that states that indemnification will be available to the successful bidder/offeror.

(iv) Subcontractors that meet the conditions of both paragraphs (ii) and (iii) above may choose from either the scale in section 10(j)(ii) or the coverage available under section 11, but not both.

11. Indemnification of RACs Working for EPA under Firm Fixed Price Contracts

(a) General: Although the Government is not ordinarily concerned with a contractor's insurance coverage if the contract is a fixed-price contract, EPA recognizes that a RAC cleaning up a Superfund site may require protection against third-party liability, and that, in some cases, adequate insurance may not be available. In such cases, and from a bidder's perspective, EPA indemnification may be a prerequisite to clean-up activities at the site. For future fixed-price contracts, EPA will not offer indemnification in its solicitations. If there is a lack of adequate competition in response to the solicitation that can be linked to the absence of indemnification, then a new or amended solicitation may be issued which states that indemnification will be available to the successful bidder. EPA retains the right to incorporate other provisions of this policy (e.g., coverage for subcontractors), when appropriate, into future contracts and solicitations. If indemnification is available under the solicitation , the RAC must meet all of the requirements specified in section 7 (above); and the indemnification agreement will contain a limit and a deductible as prescribed in section 10 (g) and (h) above.

(b) RACs working for EPA under fixed-price contracts will not be reimbursed for the cost of pollution liability insurance (except indirectly, *i.e.*, and to the extent that the cost of such insurance may be reflected in the fixed price).

(c) If EPA offered indemnification to RACs currently under contract with EPA or another federal agency working at EPA sites under an inter-agency agreement (IAG), the agreement will contain a limit and a deductible as prescribed in sections 10(g)(h) above.

(d) If EPA offers indemnification to a fixed price innovative technology RAC, the RAC must demonstrate that it has made diligent efforts to obtain pollution liability insurance from non-federal sources as specified in section 7 above. If adequate insurance is not available at a fair and reasonable price, the limit and deductible amounts of EPA indemnification available to the RAC are:

Limit (occurrence/aggregate)	Deductible (occurrence)
$2 million	$10,000
5 million	25,000
10 million	50,000
25 million	200,000

(e) If EPA offers indemnification, any RAC that is the successful bidder to a solicitation that requires innovative technology or uses innovative technology may select limits/deductibles as stated in section 11(d) or in section 10(g) and (h) above. If the RAC uses a subcontractor to provide and/or operate the innovative technologies, the subcontracted RAC may also choose from the limits and deductibles in section 11(d) above.

12. Indemnification of RACs Working for EPA under Negotiated Fixed-Price Contracts

(a) For the purpose of indemnification, RACs working for EPA under negotiated fixed-price contracts (including RACs under fixed-rate contracts with some cost elements reimbursable, such as Time-and-Materials Contracts) will be considered cost-reimbursement contractors. If a negotiated fixed-price RAC requests indemnification, it will be subject to the same insurance requirements and indemnification terms and conditions as cost-reimbursement contractors (see sections 7 and 10, above).

13. Indemnification of SITE Program RACs

(a) Technology vendors participating in the SITE program are defined as RACs in CERCLA section 119(e)(2)(A). Thus, those RACs participating in the SITE program, under cooperative agreement with EPA, are eligible for indemnification.

(b) SITE program RACs must make diligent efforts to purchase pollution

liability insurance from non-Federal sources as specified in section 7.

(c) If adequate insurance is not available at a fair and reasonable price, EPA may offer indemnification to these RACs. The limit and deductible for EPA indemnification will be determined by the RAC from the following limit and deductible pairs:

Limit (occurrence/aggregate)	Deductible (occurrence)
$2 million	$10,000
5 million	25,000
10 million	50,000
25 million	200,000

(d) EPA will not indemnify SITE program RACs with respect to facilities which receive waste for disposal, treatment (except for small-scale demonstration testing), or storage independently of the SITE technology demonstration.

(e) EPA may indemnify SITE program RACs with respect to any work conducted at a federal facility (as described in CERCLA section 120 except as stated in subsection (f), below).

(f) If a SITE demonstration project is funded by a party other than EPA (including federal agencies), then the SITE RAC will be considered, for the purpose of indemnification, a RAC employed by that party. For example, if a SITE RAC is conducting a demonstration funded at least in part by a PRP, then EPA will not indemnify the RAC (see section 17, below).

14. Indemnification of RACs Receiving Grants Under SARA section 126(g)

EPA may indemnify RACs receiving grants under SARA section 126(g). They will be subject to the terms and conditions for SITE program RACs in section 13 above.

15. Indemnification of RACs Employed by States or Political Subdivisions of States, or Federally-Recognized Indian Tribes

(a) General: EPA has been granted discretionary authority to indemnify RACs employed by states, political subdivisions of states, or federally-recognized Indian tribes that have entered into a cooperative agreement with EPA for new work initiated at NPL or removal action sites after the date of enactment of SARA. EPA may indemnify such RACs upon the written request of the state, political subdivision of a state, or a federally-recognized Indian tribe. If EPA agrees to indemnify a RAC employed by such an entity, the indemnification will be embodied in the cooperative agreement through insertion of a special condition.

(b) Requirements for EPA Indemnification: The procedures for entering into indemnification agreements with RACs working for states (or political subdivisions) or federally-recognized Indian tribes under cooperative agreements are identical to those for RACs working directly for EPA as outlined in sections 10 and 11 above. That is, RACs under current contracts with indemnification may choose a limit and a deductible as outlined in section 10(g) and (h) above. For future contracts, EPA will not nor will states (or political subdivisions) or federally-recognized Indian tribes under cooperative agreements offer (EPA) indemnification in solicitations. If there is a lack of adequate competition in response to the solicitation that can be linked to the absence of indemnification, then a new or amended solicitation may be issued that states that an indemnification agreement will be available to the successful bidder/offeror. In addition, before EPA will enter into an indemnification agreement, proof of the following must be supplied to EPA:

(i) The RAC's contract concerns new site work initiated at an NPL or removal action site after the date of enactment of SARA; and

(ii) The RAC's contract is directly related to site cleanup.

(c) Terms and Conditions: The terms and conditions stated in section 8 above shall apply to any indemnification agreement offered under this section.

(d) EPA may agree to indemnify a RAC working for a state (or political subdivision) or federally-recognized Indian tribe even if that entity has also agreed to indemnify the RAC. In that case, responsibility for making indemnification payments will be held jointly by the EPA and the state (or political subdivision or federally-recognized Indian tribe) under a cooperative agreement with EPA. Unless otherwise stated in the cooperative agreement, responsibility for making indemnification payments will be divided equally between EPA and the state (or political subdivision or federally-recognized Indian tribe). Any indemnification payments made by EPA, however, are subject to the limits and deductibles specified in the indemnification agreement.

(e) EPA may agree to indemnify a RAC which is required under the terms of its contract with a state (or political subdivision) or federally-recognized Indian tribe to indemnify and hold harmless such contracting entity from claims, damages, losses and expenses, including litigation costs, that arise out of the RAC's performance of the contract. However, any costs or expenses payable to the state (or political subdivision) or federally-recognized Indian tribe under such indemnification are the sole responsibility of the RAC and are not covered under EPA's indemnification of the RAC or otherwise an eligible expense of the cooperative agreement.

16. Indemnification of RACs Employed by Federal Agencies Other Than EPA

(a) General Rule: Under CERCLA section 119 (as implemented by E.O. 12580), other federal agencies and departments are granted discretionary authority to indemnify RACs they employ at NPL or removal action sites from the date of enactment of SARA. Other federal agencies and departments that indemnify RACs under section 119 must use their own appropriations to pay all indemnification costs; in addition, the indemnification agreements must not be inconsistent with these guidelines.

(b) RACs employed by other federal departments and agencies (e.g., the Army Corps of Engineers) at EPA-lead NPL or removal action sites, managed pursuant to an interagency agreement with EPA, are subject to the same provisions of these guidelines as are RACs employed by EPA. Thus, the same indemnification terms and conditions offered to RACs employed by EPA may be offered to RACs employed by other agencies at EPA-lead NPL or removal sites under interagency agreements with EPA.

17. Indemnification of RACs Employed by PRPs

CERCLA section 119(c)(5)(C) gives EPA the discretionary authority to enter into an indemnification agreement with a RAC employed by any potentially responsible party (PRP) which has entered into a written agreement (such as a consent decree) with EPA. EPA will not exercise that discretionary authority, *i.e.*, EPA will not agree to indemnify a RAC under contract with a PRP.

18. Indemnification of Surety Firms

CERCLA section 119(e)(2)(C) defines RACs to include sureties that provide bid, performance or payment bonds to a RAC after October 16, 1990, and before January 1, 1993, and begin activities to meet their obligations under such bonds. EPA indemnification extends to sureties that provide performance bonds to RACs and begin activities to meet their obligations under such bonds. That is, the surety will be covered by the indemnification agreement of the defaulting RAC if the bond is activated,

subject to all of the requirements of these guidelines.

Other Issues

19. Exclusion of Facilities That Receive Waste

(a) EPA is prohibited by CERCLA section 119(c)(5)(D) from providing indemnification to owners or operators of facilities regulated under the Solid Waste Disposal Act, as amended, with respect to response activities performed at, or potential liability related to, those facilities.

(b) Under section 119, EPA will not agree to indemnify any owner or operator of a facility that receives solid or hazardous waste (for disposal, treatment, or storage), including publicly owned treatment works (POTWs), with respect to that facility. This applies to a facility regardless of whether or not it is subject to the permit-by-rule provisions, or any other provision of the Solid Waste Disposal Act.

20. Other Terms and Conditions

(a) EPA will indemnify only RACs performing work directly related to site cleanup.

(b) At any time, EPA may cancel its indemnification of a RAC due to a material misrepresentation or a failure on the part of the RAC to provide necessary information, act in good faith, or satisfy any other term or condition of its indemnification agreement.

(c) EPA reserves the right to add such additional terms and conditions to its RAC indemnification agreements as it deems necessary. Such terms and conditions will be consistent with CERCLA section 119.

21. Claims Notifications and Processing

(a) The RAC shall provide written notification to the contracting officer (or other EPA official designated in the indemnification agreement) within twenty working days upon receiving notice of any claim or action that may involve EPA indemnification under section 119. EPA will not provide indemnification payments for costs incurred prior to its receipt of written notice from the RAC. Notice must include a copy of the complaint or other claim, or, if no written claim has been received, available information on the time, place, and circumstances involved and the names and addresses of the injured and of available witnesses.

(b) The RAC shall notify its insurers within twenty working days (or a shorter period if required by the terms of the insurance policy) of any claim or action that may involve EPA indemnification, even if the RAC believes that its insurance is not applicable to the claim or action. The RAC shall provide to the contracting officer (or other designated person) a copy of any correspondence from the insurance company, including any notice of denial of coverage.

(c) The RAC shall furnish evidence or proof related to any claim that may involve indemnification payments in the manner and form required by EPA.

(d) The RAC shall furnish to EPA complete photocopies of all of the RAC's insurance policies that were in force at the time of the response action, and all those in force at the time of the notice of claim.

(e) EPA reserves the right to direct, control, or assist in the settlement or defense of any claim or action against an indemnified RAC.

(f) The RAC shall not admit liability or settle any claim without EPA's written consent.

(g) If EPA recommends settlement of a claim for an amount within the RAC's deductible, and the RAC refuses such settlement, EPA shall not be obligated to indemnify for any loss or obligation of the RAC relating to the claim in excess of the deductible.

(h) If EPA recommends settlement of a claim for a total amount in excess of the RAC's indemnification limit (as specified in the contract) and the RAC refuses such settlement, EPA's obligation for any loss shall be limited to that portion of the recommended settlement and the costs, charges, and expenses (as of the RAC's refusal) that exceeds the deductible and falls within the limit of liability.

(i) EPA reserves the right to make any claim payment either to the RAC or the claimant at its discretion.

22. Cost Recovery

Under CERCLA section 119(c)(6), indemnification payments made by EPA to RACs are recoverable from PRPs as a government response cost under CERCLA section 107. EPA shall document any indemnification payments by following the same recordkeeping and reporting procedures as for all other response costs.

23. Limitation

Nothing in these guidelines shall be construed as a waiver of sovereign immunity by the United States. Nothing in these guidelines shall be construed to establish the United States as a liable party, within the meaning of section 107 of CERCLA, for any release that has occurred or may occur in the course of any response action the United States undertakes pursuant to section 104 of CERCLA. In addition, EPA's agreement to indemnify any RAC, or EPA's payment of any money under an indemnification agreement, shall not be construed as a waiver of sovereign immunity by the United States, within the meaning of section 107 of CERCLA.

Dated: January 13, 1993.

Don R. Clay,

Assistant Administrator Office of Solid Waste and Emergency Response.

[FR Doc. 93–1731 Filed 1–22–93; 8:45 am]

BILLING CODE 6560–50–P

[OPPT–59316A; FRL–4183–9]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–93–4 and TME–93–5. The test marketing conditions are described below.

EFFECTIVE DATES: January 12, 1993.

FOR FURTHER INFORMATION CONTACT: Edna G. Pleasants, New Chemicals Branch, Chemical Control Division (TS–794), Office of Pollution Prevention and Toxics Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 260–4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–93–4 and TME–93–5. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not

present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–93–4 and TME–93–5. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–93–4 and TME–93–5

Date of Receipt: November 25, 1992.

Notice of Receipt: December 15, 1992 (57 FR 59349).

Applicant: Confidential.

Chemical: (G) Alkanoate Ester of an Ammonium Salt.

Use: (G) Laundry Additive.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Twenty Four (24) months, commencing on the first day of nonexempt commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: January 12, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–1675 Filed 1–22–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0519

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CC Docket No. 92–90)

Expiration Date: 10/31/95

Description: The Commission issued a Report and Order in CC Docket No. 92–90 pursuant to the requirements of the Telephone Consumer Protection Act of 1991 (TCPA) (Pub. L. 102–243, Dec. 20, 1991). The Report and Order imposes a recordkeeping requirement on telemarketers to maintain lists of telephone subscribers who do not wish to be contacted by telephone. Telephone solicitors must record requests from residential telephone subscribers not to receive calls, and must place subscribers' names and telephone numbers on do-not-call lists at the time such requests are made. Telephone solicitors also are required to have a written policy for maintaining do-not-call lists, and are responsible for informing and training their personnel in the existence and use of such lists. Moreover, the rules require that those making telephone solicitations identify themselves to called parties, and that basic identifying information also be included in telephone facsimile transmissions.

OMB Control No.: 3060–0485

Title. Amendment of Part 22 of the Commission's Rules To Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules.

Expiration Date: 09/30/94

Description: In the Third Report and Order and Memorandum Opinion and Order on Reconsideration issued in CC Docket No. 90–6, the Commission revised 47 CFR part 22 to improve licensing procedures for cellular radio in general and also to clarify and modify rules concerning the filing and processing of applications for unserved areas in the cellular service. The revisions are necessary to provide a mathematical formula for calculating service areas in the Gulf of Mexico and to limit payments that an applicant or a party may receive for withdrawing a mutually exclusive cellular application or a pleading filed against a cellular application. Further, some of the revisions are needed to clarify applications for unserved areas. In revising these rules, the Commission intends to encourage further development of the cellular service while promoting efficiency in the licensing of cellular service.

OMB Control No.: 3060–0046

Title: Application for New or Modified Common Carrier Radio Station Authorization Under Part 22, FCC Form 401

Expiration Date: 10/31/95

Description: FCC Form 401 is used by Commission staff in carrying out its duties as set forth in sections 308 and 309 of the Communications Act, 47 U.S.C. 308 and 309, to determine the technical, legal and other qualifications of the applicant to operate stations in the Public Mobile Service. In addition to the requirements specified in the form, applicants must submit exhibits and other showings as required by 47 CFR part 22, which contains the technical and legal requirements for radio stations in the Public Mobile Service. FCC Form 401 will be updated to display the 10/31/95 expiration date. A Public Notice will be issued to announce the availability of the updated edition of the FCC Form 401 and the deadline for filing the current 1991 edition of the form.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–1738 Filed 1–22–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders,

Federal Maritime Commission, Washington, DC 20573.

Aviation Import-Export Incorporated, 9102 Herlong Road, Jacksonville, FL 32210. Officers: Henry E. Charlton, President/Director, William C. Meadows, Director, Brian F. Smith, Director, William Ramirez, Registered Agent.

Harvey Yaffe Forwarding, Inc., 1937 Lynn Brook Place, Memphis, TN 38116. Officers: Uri Silver, President/Director/C.E.O., Anet Silver, Stockholder, Bede L. Yaffe, Secretary/Treasurer/Director/Stockh., Thomas P. Cline, Vice President.

Transit-Trade Inc., 1600 Center Ave., Ste. 14B, Fort Lee, NJ 07024. Officers: Fred N. Sucher, Exec. Vice President/Director, Paul M. Sucher, President/Director, Fay Davila Sucher, Secretary/Treasurer/Director.

Auto Driveaway Co., 310 South Michigan Ave., Chicago, IL 60604. Officers: John F. Sohl, Chairman, Brandon A. Sohl, President, Rose A. Sohl, Director, Roger J. Fillion, Asst. Vice President.

Ralex International Corp., 3307 S.W. 25th Terrace, Miami, FL 33133. Officer: Alexis Rosa, President.

USA Cargo Line, 975 66th Avenue, Oakland, CA 94621, Johnson Lee, Sole Proprietor.

Jetta Cargo Services, Inc., 8939 S. Sepulveda Blvd., Suite 526, Los Angeles, CA 90045. Officers: Danny BC Chan, President, Norman Wong, Stockholder.

Omega Shipping, Inc., 173 Essex Ave., Suite 7, Metuchen, NJ 08840. Officers: Rita Paul, President/Director/Treasurer/Stockholder, Alex Nacinovich, Vice President, Harold S. Paul, Secretary.

Global Logistics, Inc., 11767 Katy Freeway, Suite 390, Houston, TX 77079. Officers: Barry G. Scott, President, Jessica L. Dunlap, General Manager.

Dated: January 15, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–1567 Filed 1–22–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

ABC Employee Stock Ownership Plan, 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 February 16, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. ABC Employee Stock Ownership Plan, Anchor, Illinois; to become a bank holding company by acquiring 41.94 percent of the voting shares of Anchor Bancorporation, Farmer City, Illinois, and thereby indirectly acquire Anchor State Bank, Anchor, Illinois.

2. F.N.B.C. of La Grange, Inc., La Grange, Illinois; to acquire 100 percent of the voting shares of Mokena State Bank, Mokena, Illinois.

3. Hawkeye Bancorporation, Des Moines, Iowa; to merge with First Dubuque Corp., Dubuque, Iowa, and thereby indirectly acquire First National Bank of Dubuque, Dubuque, Iowa.

4. ISB Bancshares, Inc., Ipava, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Ipava State Bank, Ipava, Illinois.

Board of Governors of the Federal Reserve System, January 15, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1666 Filed 1–22–93; 8:45 am]

BILLING CODE 6210–01–F

ABC Employee Stock Ownership Plan, 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 February 11, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. ABC Employee Stock Ownership Plan; Merle Coile; Chester Eyer Employees Profit Sharing Plan; Harris Hammer; Kay Hammer; Gayle Simpsen; Jeffrey Coile; James Eckert; George Drake; and Heartland Bancorp, Inc.; to acquire 74.19 percent of the voting shares of Anchor Bancorporation, Farmers City, Illinois, and thereby indirectly acquire Anchor State Bank, Anchor, Illinois.

Board of Governors of the Federal Reserve System, January 15, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1667 Filed 1–22–93; 8:45 am]

BILLING CODE 6210–01–F

Caisse Nationale de Credit Agricole; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to engage de novo in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications 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 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 applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 11, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Caisse Nationale de Credit Agricole, Paris, France; to engage *de novo* through its subsidiary, Credit Agricole Securities, Inc., New York, New York in securities brokerage activities pursuant to § 225.25(b)(15); and investment advisory services pursuant to § 225.25(b)(4); and acting as agent in the private placement of all types of securities and providing related advisory services pursuant to Board Order, *Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 138 (1987); and acting as a riskless principal in buying and selling all types of securities on the order of investors pursuant to Board Order, *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 834 (1989).

2. Caisse Nationale de Credit Agricole, Paris, France, to engage *de novo* through its subsidiary, UI USA, Inc., New York, New York, in acting as agent in the private placement of all types of securities and providing related advisory services pursuant to Board Order, *Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 138 (1987).

Board of Governors of the Federal Reserve System, January 15, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1665 Filed 1–22–93; 8:45 am]

BILLING CODE 6210–01–F

MBNA Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not February 11, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. MBNA Corporation, Newark, Delaware; to engage *de novo* through its subsidiary MBNA Consumer Services, Inc., Newark, Delaware, in making consumer loans that will be secured by second mortgages pursuant to § 225.25(b)(1)(iii); and offer credit insurance (life, disability and involuntary unemployment) pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 15, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1664 Filed 1–22–93; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Dkt. C–3409]

Medical Marketing Services, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Florida firm and its founder from misrepresenting in advertising or promotional materials—with respect to any chemical face peel procedure or any health care service—the degree of risk, level of pain, recovery period, or results associated with the procedure; any entity's approval or endorsement of the procedure; or any training the respondents provide for the procedure and services.

DATES: Complaint and Order issued January 12, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Richard Kelly, FTC/H–200, Washington, DC 20580. (202) 326–3304.

SUPPLEMENTARY INFORMATION: On Thursday, October 29, 1992, there was published in the **Federal Register**, 57 FR 49087, a proposed consent agreement with analysis In the Matter of Medical Marketing Services, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Donald S. Clark,

Secretary.

[FR Doc. 93–1735 Filed 1–22–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3408]

United States Golf Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New Jersey-based non-profit corporation

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

to clearly state in all future advertisements and product descriptions in mail order catalogs, and in all mail order promotional material, whether its clothing and other textile-fiber merchandise are manufactured or processed in the United States, or imported, or both. In addition, the respondent is required to use proper generic fiber names, consistent with the Textile Fiber Products Identification Act, and not to mention or imply fiber content of a fiber not present in the product.

DATES: Complaint and Order issued January 6, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Bob Easton, FTC/S–4631, Washington, DC 20580. (202) 326–3029.

SUPPLEMENTARY INFORMATION: On Tuesday, October 20, 1992, there was published in the **Federal Register**, 57 FR 47862, a proposed consent agreement with analysis In the Matter of United States Golf Association, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70.

Donald S. Clark,

Secretary.

[FR Doc. 93–1737 Filed 1–22–93; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Renewal.

SUMMARY: Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, and following consultation with the Committee Management Secretariat of the General services Administration, notice is hereby given that the Federal Accounting Standards Advisory Board has been renewed for a two-year period ending January 19, 1995.

As a part of the ongoing efforts to improve Federal financial management, the FASAB considers and recommends accounting standards and principles for the Federal government. The Board follows a six-step process for considering accounting standards. The Board then recommends these standards for consideration for adoption by its three principals: The Secretary of the Treasury, the Director of OMB, and the Comptroller General. The recommended accounting standards, when implemented by Federal agencies, provide a reasonable assurance of adequate public disclosure of the financial condition, activities, and results of operations of the government and of its component units.

The Board is composed of nine members selected from a broad range of Federal entities as well as the non-Federal community. The composition of the Board is:

- One General Accounting Office (GAO) member,
- One Office of Management and Budget (OMB) member,
- One Treasury member,
- One Congressional Budget Office (CBO) member,
- One member from the defense and international agencies,
- One member from the civilian agencies, and
- Three members from non-Federal representatives of the general financial community, the accounting and auditing community, and academia.

As the Board continues to carry out its mission as described above, it will operate in accordance with the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 750 First St., NE., suite 1001, Washington, DC 20002, or call (202) 512–7350.

Dated: January 19, 1993.

Ronald S. Young,

Committee Management Officer.

[FR Doc. 93–1715 Filed 1–22–93; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Final Record of Decision

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Regulations (40 CFR part 1500–1508); and the General Services Administration (GSA) Handbook, PBS Preparation of Environmental Assessments and Environmental Impact Statements (PBS P 1095 4B), GSA announces its Record of Decision regarding the proposed construction of the eastern portion of the Southeast Federal Center (SEFC), located in the southeast quadrant of the District of Columbia. GSA will develop the eastern portion of the SEFC with approximately 3,605,000 gross square feet of office space, 147,300 gross square feet of retail space and 3,520 parking spaces for up to 14,725 employees.

Development of the approximate 43 acre eastern portion of the SEFC will include the construction of Headquarters Facilities for several Federal agencies, including GSA and the Corps of Engineers. While the Environmental Impact Statement (Draft and Final documents) included an individual analysis of the GSA Headquarters Building, GSA will not be publishing a separate Record of Decision for the GSA Headquarters Building. The GSA and Army Corps of Engineers Headquarters Buildings, as well as all other proposed development for the eastern portion of the SEFC, was included as part of the development being proposed for the eastern portion of the SEFC in the environmental analysis. The EIS considered all possible impacts and recommends appropriate mitigation measures.

Specific mitigation measures will be developed during the design phase of each project. These mitigation plans and programs will be developed from those recommended in the Final EIS or other state-of-the-art practices.

I. Purpose and Need for the Project

Since 1960, the General Services Administration (GSA) has gradually shifted from housing government agencies in government-owned facilities to housing them in space leased from the private sector to accommodate rapid government expansion. The increase in leased space in the last two decades and the smaller square footage generally available in leased spaces, have resulted in dispersion of Federal office space and therefore, fragmentation of agencies throughout the National Capital Region (NCR). This leasing of small spaces in turn has led to a host of interrelated problems, for both GSA and tenant agencies involved.

The development of the eastern portion of the SEFC will allow GSA to consolidate dispersed satellite offices of individual agencies, relocate government agencies from costly leased space, and reduce the number of small offices currently maintained. The benefits of owning space in a centralized location will include

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

increasing client agency efficiency, savings in cost, reducing space acquisitions and lease renegotiations, reducing alterations for tenant uses in commercial buildings, reducing duplication of support functions, and making easier the implementation of special security and high technology requirements. Tenant agencies will achieve improvements in productivity and coordination.

II. Alternatives Considered

GSA considered three development alternatives for the eastern portion of the SEFC.

Alternative I (the preferred alternative) proposes the development of 3,605,000 gross square feet (gsf) of office space and 147,300 gsf of retail space for 14,725 employees.

Alternative II proposes 4,955,800 gsf of office space and 174,000 gsf of retail space for 17,697 employees.

Alternative III (No Action) would leave the site as it is today.

III. Environmental Impact Statement

As part of GSA's environmental review process, and in accordance with NEPA, Section 102 (2) as amended, and GSA order PBS P 1095.4B, GSA conducted an investigation and prepared an Environmental Impact Statement (EIS) to address the impacts of each of the three alternatives. Thirty different environmental elements were analyzed. While the No Action Alternative (III) had the fewest minor negative impacts, Alternatives I and II were found to offer more positive impacts. Although Alternatives I and II were found to have fairly similar negative impacts, those for Alternative I (with a lower level of development) will be less pronounced. Therefore, Alternative I is the preferred alternative for development of the eastern portion of the SEFC.

Alternative I is based on the SEFC 1989 Master Development Plan, conditionally approved in January 1990 and subsequently approved in final in July 1992. This master plan proposed development on the entire SEFC (eastern and western portions) with 5,635,000 gross square feet (GSF) of office space, 189,000 gsf of retail space and 5,500 parking spaces for up to 23,000 employees.

IV. Affected Environment

The eastern portion of the SEFC is bounded by M Street, SE., to the north; New Jersey Avenue, SE., extended and the District of Columbia Pumping Station to the west; the Anacostia River to the south; and the Washington Navy Yard to the east. The division from the Navy Yard is defined by a line running north along Boyner Street from the river to Tingey Street and then following Tingey Street east to Isaac Hull Avenue where the line turns north to M Street, SE. These boundaries enclose a 43-acre site which is topographically flat and slopes slightly towards the river. Many of the structures on the site are warehouse or industrial-type buildings which have been converted to other uses, with office space being the predominant use. Unbuilt areas of the site are paved and used for parking.

V. Environmental Consequences and Mitigation Measures

Under the No Action Alternative (III), GSA would continue to use the site as it is currently used. There would be no significant new construction on the site, and it is unlikely that there would be any extensive renovation, since most of the buildings that are readily reusable as office space have already been converted. Instead, improvements to existing buildings would be restricted to repair and maintenance, which would not result in significant amounts of additional space for new employees. Thus, pursuing the No Action Alternative could potentially leave the site with fewer Federal employees and less unable space than Alternatives I and II.

Impacts of the proposed redevelopment actions (Alternatives I and II) and summarized recommended mitigation measures are treated together in this summary and are described below. (See SEFC-FEIS for full discussion and description.)

Geology and Soils: Building construction will require the removal of approximately 414,000 cubic yards of excavated material for Alternative I and 495,000 cubic yards for Alternative II. Soils shown to be contaminated will be treated on site, when possible. Otherwise, contaminated soils will be transferred off site for appropriate treatment. Groundwater will be above construction depth in some areas which will require dewatering during construction. Construction over trunk sewers and Metro tunnels will require the use of specialized engineering techniques to avoid subsidence or transfer of loads to tunnels and sewers. Design of this work shall be coordinated with appropriate agencies.

Topography/Orientation/Seawall: There will be little change to the existing topography. There will be minor changes in ground levels to accommodate future storm drainage systems and possibly landscape features. Construction grading will enhance flood protection where possible. The seawall design will address the provision of a built-in trap for collection and containment of floating debris that currently collects along the seawall. Orientation of the site towards the river will be enhanced by the development of the proposed New Jersey Avenue extension and the waterfront promenade. There will be positive impacts from a safer and more aesthetically pleasing seawall.

Hydrology/Water Quality and Biota/Climate: Minor increases in pollutants form automobiles may occur. This impact could be mitigated by the use of oil and grit separators from stormwater; landscaping areas to trap pollutants; and street cleaning. Implementation of erosion control measures will mitigate potential erosion during construction. Long term monitoring of ground water is planned to ascertain the effectiveness of the decontamination measures, and will serve to inform GSA of any migration of contaminants from off-site sources. There will be no impacts on climate.

Vegetation/Wetlands/Wildlife: The proposed development includes comprehensive landscape elements and there will be positive impacts from the introduction of plant materials within the site and along the waterfront.

Floodplains: Development on site will have positive impacts on flood elevations and the floodplain as the total floodplain area will decrease in size due to construction site grading. However, for those remaining floodplain areas, there could be potential flood impacts on development, including constraints on site planning, building design, functions housed and construction materials used in below-grade and first floor levels. Mitigation measures will be used, including floodproofing individual buildings, using watertight doors and bulkheads, and allowing flooding of below-grade parking areas to contravene hydrostatic ground water pressures on building plates during flood conditions.

Ambient Air Qualtiy: There will be no significant impacts resulting from stationary or mobile air pollution sources.

Ambient Sound Levels: The development will result in a slight increase in ambient sound levels for the areas adjacent to major access routes to the SEFC. Sound levels will be in excess of Federal noise abatement criteria with or without development of the SEFC facilities. No mitigation will be required. Reducing the potential impacts of aircraft noise and other obtrusive sound will addressed through appropriate building design and site orientation.

Toxic and Hazardous Waste: The proposed developments will have a net positive impact by accelerating the remediation of the contaminated areas at the SEFC. Disturbing the site could potentially increase the exposure to contaminants and release particulates into the air. Environmental cleanup will be an essential first step in site preparation; and will be done in conjunction with the first phases of infrastructure and the construction of buildings. The contaminated soils will be treated on site if possible, otherwise they will be removed, transported and treated off-site in accordance with applicable Federal and local regulations. Any contaminated waste will be subject to regulations promulgated under the Resource Conservation and Recovery Act (RCRA), as administered by the District of Columbia. All PCB's and PCB-contaminated materials will be removed, in conformance with the Environmental Protection Agency's Requirements for PCB Clean-Up (40 CFR part 761).

Site and Surrounding Area Land Use: Redevelopment will result in increased density through new construction and adaptive use of existing structures. The site's land use will change from primarily office, storage and light industrial functions to a predominantly administrative center with the addition of retail services and other amenities.

Plans, Policies and Controls: The proposed development will comply with Federal and local comprehensive plans and policies for the area.

Community Character: The development may induce related development in the surrounding blighted area, such as, retail shopper and service uses, office and housing development. Other positive impacts will include incorporation of cooperative uses, such as the possible use of conference and training center facilities for community meetings; public access to shops, services and waterfront amenities; and, improvement of the overall urban environmental quality.

Commercial Activity: There will be positive impacts from the proposed retail space. It will provide a much needed service for neighborhood residents and will also generate jobs, and tax revenue for the city. Leased commercial office space would ultimately be vacated in suburban Maryland, Northern Virginia and the District of Columbia when employees are relocated to the SEFC. GSA will backfill most of these spaces as interim office space for the many GSA offices undergoing extensive renovation and for those requiring expansion space. This measure will temporarily prevent a negative impact on the Maryland and Virginia commercial office space markets that are presently overbuilt with high vacancy rates.

Residential Activity: There could be a minor negative impact from an increase in the number of jobs in the area without a complimentary increase in affordable housing availability in the area. The effect of this impact could become positive if residential development or redevelopment takes place in the surrounding area or in other parts of the District of Columbia. This development would have to be carried out by non-GSA bodies as the agency's mission is restricted to providing office space for Federal agencies.

Fiscal/Socio-Economic Conditions: Although city services and operating costs may increase nominally, there will be a positive impact on the immediate surrounding area and the District of Columbia due to an increase in the number of both blue and white collar permanent jobs and short-term jobs during construction. There will be an increase in spending for meals and services by area residents and SEFC employees and consequently, annual sales tax revenues will increase with the introduction of more retail shops in the area. No significant increase in Federal jobs within the Metropolitan Statistical Area will occur as a direct result of this project, only a redistribution. However, growth in the Federal job sector has been steady during the last 10 years.

Education, Recreation and Institutional Facilities: No significant impact on education or institutional facilities will occur. There will be a net positive impact on passive recreation as well as an increase in the opportunities for biking and jogging due to the development of the riverside park and urban square.

Historic Resources: There will be positive impacts in the historic districts of the SEFC and neighboring Navy Yard areas including urban design improvements, and physical improvements to historic buildings and structures. Negative impacts include the loss of individual industrial features at the site. The negative impacts will be mitigated by new construction that respects the character and scale of adjacent historic structures, and by utilizing proper record-keeping procedures prior to the demolition of any historic structures.

Archeological Resources: Negative impacts include the possible ground disturbance of archeological resources. Such disturbance will be mitigated by selective site surveys, resource identification, and resource protection.

Visual/Aesthetic Resources: The potential visual impacts of integrating new structures with historic buildings and adjacent low density areas will be mitigated by designing new buildings to relate to neighboring structures, with variations in height, mass, materials, character and scale. The tallest buildings (up to 130 feet) will be located at the New Jersey Avenue/M Street, SE intersection. Building heights will step down (to around 35 feet) towards the river and towards the east, allowing views of the Capitol and Anacostia River from anywhere on the site. The vista along New Jersey Avenue between the Capitol and the waterfront will be established with the removal of Buildings 216 and 159E. There will be positive impacts from an aesthetically pleasing site, buildings and waterfront. Landscaping and new office construction will relieve the barrenness of the site; and the planting of trees will provide shade to pedestrians. GSA will prepare design guidelines for the site which will help to insure the integration of the new buildings with the existing structures and surrounding area.

Water Supply: The increase in the on-site water demand will cause no significant impact to the District of Columbia water supply system.

Wastewater Treatment/Collection: The development could initially have an impact on the Blue Plains Sewage Treatment Plant due to an increase in the amount of effluent from the site. However, the upgrade and expansion of the Blue Plains facility, which has been taking place over the past 10 years, will mitigate these impacts. Construction at Blue Plains to accommodate the increase in effluent from the SEFC is expected to be completed by 1994. Other mitigation measures will include the separation of storm and sanitary flows, and the use of water-conserving plumbing fixtures.

Stormwater Runoff: There will be no negative impacts on stormwater runoff due to the development. Separation of storm flows from sanitary and combined systems will help alleviate problems at the Blue Plains Treatment Plant during storms and floods. The addition of permeable ground in landscaped areas will reduce total stormwater runoff on the site. The need for stormwater detention facilities will depend on the specific design of the SEFC and on the result of future stormwater system studies. During the design phase, the District of Columbia Department of Consumer and Regulatory Affairs will determine if stormwater detention facilities will be required.

Electric Power and Telecommunications: The development

will create an increase in electric power demand, but PEPCO will have no difficulty in meeting future demand. There will be positive impacts on telecommunications as the development will create an opportunity to upgrade and expand the telephone system on site. Coordination with PEPCO, the Navy and C&P will take place.

Energy Systems and Conservation: There will be an increase in the site energy (heating and cooling) load. This impact will be mitigated by the use of ASHRAE guidelines for energy conservation design, construction, and use of buildings. As a result of the use of more energy efficient systems, there will be a positive impact on energy conservation.

Solid Waste Service: There will be no significant impact resulting from increased solid waste from the SEFC. The gradual incremental growth at the center will not place sudden or acute impacts on collection and solid waste disposal systems of the District of Columbia government.

Transportation: The development will create minor negative impacts on the local roadway network in the vicinity of the site. Mitigation of these impacts will be based on the successful implementation of a Transportation Demand Management Program (TMP) for the SEFC, as well as the Anacostia Waterfront as a whole. In addition, the local roadway network will need to be reconfigured to allow easier access to the site, by means of instituting one-way streets and traffic restrictions. The National Capital Planning Commission requires GSA to submit a TMP for each building proposed for construction at the SEFC during the design approval process. During the design stage, GSA will work with each Agency relocating to the SEFC to develop a responsive TMP that addresses the respective impacts of new construction and relocation.

VI. Areas of Concern

There were no major areas of controversy concerning this EIS. Comments on significant issues included:

Emergent wetlands at the SEFC: The District of Columbia Department of Public Works and the United States Fish and Wildlife Service recommended the replacement of a patch of emergent wetlands at the SEFC. The United States Army Corps of Engineers determined that the emergent wetlands were not jurisdictional wetlands and this ruling was supported by the Environmental Protection Agency (EPA). The emergent wetlands were created when a building was demolished to allow the Washington Metropolitan Area Transit Authority (WMATA) to construct a segment of the underground rapid rail line. After completion of the construction activity, the site was not graded properly and water began ponding. EPA has requested that GSA consider constructing wetlands on the site in the form of a stormwater runoff basin or a tidal wetland. This recommendation will be considered during the development of design plans for the site.

Historic Preservation Issues: The National Trust for Historic Preservation was concerned that GSA did not evaluate the impact of the project on the Washington Navy Yard Annex Historic District or consider alternatives that would physically preserve and mitigate the impacts on the cultural resources within the district. GSA did evaluate the impact of the project on the Washington Navy Yard Annex Historic District, and did consider alternatives that could preserve and mitigate impacts on the cultural resources within the Historic District. Compliance with Section 106 of the National Historic Preservation Act (NHPA) ensures, at a minimum, the evaluation of Federal actions on historic sites, as well as consultation with the Advisory Council on Historic Places (ACHP). After lengthy consultation with the District of Columbia Historic Preservation Office (SHPO) and the ACHP, GSA requested ACHP's formal comments on January 27, 1992. The ACHP submitted formal comments to GSA in a letter dated February 7, 1992. GSA considered the comments, and on April 23, 1992, responded to the ACHP in accordance with the NHPA, thus concluding the Section 106 process.

Transportation Mode Share and Vehicle Occupancies: The Citizen's Committee to Stop It Again and the Capitol Hill Restoration Society took the position that the assumptions regarding mode share and vehicle occupancies used for the transportation analysis were overly optimistic, thereby underestimating vehicle traffic. The purpose of the EIS was to identify impacts and determine if they can be mitigated. The analysis found that they can be mitigated and indicated the types of actions that can be used to achieve mode shares and vehicle occupancies necessary to ensure satisfactory operation. Specific plans or programs to be used to achieve mode shares and vehicle occupancy rates will be identified during the design and approval process which precedes any construction activity. EPA has recommended that the SEFC be linked to the Metro station by a pedestrian tunnel; and that this be included as a component of a strong "Transportation Demand Management Program". GSA is considering this action as part of its overall site development design plan.

VII. Planning Process

GSA held a public scoping meeting on June 19, 1991, in Washington DC. GSA filed a Draft Environmental Impact Statement (DEIS) on March 20, 1992 with the United States Environmental Protection Agency (EPA); and held a public hearing in Washington DC, on April 23, 1992. GSA filed a Final EIS with EPA on September 25, 1992.

GSA believes that there are no outstanding environmental issues to be resolved with respect to the proposed construction on the eastern portion of the Southeast Federal Center with approximately 3,605,000 gsf of office space, 147,300 gsf of retail space and 3,520 parking spaces for up to 14,725 employees.

The mitigation program for the development of the eastern portion of the SEFC will be developed during the design phase. Mitigation measures will be developed from those recommended in the Final EIS or other state-of-the-art practices.

Questions regarding the EIS prepared for this action may be directed to Frank T. Thomas, NCR Planning Staff (WPL), GSA National Capital Region, room 7618, 7th and D Streets, Washington, DC 20407, telephone 202–708–5334.

Dated: December 29, 1992.

James C. Handley,

Regional Administrator, General Services Administration.

[FR Doc. 93–1677 Filed 1–22–93; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services, Division of Energy Assistance; Agency Information Collection Under OMB Review

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for authorization to continue use of an information collection titled: "ACF Grantee Survey of the Low Income Home Energy Assistance Program". This request for OMB clearance is made by the Division of Energy Assistance within the Office of Community Services, of the

Administration on Children and Families (ACF).

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–9235.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: ACF Grantee Survey of the Low Income Home Energy Assistance Program (LIHEAP).

OMB No.: 0970–0076.

Description: This information collection is authorized by the Low Income Home Energy Assistance Program (LIHEAP) block grant program established under the Low Income Home Energy Assistance Act of 1981 (Title XXVI of Pub. L. 97–35, Omnibus Budget Reconciliation Act of 1981, as amended). Section 2610 of Public Law 97–35, as amended, instructs the Secretary of the Department of Health and Human Services to provide for the compilation of data, including:

(1) Information concerning home energy consumption;

(2) The amount, cost, and type of fuels used for households eligible for assistance;

(3) The type of fuel used by various income groups;

(4) The number and income levels of households assisted;

(5) The number of households which received such assistance and include one or more individuals who are 60 years or older or handicapped: and

(6) Any other information which the Secretary determines to be reasonably necessary to carry out these provisions. This information collection is also authorized in Senate Report No. 99–154 by the Senate Committee on Appropriation.

The Division of Energy Assistance (DEA) of the Administration for Children and Families (ACF) will send to the States and the District of Columbia a summer telephone survey and a winter telephone survey to be completed by LIHEAP grantees. This information will be used by the DEA to compile information requested by the Senate Committee on Appropriations and to provide Congress with fiscal and caseload estimates in time for upcoming annual Congressional hearings. Without the collection of this data by the annual winter and the summer telephone surveys, the Secretary of the Department of Health and Human Services and the Administration for Children and Families can not report state-specific data to Congress while the program is operating.

	Winter	Summer
Annual Number of Respondents	51	51
Annual Frequency	1	1
Average Burden Hours Per Response	3.75	3.25
Total Burden Hours	191.25	165.75

Dated: January 6, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–1570 Filed 1–22–93; 8:45 am]

BILLING CODE 4130–01–M

Office of Child Support and Enforcement; Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request to approve a new information collection titled: "April 1993 Test of CPS Child Support Supplement". This information collection is a pre-test of two revised survey instruments which are sponsored by the Office of Support and Enforcement. The test will be conducted by the Bureau of the Census and the results used in the April 1994 Child Support Supplement to the Current Population Survey (CPS).

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith, of the Office of Information Systems Management, ACF, by calling (202) 401–9235. Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: April 1993 Test of CPS Child Support Supplement.

OMB No.: 1220–0100.

Description: This collection of information is authorized by title IV–D of the Social Security Act. The regular collection of this information is authorized by title 13, U.S. Code, section 182 and title 29, U.S. Code, section 1–9. The Office of Management and Budget also directs the Office of Child Support and Enforcement to collect this information. OMB previously approved this data collection under Bureau of the Census approval number 1220–0100 to commence on July 29, 1991 and to continue through December 31, 1993.

The Child Support Supplement to the Current Population Survey used in conjunction with the April 1993 Computer-Assisted Telephone Interviewing and the Computer Assisted Personal Interviewing Overlap Sample is a historical data set that gathers information on the circumstances surrounding child support orders. This information collection which has been on-going since the 1970's, includes, among other things, presence of child support orders; the receipt of nonreceipt of child support payments; circumstances surrounding visitation rights of the non-custodial; accessibility to health insurance and the date of divorce or separation. In the past, the Child Support Supplement to the Current Population Survey has produced unreliable response rates. To improve the quality of the response rate, the Office of Child Support and Enforcement has sponsored research by the Bureau of the Census to determine the problems with the questions in the supplement and to otherwise improve the design and wording of the Child Support Supplement questions.

This request is for clearance of a pre-test of two alternative versions of the Child Support Supplement to the Current Population Survey. A small scale pretest of the revised instruments were conducted in April 1992 and October 1992 respectively by the Bureau of the Census. A comparison of the April 1992 instrument and the revised 1993 instrument will enable the Office of Child Support and Enforcement to obtain reliable information and decrease the nonresponse rate. This data collection will be used as resource information for budget purposes and trend analyses by the Department and ACF staff, researchers and demographers.

Annual Number of Respondents: 12,000.

Annual Frequency: 1.

Average Burden Hours Per Response: .021.

Total Burden Hours: 250.

Dated: January 6, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–1687 Filed 1–22–93; 8:45 am]

BILLING CODE 4130–01–M

Administration on Children, Youth and Families, Head Start Bureau; Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval for the reinstatement of a previously approved (OMB 0980–0017) information collection requirement for the Head Start Program.

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–9235.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Head Start Program Information Report (PIR).

OMB No.: 0980–0017.

Description: The Head Start program's FY 1992 appropriation is over $2 billion. There are over 1,900 grantees and delegate agencies that provide services to about 622,000 children. The Program Information Report (PIR) is used by Head Start grantees to collect information on the delivery of services for Head Start children and their families and assess the effectiveness of selective program operations.

Information gathered through the use of the PIR provide a descriptive profile of program operations used by Head Start programs as part of their year-to-year planning and monitoring cycle and as a supplement to their self-assessment process. The PIR is a major source of such public information efforts as the Project Head Start Statistical Fact Sheet, which is updated annually. The PIR is also a major source of information for the legislatively-mandated biennial report to the Congress on Head Start.

Annual Number of Response: 1,921.

Annual Frequency: 1.

Average Burden Hours Per Response: 3.5.

Total Burden Hours: 6,724.

Dated: January 6, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–1688 Filed 1–22–93; 8:45 am]

BILLING CODE 4130–01–M

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices.

Times and Dates: 1 p.m.–5:30 p.m., February 9, 1993. 8:30 a.m.–4 p.m., February 10, 1993.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Altanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents.

Matters to be Discussed: The committee will discuss general recommendations for immunization; immunization for health care workers; Hib vaccine and Hib conjugate-DTP; influenza; group C meningococcal meningitis; polio, and typhoid fever.

The agenda also includes a presentation on safety of simultaneous vaccination; an update on BCG meta-analyses; presentation on immunization of bone marrow transplant recipients; update on immunization levels of pre-school children; update on the National Vaccine Program; and an Injury Compensation Program update. Other matters of relevance among the committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Staff Specialist, CDC (1–B72), 1600 Clifton Road, NE., Mailstop A20, Atlanta, Georgia 30333, telephone 404/639–3851.

Dated: January 15, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–1619 Filed 1–22–93; 8:45 am]

BILLING CODE 4160–18–M

National Institutes of Health

National Cancer Institute, Division of Cancer Treatment Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, February 22–23, 1993, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on February 22 from 8:30 a.m. to approximately 6 p.m., and again on February 23 from approximately 11 a.m., until adjournment, to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 23 from 8 a.m. to approximately 10:45 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A44, National Institutes of Health, Bethesda, Maryland 20892 (301/496–4291) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should

contact Dr. Bruce Chabner, 301/496–4921 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 15, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–1622 Filed 1–22–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meetings of the National Cancer Advisory Board and its Subcommittees

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, and its Subcommittees on February 8–9, 1993. The full Board will meet in Conference Room 10, 6th Floor, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, National Institutes of Health, Room 10A06, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and roster of the Board members, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Carole Frank, Committee Management Specialist, at 301/496–5708 in advance of the meeting.

Name of Committee: National Cancer Advisory Board.

Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03, Bethesda, MD 20892; (301) 496–5147.

Dates of Meeting: February 8–9, 1993.

Place of Meeting: Building 31C, Conference Room 10.

Open: February 8—8 a.m. to approximately 3 p.m.

Agenda: Report on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; and Scientific Presentations.

Closed: February 8—3 p.m. to recess.

Agenda: For review and discussion of individual grant applications.

Open: February 9—8:30 a.m. to adjournment.

Agenda: Policy and Scientific Presentations, Subcommittee Reports, and New Business.

Name of Committee: Subcommittee on Minority Health, Research and Training.

Executive Secretary: Drs. Evans and Cairoli, Building 31, Room 10A04, Bethesda, MD 20892; (301) 496–7344.

Date of Meeting: February 8, 1993.

Place of Meeting: Building 31C, Conference Room 8.

Open: 12 p.m.—1 p.m.

Agenda: To discuss minority initiatives.

Name of Committee: Subcommittee on Aging and Cancer.

Executive Secretary: Dr. Marvin Kalt, Building 31, Room 10A03, Bethesda, MD 20892; (301) 496–4218.

Date of Meeting: February 8, 1993

Place of Meeting: Building 31C, Conference Room 7

Open: 1 p.m. to 2 p.m.

Agenda: To discuss NCI clinical cooperative group trails; cancer related activities of the National Institute of Aging and the approval of previous minutes.

Name of Committee: Subcommittee on Women's Health and Cancer.

Executive Secretary: Ms. Iris Schneider, Building 31, room 11A48, Bethesda, MD 20892; (301) 496–5535.

Date of Meeting: February 8, 1993.

Place of Meeting: Building 31C, Conference Room 8

Open: 2 p.m. to 3 p.m.

Agenda: To discuss future women's health and cancer issues.

Name of Committee: Program Projects Task Force.

Executive Secretary: Mrs. Barbara S. Bynum, Building 31, Room 10A03, Bethesda, MD 20892; (301) 496–5147.

Date of Meeting: February 8, 1993.

Place of Meeting: Building 31C, Conference Room 7.

Open: 2 p.m. to 3 p.m.

Agenda: To discuss the PO1 review format and process.

Name of Committee: Subcommittee on Planning and Budget.

Executive Secretary: Ms. Cherie Nichols, Building 31, Room 11A19, Bethesda, MD 20892; (301) 496–5515

Date of Meeting: February 8, 1993.

Place of Meeting: Building 31C, Conference Room 7

Open: Immediately following the recess of the NCAB.

Agenda: Foreign Grant Awards for FY 1992

Name of Committee: Subcommittee on Cancer Centers

Executive Secretary: Dr. Brian Kimes, Executive Plaza North, Room 300 Bethesda, MD 20892; (301) 496–8537.

Date of Meeting: February 8, 1993

Place of Meeting: Building 31C, Conference Room 8

Open: 6 p.m. to adjournment.

Agenda: To discuss future issues.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93,394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 15, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–1625 Filed 1–22–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Notice of Meeting of National Institute of Dental Research (NIDR) Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, February 23–25, 1993, at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The meeting will be open to the public from 8:30 to 9 a.m. on February 23 for general discussions. Attendance by the public is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. William Gartland (301/496–7658) in advance of the meeting.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 23 and 24 from 9 a.m. to recess, and on February 25, from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, NIH, Westwood Building, room 519, Bethesda, MD 20892 (telephone 301/496–7658), will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health)

Dated: January 15, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–1623 Filed 1–22–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of an advisory committee of the National Institute of Mental Health for February 1993.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Joanna L. Kieffer, Committee Management Officer, National Institute of Mental Health, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Area Code 301, 443–4333, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meeting may be obtained from the contact indicated.

Committee Name: Clinical Subcommittee, Mental Health Special Projects Review Committee

Contact: Gwen C. Artis, room 9C–08 Parklawn Building Telephone: 301–443–1340

Meeting Date: February 10–12, 1993

Place: Hyatt Palo Alto 4219 El Camino Real Palo Alto, CA 94306

Open: February 10, 1993, 7 p.m–8 p.m.

Closed: February 10, 1993, 8 p.m. to 10 p.m. February 11, 1993, 9 a.m. to 5 p.m. February 12, 1993, 9 a.m. to adjournment.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award)

Dated: January 15, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–1624 Filed 1–22–93; 8:45 am]

BILLING CODE 4140–01–M

Orphan Products Board; Public Meeting

AGENCY: Office of the Assistant Secretary for Health, DHHS.

ACTION: Notice of public meeting; Orphan Products Board.

SUMMARY: The Department of Health and Human Services and the Office of the Assistant Secretary for Health announce that a public meeting of the Orphan Products Board will be held on February 22, 1993 in Washington, DC. During the session there will be opportunity for interested persons to present information and views on the issue of orphan products development. The meeting will be chaired by the Assistant Secretary for Health and Chairman, Orphan Products Board. It will commence at 1 p.m., in room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

ADDRESSES: Written requests to participate should be sent to Dr. Richard J. Bertin, Executive Secretary, Orphan Products Board, Food and Drug Administration (HF–35), room 8–73, 5600 Fishers Lane, Rockville, MD 20857, and should be received by February 16, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. Richard J. Bertin, Executive Secretary, Orphan Products Board, Food and Drug Administration (HF–35), 5600 Fishers Lane, Rockville, Maryland 20857. (301) 433–4903.

SUPPLEMENTARY INFORMATION: An orphan drug is a drug for the treatment of a rare disease or condition which either (1) has a prevalence in the United States of under 200,000 persons or (2) has a higher prevalence and for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. The Orphan Drug Act, Public Law 97–414 enacted on January 4, 1983, as amended, established a number of incentives to encourage the development and marketing of orphan drugs.

The act also established an Orphan Products Board to promote the development of drugs and devices for rare diseases or conditions and to assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients with rare diseases.

The Orphan Products Board is chaired by the Assistant Secretary for Health. The Board is composed of representatives from the Department of Health and Human Services (DHHS), the Department of Veterans Affairs (DVA), the National Institute for Disability and Rehabilitation Research (NIDRR), and the Department of Defense (DoD). Within DHHS, representatives from the Agency for Health Care Policy and Research (AHCPR), the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), the Health Care Financing Administration (HCFA), the National Institutes of Health (NIH), the Office of the Assistant Secretary for Health (OASH), and the Social Security Administration (SSA), serve on the Board. The publish meeting will have three purposes:

1. An update will be provided on the activities of the Orphan Products Board, and members of the Board will discuss their agencies' recent orphan product development activities, especially with respect to ongoing implementation of the recommendations of the National Commission on Orphan Diseases.

2. A ceremony will be held to honor the recipients of the Public Health Service Award for Exceptional Achievement in the Orphan Products Development. This award recognizes the efforts of individuals who have contributed to the development of drugs for rare diseases or conditions. The awards will be presented by the Assistant Secretary for Health.

3. In keeping with its mandate to foster actions within the Department to facilitate the research, development, and approval of orphan products and to coordinate government activities with the private sector in order to achieve these goals, the Board encourages presentations by members of the public on any issues involving the development and availability of orphan products. Those persons wishing to make a presentation at the meeting should submit a written request for a time slot to the Executive Secretary of the Orphan Products Board. The request for participation should be submitted before February 16, 1993, and should include:

a. Name, address, and telephone number of the person desiring to make a presentation;

b. Affiliation, if any;

c. A summary of the presentation; and

d. The approximate amount of time required for the presentation (no more than 10 minutes, unless more time can be justified.)

Individuals and organizations with common interests or proposals are urged to coordinate or consolidate their presentations. Joint presentations may be required of persons or organizations with a common interest. The time available will be allocated among the individuals who request an opportunity for a presentation. Formal written statements or extensions of remarks (five copies) may be presented to the Chairman on the day of the meeting for inclusion in the record of the meeting. At the discretion of the Chairman, and as time permits, any person in attendance may be heard. This time will, most likely, be at the end of the scheduled session. For those unable to attend the meeting, comments may be sent to the Executive Secretary of the Orphan Products Board at the address listed above.

Dated: January 13, 1993.

James O. Mason,

Assistant Secretary for Health.

Orphan Products Board

Public Forum—Hubert H. Humphrey Building—Room 800

February 22, 1993.

Chairperson: Assistant Secretary for Health (or Designee)

1 p.m.—Introductions and Welcome—Assistant Secretary for Health, Orphan Products Board

1:15 p.m.—PHS Awards for Exceptional Achievement in Orphan Products Development—Assistant Secretary for Health

1:40 p.m.—Implementation of the Recommendations of the National Commission on Orphan Diseases—Agency Representatives to the Orphan Products Board

2:45 p.m.—Break

3 p.m.—Open Public Forum

[FR Doc. 93–1739 Filed 1–22–93; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Donation and Solicitation Guidelines for the Take Pride In America Program

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed guidelines.

SUMMARY: This statement is to establish policy guidelines for soliciting and accepting donations for the Take Pride in America (TPIA) Program. It is intended also to give the TPIA office guidance in processing and accounting for donations.

DATES: Comments are due by February 27, 1993.

ADDRESSES: Take Pride in America Program, OCO, O/S, USDI, 1849 C St. NW., room 5123, Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Anne House Quinn, Director, Take Pride in America, 202–208–3726.

SUPPLEMENTARY INFORMATION: The TPIA Program, which consists of a broad-based partnership of volunteers, states, federal agencies, and the private sector, educates and motivates citizens to preserve and enhance our nation's natural, cultural and historic public resources. Statutory authority for the TPIA Program is found in Public Law 101–628 (104 Stat. 4502, Nov. 28, 1990). Section 1103 of Public Law 101–628 provides that the Secretary of the Interior may solicit and accept gifts or property to aid or facilitate the purposes of the TPIA Program. The following proposed policy and guidelines governing soliciting and accepting donations for the TPIA Program is intended to form a new chapter in the Departmental Manual, and will be made available to the public upon request addressed to the Department's TPIA Program Office.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the policy making process. Accordingly, interested persons may submit written comments, suggestions or objections regarding these proposed policy guidelines to the location identified in the Addresses section of the preamble. Comments must be received on or before 30 days following publication in the **Federal Register**.

Take Pride in America (TPIA) Donations and Solicitation (Fundraising) Policy and Guidelines

A. Introduction

This statement is to establish policy and guidelines for soliciting, accepting, and using donations for the Take Pride in America (TPIA) Program. It is intended also to give the TPIA office guidance in processing and accounting for donations.

B. Statutory Authority

The statutory authority for the TPIA program is found in Public Law 101–628, 16 U.S.C. 4601–4608. The purposes of the TPIA Program include:

(a) To establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals.

(1) To instill in the public the importance of the appropriate use of, and appreciation for Federal, State, and local lands, facilities, and natural, historic, and cultural resources;

(2) To encourage an attitude of stewardship and responsibility toward these lands, facilities, and natural, historic, and cultural resources; and

(3) To promote participation by individuals, organizations, and communities of a conservation ethic in caring for these lands, facilities, and resources.

(b) To conduct a national awards program to honor those individuals and entities which, in the opinion of the Secretary of the Interior * * * have distinguished themselves in the activities described in paragraph (1) of this subsection. 16 U.S.C. 4601(b).

Title 16 U.S.C. 4602(a) provides the Secretary not only gift acceptance authority for the TPIA Program, but also the authority to solicit gifts. In particular this section provides:

> The Secretary may solicit, accept, hold, administer, invest in government securities, and use gifts and bequests of money and other personal property to aid or facilitate the purposes of the TPIA Program.

In accordance with the above statutory authority TPIA may accept gifts and solicit gifts "to aid or facilitate the purposes of the TPIA Program." These purposes, succinctly stated, are to establish and maintain a public awareness campaign, and to conduct a national awards program. Gifts not falling within these purposes may not be accepted.

Congress' grant of solicitation authority to the Secretary carries with it the responsibility to assure that fundraising efforts, whether conducted by TPIA or outside groups are undertaken in an appropriate manner.

C. Conflicts of Interest

All TPIA activities regarding receipt of gifts and solicitation of gifts will be undertaken in conformance with government-wide and Department of the Interior standards of conduct, in particular those standards currently located in 43 CFR part 20 and successor regulations governing the conduct, of Interior Department employees. See 5 CFR part 2635 (effective February 3, 1993). TPIA's gift acceptance and solicitation authority relates only to gifts for those purposes set forth in 16 U.S.C.

4601(b). Restrictions concerning the acceptance of personal gifts remain fully applicable to TPIA employees. See 43 CFR 20.735–7.

D. Acceptance of Gifts

1. Policy

The Department of the Interior's TPIA Program gift acceptance policy is to accept gifts only for purposes consistent with the statutory authority of the TPIA Program. The acceptance of such gifts shall be consistent with applicable laws and regulations, in particular those dealing with conflicts of interest and standards of conduct.

TPIA Program acceptance of gifts for travel purposes is subject to special considerations. In addition to being subject to the general TPIA Program gift acceptance policy, acceptance of gifts of travel, subsistence and related expenses with respect to meetings and similar functions relating to the official duties of Departmental employees is governed by 41 CFR parts 301 and 304. Acceptance of gifts of travel expenses for other purposes is subject only to the general TPIA Program gift acceptance policy.

2. Who Can Accept a Donation

The authority to accept donations has been delegated by the Secretary of the Interior to the Director of Communications of the Department of the Interior. This delegation may be redelegated to the Director of Take Pride in America. The accepting official may deem it necessary that for any donation, the Director of Communications' or the Secretary's acknowledgment also be included.

3. Who May Make a Donation and What May be Donated

Anyone (individual, group, corporation, association, etc.) can make a contribution for the TPIA Program either by direct contribution or by bequest. The donations can be in the form of securities (common stocks, preferred stocks, bonds), personal property, or money. Money provided under purchase or exchange contracts or agreements is not a donation. Donations to the TPIA Program are donations to the United States Government in accordance with the Internal Revenue Code. Generally, a letter of tender will accompany a donation. This letter should contain the following:

- The amount of the donation.
- The purpose, if any, for which the donation is to be used for purposes of the Take Pride in America Act.
- What is to be done with any remaining funds when the purpose of the donation is completed (restricted purpose donations only).

4. Restricted Gifts

A "floor" has been established to distinguish restricted purpose donations from general donations. Donations in the amount of $100 or more may be accepted with binding conditions restricted purposes, as well as for general purposes. Donations of less than $100, however, may be accepted only for general purposes (either public awareness efforts or National Awards program activities).

5. Determining Whether a Gift Should be Accepted

Before any gift is accepted, the TPIA Program will ascertain that the gift, if restricted to a particular purpose, is for one of the two purposes of the TPIA Program set forth in 16 U.S.C. 4601. TPIA will then examine whether the identity of the donor raises any question as to whether the gift should be accepted. TPIA will not accept gifts from: (1) Bureau (National Park Service, Bureau of Land Management, Bureau of Reclamation et al.) concessioners or their principals or beneficial owners, and (2) any other business or institution (or their principals or beneficial owners) having or seeking a contractual relationship with the Department, nor permit others acting on its behalf to accept gifts from such entities, when such gifts may involve a conflict of interest or an appearance of conflict or when a gift is to be used for a service to or on behalf of a concessioner or other entity under contract. Gifts will not be accepted from entities listed in (1) or (2) above, unless the Director has first determined after consultation with the affected bureau, the Solicitor's office and the Department's Ethics office that there is neither a conflict of interest nor an appearance of conflict of interest or other impropriety.

E. Solicitations for Gifts (Fundraising)

1. Policy

Solicitation for gifts may be undertaken by TPIA staff or outside entities in accordance with the standards set forth below. In the event an outside entity is selected for fundraising, that entity is entitled to appropriate recognition, such as "sponsored with the cooperation of _____." However, no such recognition may rise to the level of a commercial advertisement or endorsement.

Entities from whom acceptance of a gift may create a conflict of interest may be solicited for donations only if the Director has first determined, after consultation with the affected bureau, the Solicitor's office, and the Department's Ethics office that there is neither a conflict of interest nor an appearance of conflict or other impropriety. Furthermore, such an entity may be used as a fundraiser only after these same determinations are made.

2. Fundraising by Outside Entities

In the event TPIA secures the services of an outside entity to engage in soliciting gifts (hereafter referred to as "fundraising"), TPIA will enter into a memorandum of understanding (MOU), in accordance with the Secretary's March 25, 1991 outreach determinations, with the entity. In particular, the MOU must, at a minimum, (1) identify projects or objects for which funds may be raised; (2) provide that the entity will operate under standards established by TPIA or the Secretary and that the fundraising efforts may occur only after the Director has given formal approval to a fundraising plan; (3) provide that all printed and other informational and fundraising materials to be distributed or communicated to the public will be subject to the advance approval of the Director; (4) describe internal controls providing accountability for all funds raised; (5) contain a termination for convenience clause; (6) provide that the fundraiser's records are subject to Departmental audit; (7) provide that the private entity must maintain accountability for all donations prior to transfer to TPIA and that it make an annual report of its TPIA fundraising efforts available to the public, and (8) prohibit even the implication that the TPIA Program or the Department endorses the products or services of the fundraiser.

Fundraising plans prepared under an MOU will set forth the purposes, goals, schedules, potential donors, geographic scope, costs, percentage of receipts collected that will be provided to TPIA, as well as the roles to be played by participants in the effort, and the sponsorship of all parties participating in the fundraising effort. Furthermore, all donation and fundraising MOUs must receive legal and Departmental-level policy review prior to commitment or execution.

The following are unacceptable means of solicitation and may not be included in any plan proposed by, or MOU with, an outside entity:

(a) Telemarketing.

(b) Lotteries, raffles, and sweepstakes.

(c) Use of the logo and/or slogan (hereinafter referred to as "Service

Marks") in connection with a commercial, "for profit" business in exchange for a fee, except as provided in section E.3.c).

The following are acceptable means of solicitation and may be included in any plan proposed by, or in an MOU with, an outside entity:

(a) Direct solicitation of contributions from individuals, foundations, and corporations except as prohibited by D.5. *supra*.

(b) Direct mail, with no "prize" or "reward" for a donation.

(c) Sale of products, containing the TPIA logo and/or slogan and no other commercial or non-profit sponsor subject to section 3.b), below.

(d) Public service announcements in the media.

(e) Benefit events—breakfasts, lunches, dinners, receptions, etc.

3. Use of TPIA Service Marks

Use of the TPIA service marks for fundraising must be consistent with the statutory purpose of the program, and may be used only as set forth below.

(a) The TPIA service marks may be used in direct fundraising by the Department of the Interior and by other organizations, as follows:

(1) Other Federal Government entities which have executed a partnership may be allowed to use the service marks subject to the terms of the agreement and these guidelines.

(2) State and local government entities which have executed a partnership may be allowed to use the service marks subject to the terms of the agreement and these guidelines.

(3) Private organizations which have executed a partnership may be allowed to use the service marks subject to the terms of the agreement and these guidelines.

(b) Sale of products with logo and/or slogan with no other commercial or non-profit message may be accomplished only as follows:

(1) A notice in the Commerce Business Daily must be published inviting bids on a particular product or line of products.

(2) Bids must be due no sooner than 30 days after the publication of the Notice.

(3) Any conditions on the award of the contract, such as originality of design, logo placement, or the like must be stated in the Notice, or the Notice must provide how a potential bidder may access the conditions.

(4) The projected price of the product must be a factor in the award.

(5) The percentage of the price to be returned to TPIA must be a factor in the award.

(6) Any such contracts must be of fixed duration and in no case more than two years.

(7) All such contracts must be reviewed by the Solicitor's office and the Departmental ethics office.

(c) Sale of commercial products or services using the TPIA logo and/or slogan and containing other commercial or non-profit message(s) may be accomplished only as follows:

(1) A notice in the Commerce Business Daily must be published inviting bids on a particular product or service or line of products or services.

(2) Bids must be due no sooner than 30 days after the publication of the Notice.

(3) Any conditions on the award of the contract, such as originality of design, logo placement, or the like must be stated in the Notice or the Notice must provide how a potential bidder may access the conditions.

(4) The projected price of the product or services must be a factor in the award.

(5) The percentage of the price to be returned to TPIA must be a factor in the award.

(6) Any such contracts must be of fixed duration and in no case more than two years.

(7) All such contracts must be reviewed by the Solicitor's office and the Departmental ethics office.

(8) Since such contracts will essentially be a license of the TPIA service marks, and since these contracts are to be for fundraising, the bidder with the highest projected return to TPIA must receive great weight in deliberations for award.

Contracts for use of the service marks in connection with fundraising must contain a clause by which TPIA may terminate the contract with reasonable notice, and without cause and without cost.

4. Fundraising by TPIA or Other Department of the Interior Employees

All fundraising efforts to be conducted by TPIA itself may be undertaken only after the preparation and approval by the Director of a fundraising plan that identifies the nature and size of the project or projects for which the effort is to be undertaken, and contains, to the extent applicable, the information contained in the fundraising plan required of outside fundraisers. All such fundraising efforts are subject to the "acceptable" and "unacceptable" means set forth above for outside organizations.

F. Administration

1. Processing Cash Donations

The following are steps in the processing of a cash donation. Most cash donations will follow this procedure, although there are exceptions:

(a) When a donation is received, the Director determines whether the donation is to be accepted or not.

(1) If the donation purpose is inconsistent with TPIA objectives, it will be returned to the donor.

(2) If the donation is consistent with TPIA objectives and is less than $100 and is restrictive in purpose, it will be returned to the donor with a letter explaining the "small dollar" donation policy, as previously stated. In this letter, the donor should be thanked and asked if he would resubmit his donation to be used for general purposes of the TPIA program. By their very nature, anonymous donations are exempt from this requirement.

(3) If the donation is consistent with TPIA objectives and is general, or restricted but in the amount of $100 or more, it will be accepted.

(b) If accepted, the donation must be forwarded as soon as possible to the Division of Fiscal Services, USDOI for deposit in the Treasury (Account #14X8369).

(c) A letter of acceptance must be prepared acknowledging the donation. This letter should include a general description of what will be done, how it will be accomplished (unless general), and a statement to advise that the donation is gratefully received and will be conscientiously administered.

(d) Contact should be maintained with any donor regarding the status of his/her donation if: (1) The significance of the project, (2) The dollar amount, or (3) The donor's position requires it. For restricted donations, if appropriate, the donor should be notified when the project is completed. Any unobligated balance will be used for general purposes, unless otherwise designated by the donor.

(e) Cash donations received through the mails or other means must be converted to a money order and transferred to the Division of Fiscal Services, USDOI, for deposit at the earliest opportunity.

2. Processing Donations Other Than Cash

For property donations, a cash value should be assigned to the donation by the Division of General Services, USDOI, for purposes of establishing DOI property records for the donated item in the Property Accountability Control

System; however, the DOI evaluation cannot be used by the donor for Federal income tax purposes. The fixing of a cash value for tax purposes must remain between the donor and the Internal Revenue Service. Property management officers will coordinate the receipt of donated property with appropriate TPIA staff members, consistent with all Federal and DOI Property Management Regulations. Property subject to physical or financial control, or both, will be duly recorded in the property ledgers and financial ledgers.

Securities are to be mailed by the donor or transferred by the TPIA staff directly to the Division of Fiscal Services for disposition. These securities will be converted to cash by sale through the Investment Banking Services of the Treasury Department. Net proceeds will be credited to the TPIA Donation Fund.

3. Audit of the Donation Fund

The Donation Fund is subject to periodic audits scheduled by the Office of Inspector General and the Office of the Secretary.

Dated: December 17, 1992.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 93–1710 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–10–M

Guidelines for Transactions Between Nonprofit Organizations and the Department of the Interior

AGENCY: Office of the Secretary, Interior.

ACTION: Withdrawal of proposed departmental policy.

SUMMARY: The Secretary of the Interior hereby withdraws a series of directives regarding the use of nonprofit organizations to assist the Department of the Interior in certain land acquisition transactions. Those proposed directives would have affirmed the benefits of using nonprofit organizations to assist the Department of the Interior in land acquisition, immediately discontinued certain payments of interest to nonprofit organizations, prevented profit-taking on the part of nonprofit organizations as a result of their assistance, and established regular reports and audits regarding land acquisition involving nonprofit organizations.

EFFECTIVE DATE: January 25, 1993.

ADDRESSES: Director, Office of Program Analysis, Department of the Interior, MS 4412, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Director, Office of Program Analysis, 202–208–5978.

SUPPLEMENTARY INFORMATION: The proposed departmental policy, published in the **Federal Register** on November 20, 1992 (Vol. 57, No. 225, pp. 54852–54853), regarding the use of nonprofit organizations in land acquisition, is being withdrawn for further analysis after review of nearly 100 comments from the public and from other Federal agencies.

The Secretary of the Interior affirms the importance of nonprofit organizations in assisting the Department of the Interior to acquire high priority lands with important natural, historical and cultural values.

However, the Secretary continues to have fundamental concerns about whether Federal taxpayers are receiving full value for costs incurred to acquire lands through third party transactions involving nonprofit organizations.

The report of the Office of the Inspector General, published in May, 1992, concluded, on the basis of selected cases, that the Government's interests were not always adequately protected and that nonprofit organizations benefited unduly from some of the land acquisition transactions. However, the Assistant Secretary for Fish and Wildlife and Parks, on the basis of other information, claimed that the Department has actually saved over $32 million as a result of its relationship with the nonprofit organizations. There is presently no basis on which to determine that either of these conflicting claims represents the truth of the matter, or if neither of them does.

In order to develop a factual basis on which to assess the situation and to make any necessary corrections in policy or practice, the Secretary of the Interior requests the Inspector General to conduct additional investigations to determine whether Federal taxpayers are receiving full value in third party land acquisition transactions and whether the current public-private process is causing a distortion in Federal land acquisition priorities.

Specifically, the Inspector General is requested to determine:

1. The net benefit or cost to the Department of the Interior of the aggregate of third party land acquisitions over a period of years. The evaluation should be based on all land acquisition transactions involving nonprofit organizations, and annual calculations of net benefit or cost should be presented in the aggregate for each year. This approach differs from the previous approach used by the Inspector General in which a few selected transactions were targeted for study.

2. Whether land acquisition priorities of the Department of the Interior are being unduly influenced by the nonprofit organizations involved in third party land acquisitions. The Inspector General should evaluate, among other things, whether bureau land acquisition priorities changed significantly after signing of "Letters of Intent," the extent to which lands purchased in third party transactions ranked high in earlier bureau priorities, and whether lands eventually purchased in third party transactions were added to bureau priority lists before or after negotiations with nonprofit organizations.

The evaluation of the Inspector General applies to land acquisitions of the National Park Service, Fish and Wildlife Service, and Bureau of Land Management.

Dated: January 13, 1993.

Manuel Lugan, Jr.,

Secretary of the Interior.

[FR Doc. 93–1552 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[OR–020–03–4210–03; G3–082]

Closure of Public Lands

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following described public lands are being closed to entry by all persons, except as noted below, under the provisions of 43 CFR 8364.1:

Willamette Meridian

T.23S., R.30E.,

Sec. 21, N½NE¼ and N½S½NE¼.

The area above aggregates 120 acres in Harney County, Oregon.

The closure area is adjacent to and will provide a safety buffer for the Burns Butte Public Shooting Range. The closure will also reduce the potential for vandalism to improvements located on the shooting range and help limit impacts to wildlife and other resources in the area. This closure will not affect access to other public lands or resources except for those within the shooting range and closure area. These lands are currently designated as closed to ORV use by the Three Rivers Resource Management Plan.

A Notice of the Proposed Closure was published in the **Federal Register** on May 7, 1992 and in the *Burns-Times Herald* on May 27, June 3, and June 10, 1992.

The following entities are excepted from this closure:

1. The grazing permittee in BLM's Gouldin grazing allotment, No. 7025 and the holder of BLM right-of-way, OR–04138, along with their employees and contractors while conducting official business relating to these permits.

2. BLM employees, while conducting duties relating to the administration of the public lands.

3. Agencies and individuals while involved with fire control, law enforcement or other emergency operations in the area.

4. Other persons who have official business in the area with the written consent of the Authorized Officer, BLM.

Failure to comply with this closure is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided for in 43 CFR 8360.0–7.

EFFECTIVE DATE: The closure will be effective on the date of this publication in the **Federal Register** and continue thereafter until further notice.

FOR FURTHER INFORMATION CONTACT: Detailed information including an environmental assessment prepared for this action is available from Skip Renchler or Craig M. Hansen, Three Rivers Resource Area, HC 74, 12533 Highway 20 West, Hines, Oregon, 97738, telephone (503) 573–5241.

Dated: January 6, 1993.

Craig M. Hansen,

Three Rivers Resource Area Manager.

[FR Doc. 93–1690 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–33–M

[UT–050–4410–02]

Richfield District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District Advisory Council meeting.

SUMMARY: The Richfield District Advisory Council will hold a meeting on February 24, 1993. The meeting will start at 10 a.m. in the District Office, 150 East 900 North, Richfield, Utah.

1. Election of officers
2. Henry Mountain RMP
3. RS 2477
4. Wild Horse Program
5. Henry Mountain Buffalo
6. Landfills
7. County Planning
8. Monroe Elk Plan

Interested persons may make oral statements to the Council between 1:15 p.m. and 2:15 p.m. or file written comments for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801–896–8221). For further information contact: Bert Hart, District Public Affairs Specialist at the above address.

January 14, 1993.

Sam Rowley,

Associate District Manager.

[FR Doc. 93–1691 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–DQ–M

[NV020–4320–02]

Winnemucca, District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Winnemucca District Grazing Advisory Board meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and section 3, Executive Order 12548, February 14, 1986, that a meeting of the Winnemucca District Grazing Advisory Board will be held on March 3, 1993. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management at 705 East Fourth Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include:

1. Public Statement.
2. District Manager's Update.
3. Update on Range Improvement Funds:
   FY93 Projects
   FY94 Projects
   FY95 Projects

Dated: January 13, 1993.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by February 12, 1993. Depending on the number of persons wishing to make oral statements, a person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: January 13, 1993.

Robert J. Neary,

Acting District Manager.

[FR Doc. 93–1692 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended [16 U.S.C. 1531, *et seq.*]:

PRT–773972

Applicant: Duke University Primate Center, Durham, NC.

The applicant requests a permit to import two pairs of captive born lesser mouse lemurs (*Microcebus murinus*) from the Moscow Zoo, Moscow, Russia, for enhancement of propagation and survival of the species.

PRT–773970

Applicant: James Danbury, Grand Junction, CO.

The applicant requests a permit to import the sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*) culled from the captive-herd of R.M.P. Hockly, Bedford, Republic of South Africa, for enhancement of propagation of the species.

PRT–774851

Applicant: Jim Warf, Anaheim, CA.

The applicant requests a permit to import the sport-hunted trophy of a bonetbok (*Damaliscus dorcas dorcas*) culled from the captive-herd of A.G. Spaeth, Doornbom, Republic of South Africa, for enhancement of propagation of the species.

PRT–775075

Applicant: William Ficge, Orange, CA.

The applicant requests a permit to import the sport-hunted trophy of a bonetbok (*Damaliscus dorcas dorcas*) culled from the captive-herd of M.G. Wienand, Bedford, Republic of South Africa, for enhancement of propagation of the species.

PRT–775073

Applicant: Denver Nelson, Romulus, MI.

The applicant requests a permit to import two captive-bred white-eared pheasants (*Crossoptilon c. dolani*) from Mark Geltink of Ontario, Canada, for captive-breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who

submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281)

Dated: January 19, 1993.

Susan Jacobsen,

Acting Chief Branch of Permits, Office of Management Authority.

[FR Doc. 93–1716 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the information collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303–231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget, Paperwork Reduction Project (1010–0073), Washington, DC, 20503; telephone 202–395–7340.

Title: Net Profit Share Payments for Outer Continental Shelf Oil and Gas Leases, 30 CFR part 220.

OMB approval number: 1010–0073.

Abstract: Companies involved in the exploration and development of Outer Continental Shelf oil and gas leases under the Net Profit Share Lease (NPSL) system make net profit share payments rather than royalty payments. To encourage exploration and development of a lease, the NPSL system provides for a sharing, by the lessee and the Government, of the risk involved. The lessee is permitted to deduct allowable costs to determine net profit, and profit share payments are not due until the lease becomes profitable. Lessees are required to maintain an NPSL capital account and to provide annual reports listing costs incurred, credits received, and the balance in the account. Beginning the first month in which production revenues are credited to the capital account lessees are required to prepare monthly reports showing volume and disposition of oil and gas production, production revenue, all costs and credits to the account, the balance in the account, and the net profit share payment due the Government.

Bureau Form Number: None.

Frequency: Annually or monthly.

Description of Respondents: Oil and gas companies.

Annual Responses: 211.

Annual Burden Hours: 3,411.

Bureau Clearance Officer: Dorothy Christopher 703–787–1238.

Dated: November 20, 1992.

Richard Roldan,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 93–1448 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf, Advisory Board Scientific Committee; Notice of Plenary Session Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The Outer Continental Shelf (OCS) Advisory Board Scientific Committee (SC) will meet Wednesday, February 10, and Thursday, February 11, 1993, at the Clarion Hotel, 1500 Canal Street, New Orleans, Louisiana 70112, telephone (504) 522–4500.

The SC is an outside group of scientists which advises the Director, Minerals Management Service (MMS), on the feasibility, appropriateness, and scientific value of the OCS Environmental Studies Program.

A Protected Species Workshop will be held from 8 a.m. to 5 p.m. on Tuesday, February 9, 1993. The agenda for the Workshop will cover the national perspective on protected species issues which potentially could affect the MMS's near- and long-term study plans. Specific topics addressed will be existing and emerging issues on:

- Seabirds
- Incidental take of marine animals
- Data management systems

The Scientific Committee will meet in physical oceanography and socioeconomics subcommittee sessions on Wednesday, February 10, from 8 a.m. to noon and will meet in plenary session from 1:30 p.m. to 5 p.m. On Thursday, February 11, the SC will meet in plenary session from 8 a.m. to 5 p.m.

The agenda for the plenary session will include the following subjects:

- Committee Business and Resolutions
- Environmental Studies Program (ESP) Status Review
- National Academy of Sciences ESP Reports Status
- MMS's University Initiatives Program

The workshop and the SC meeting are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

Copies of the agenda may be requested from the MMS by writing Ms. Phyllis Treichel, Environmental Studies Branch, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070.

Other inquiries concerning the SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary to the Scientific Committee. He may be reached at the above address or by telephone at (703) 787–1717.

Dated: January 15, 1993.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 93–1693 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Bering Land Bridge National Preserve, AK; Mining Plan of Operations

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 *et seq.*, and in accordance with the provisions of § 9.17 of 36 CFR part 9, subpart A, Trinity Mining has filed a plan of operations in support of proposed mining operations on lands embracing the Humbolt Creek placer claims 2AB, 3AB, and 4AB which are located within Bering Land Bridge National Preserve.

ADDRESSES: This plan is available for inspection during normal business hours at the following location: Alaska Regional Office—Minerals Management Division, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503–2892.

FOR FURTHER INFORMATION CONTACT: Floyd Sharrock of the National Park Service, Minerals Management Division at the address given above; telephone (907) 257–2626.

John M. Morehead,

Regional Director.

[FR Doc. 93–1717 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation (Reclamation), Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of proposed contractual actions pending through March 1993. This notice is one of a variety of means being used to inform the public about proposed contractual actions for water service and repayment. Additional Reclamation announcements of individual repayment and water service contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. These public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe any contact proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Dick L. Porter, Chief, Contracts and Repayment Division, Bureau of Reclamation, 1849 C St. NW., Washington, DC 20240; telephone 202–208–3014.

SUPPLEMENTARY INFORMATION: Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273) and section 43 CFR 426.20 of the rules and regulations published in 48 FR 54785, December 6, 1983, Reclamation will publish notice of proposed or amendatory repayment contract actions for any contract for the delivery of water for irrigation or other uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided below of all proposed contractual actions in each of the five Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during January, February, or March of 1993. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner or Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate Reclamation officials at the locations and with the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they became available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to: (i) The significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Acronym Definitions Used Herein

(BCP) Boulder Canyon Project
(CAP) Central Arizona Project
(CUP) Central Utah Project
(CVP) Central Valley Project
(CRSP) Colorado River Storage Project
(D&MC) Drainage and Minor Construction
(FR) Federal Register
(IDD) Irrigation and Drainage District
(ID) Irrigation District
(M&I) Municipal and Industrial
(O&M) Operation and Maintenance
(P-SMBP) Pick-Sloan Missouri Basin Program
(Pub. L.) Public Law
(R&B) Rehabilitation and Betterment
(SRPA) Small Reclamation Projects Act
(WCUA) Water Conservation and Utilization Act
(WD) Water District

Pacific Northwest Region: Bureau of Reclamation, Box 043–550 West Fort Street, Boise, Idaho 83724–0043, telephone 208–334–1894.

1. Cascade Reservoir Water Users, Boise Project, Idaho: Repayment contracts for irrigation and M&I water; 19,201 acre-feet of stored water in Cascade Reservoir.

2. Individual Irrigators, M&I, and Miscellaneous Water Users; Columbia Basin, Minidoka, Umatilla, and Crooked River Projects; Idaho, Montana, Oregon, and Washington: Temporary (interim) repayment and water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

3. Rogue River Basin Water Users, Rogue River Basin Project, Oregon: Water service contracts; $5 per acre-foot or $50 minimum per annum for terms up to 40 years.

4. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contracts; $1.75 per acre-foot or $50 minimum per annum for terms up to 40 years.

5. North Unit ID, Deschutes Project, Oregon; American Falls Reservoir District Number 2, Burgess Canal Company, Clark and Edwards Canal and Irrigation Company, Craig-Mattson Canal Company, Danksin Ditch Company, Enterprise Canal Company, Ltd., Farmers Friend Irrigation Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company,

Long Island Irrigation Company, Parks, and Lewisville Irrigation Company, Ltd., Parson Ditch Company, Peoples Canal and Irrigation Company, Poplar ID, Rigby Canal and Irrigating Company, Rudy Irrigation Canal Company, Ltd., Wearyrick Ditch Company, all in the Minidoka Project, Idaho; Juniper Flat ID, Wapinitia Project, Oregon; Roza ID, Yakima Project, Washington: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

6. Forty-four Palisades Reservoir Shareholders, Minidoka Project, Idaho-Wyoming: Contract amendments to extend term for which contract water may be subleased to other parties.

7. City of Cle Elum, Yakima Project, Washington: Amendatory or replacement M&I water service contract: 2,200 acre-feet (1,350 gallons per minute) annually for a term of up to 40 years.

8. Baker Valley ID, Baker Project, Oregon: Irrigation water service contract on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for a term of up to 40 years.

9. Palisades Water Users Inc., Minidoka-Palisades Project, Idaho: Repayment contract for additional 500 acre-feet of storage space in Palisades Reservoir.

10. Willow Creek Water Users, Willow Creek Project, Oregon: Repayment or water service contracts for a total of up to 3,500 acre-feet of storage space in Willow Creek Reservoir.

11. Five Project Spaceholders, Minidoka-Palisades Project, Idaho-Wyoming: Contract amendments to provide for rental of water to third parties.

12. Bridgeport ID, Bridgeport, Washington: Warren Act contract for the use of an irrigation outlet in Chief Joseph Dam.

13. Hermiston ID, Umatilla Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Cold Springs Dam.

14. Ochoco ID and Various Individual Spaceholders, Crooked River Project, Oregon: Repayment contract for reimbursable cost of dam safety repairs to Arthur R. Bowman and Ochoco Dams.

15. The Dalles ID, The Dalles Project, Oregon: SRPA loan repayment contract: proposed loan obligation of approximately $2,000,000.

16. Oroville-Tonasket ID, Chief Joseph Dam Project, Washington: SRPA loan repayment contract; $661,500 proposed loan obligation.

17. State of Idaho, Payette Division of the Boise Project, Idaho: Proposed repayment contracts with the State of Idaho for the sale of uncontracted space in Cascade and Deadwood Reservoirs.

18. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 2,300 acre-feet; $1.75 per acre-foot for a term of up to 40 years.

19. P.P.R.T. Water System, Inc., Idaho: Amendatory contract to defer the 1992 construction installment of a contract for a loan to construct facilities authorized pursuant to the Emergency Drought Act of 1977.

20. Douglas County, Milltown Hill Project, Oregon: SRPA loan repayment contract; proposed loan obligation of approximately $24.5 million and grant of approximately $5.8 million.

21. Mitigation, Inc., Palisades/Ririe Projects, Idaho: Contract for storage space in Palisades and Ririe Reservoirs (18,900 and 80,500 acre-feet, respectively) pursuant to section 5(a) of the Fort Hall Indian Water Rights Act of 1990.

22. U.S. Fish and Wildlife Service, Boise Project, Idaho: Irrigation water service contract for the purchase of approximately 200 acre-feet of storage space annually in Anderson Ranch Reservoir for a 40-year period; water to be used on crops for wildlife mitigation purposes.

23. City of Madras or North Unit ID, Deschutes Project, Oregon: Renewal or replacement of municipal water service contract for approximately 125 acre-feet per acre annually from the project water supply for a 40-year period; water to be used for lawn watering by a golf course and a park.

24. Willamette Basin water users, Willamette Basin. Project, Oregon: Add language to form of water service contract to provide for periodic reviews, with adjustments made if necessary, to mitigate for impact to natural resources.

25. Bitter Root ID, Bitter Root Project, Montana: Repayment contract for reimbursable cost of dam safety repairs to Como Dam.

26. Gem ID, Owyhee Project, Oregon-Idaho: Repayment contract for emergency drought loan for the reconstruction of a pumping plant utilizing funds appropriated by Pub. L. 102–27.

27. Vale ID, Vale Project, Oregon: Repayment contract for emergency drought loan for construction of water saving measures, including the replacement of open ditches with buried pipe, utilizing funds appropriated by Pub. L. 102–27.

28. Willamette Basin water users, Willamette Basin Project, Oregon: Two exchange of water service contracts totaling up to 225 acre-feet of water for diversion above project reservoirs.

Mid-pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5030.

1. Tuolumne Utility District (formerly Tuolumne Regional WD), CVP, California: Water service contract for up to 9,000 acre-feet from new Melones Reservoir.

2. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, California, Oregon, and Nevada: Temporary (interim) water service contracts for available project water for fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet annually.

3. Irrigation water districts, individual irrigators, miscellaneous water users, California, Oregon, and Nevada: Temporary Warren Act contracts for use of project facilities for terms up to 1 year.

4. Friant Division Contractors, CVP, California: Renewal of existing long-term water service contracts with contractors on the Friant-Kern and Madera Canals or diverters from Millerton Reservoir; most contracts expire 1993–1997, two contracts expire later; water quantities in existing contracts range from 1,200 to 175,440 acre-feet. These contract actions will be accomplished through 3-year interim contracts with subsequent 2-year interim contracts until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

5. Contra Costa WD, CVP, California: Amendatory water service contract to add the operation of the Los Vaqueros Project, including an additional point of delivery; the amendment will also conform the contract to current Reclamation policies, including the water ratesetting policy.

6. Redwood Valley County WD, SRPA, California: District is considering restructuring the repayment schedule pursuant to Pub. L. 100–516 or prepaying the loan at a discounted rate pursuant to Pub. L. 102–575.

7. Madera ID, Hidden Unit, CVP, California: Renewal of existing water service contract for 24,000 acre-feet of water which expires February 28, 1993. This contract action will be accomplished through a 3-year interim contract with a subsequent 2-year interim contract until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

8. Chowchilla WD, Buchanan Unit, CVP, California: Renewal of existing

water service contract for 24,000 acre-feet of water which expires February 28, 1993. This contract action will be accomplished through a 3-year interim contract with a subsequent 2-year interim contract until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

9. Truckee Carson ID, Newlands Project, Nevada: New repayment contract for the unpaid construction cost repayment obligation from the original contract which was terminated on August 17, 1983 by the U.S. District Court in Nevada.

10. San Luis WD, CVP, California: Amendatory water service contract to provide that the District pay full O&M rate for all deliveries resulting from the Azhderian Pumping Plant enlargement and the cost of service rate for such deliveries beginning in 1996 and each year thereafter.

11. Delta Mendota Canal Contractors, CVP, California: Renewal of existing long-term water service contracts with contractors on the Delta-Mendota Canal whose contracts expire in 1994–2003; water quantities in existing contracts range from 70 to 50,000 acre-feet. These contract actions will be accomplished through 3-year interim contracts with subsequent 2-year interim contracts until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

12. City of Redding, CVP, California: Amendment to Contract No. 14–06–200–5272A to add point of diversion on turnout, Spring Creek Power Conduit, to facilitate proposed water treatment plant for Buckeye service area.

13. U.S. Department of Veteran Affairs, CVP, California: Long-term contract for M&I water purposes in support of the new San Joaquin Valley National Cemetery near Santa Nella, California.

14. Century Ranch Water Company, Inc., CVP, California: Long-term exchange contract for M&I, less than 100 acre-feet; Stony Creek Watershed above Black Butte Dam.

15. State of California, Department of Forestry, CVP, California: Water right exchange agreement, less than 100 acre-feet, above Black Butte Dam.

16. San Luis WD, CVP, California: Amendment to Contract No. 14–06–200–7773A to include assigned lands and allocated share of CVP water supply to San Luis WD from Romero WD and comply with Pub. L. 102–575.

17. Romero WD, CVP, California: Amendment to Contract No. 14–06–200–7758 to assign lands and allocated share of CVP water supply to San Luis WD and comply with Pub. L. 102–575.

18. IDs and similar water user entities, CVP, California: Amendatory water service contracts; to change the definition of "year" to conform to the standard CVP water year of March 1 through the end of February.

19. Sacramento River water rights settlement contractors, CVP, California: Contract amendment for assignment under voluntary land ownership transfers to provide for the current CVP water rates and update standard contract articles.

20. Sierra Pacific Power Company and Pyramid Lake Tribe, Washoe and Truckee-Storage Projects, Nevada and California: Interim contract, authorized under Pub. L. 101–618, to convey and/or store non-project water in project facilities.

21. Naval Air Station and Truckee Carson ID, Newlands Project, Nevada: Amend water service Agreement No. 14–06–400–1024 for the use of project water on Naval Air Station land.

22. Del Puerto WD, CVP, California: Amend water service Contract No. 14–06–200–922 to include M&I use.

23. El Dorado County Water Agency, San Juan Suburban WD, and Sacramento County Water Agency, CVP, California: M&I water service contract to supplement existing water supply: 15,000 acre-feet for El Dorado County Water Agency, 13,000 acre-feet for San Juan Suburban WD, and 22,000 acre-feet for Sacramento County Water Agency.

24. Non-Federal entity, CVP, California: Cost-sharing agreement with a yet to be determined non-Federal entity for the Folsom Dam and Reservoir reoperation.

25. Central Coast Water Authority, Cachuma Project, California: Long-term 40 year Warren Act contract for use of Cachuma Project facilities when excess capacity exists. A total of 13,750 acre-feet of water per year from the California State Water Project will be made available under a Warren Act contract to users along the South Coast of California.

26. Pershing County Water Conservation District, Humboldt Project, Nevada: Safety of Dams repayment contract for modification of Rye Patch Dam; reimbursable obligation of the District approximately $750,000.

27. California Department of Fish and Game, CVP, California: Renewal of existing long-term agreement for furnishing water for fish hatchery purposes.

28. Widren WD, CVP, California: Amend water service Contract No. 14–06–200–8018 to include M&I use and conform to Pub. L. 102–575 and assign water supply to City of Tracy.

29. Sierra Pacific Power Company, Truckee-Storage Project, Nevada and California: Pursuant to Public Law 406 and 102–250, long-term Warren Act contract for use of Federal reservoirs.

30. Corning Canal, Tehama-Colusa Canal, and Cross Valley Canal; CVP; California: Renewal of existing long-term water service contracts with contractors on the Canals, whose contracts expire in 1995; water quantities in existing contracts range from 400 to 62,200 acre-feet. These contract actions will be accomplished through 3-year interim contracts with subsequent 2-year interim contracts until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

31. Bella Vista WD, CVP, California: Renewal of existing long-term water service contract which expires December 31, 1994; water quantity in existing contract is 24,000 acre-feet. This contract action will be accomplished through a 3-year interim contract with a subsequent 2-year interim contract until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

32. Clear Creek Community Service District, CVP, California: Renewal of existing long-term water service contract which expires December 31, 1994; water quantity in existing contract is 15,300 acre-feet. This contract action will be accomplished through a 3-year interim contract with a subsequent 2-year interim contract until the CVP Environmental Impact Statement is completed pursuant to Pub. L. 102–575.

33. Gateway WD, CVP, California: Assign twelve Delta-Mendota Canal water service contracts into 1-entity to be renamed Gateway WD for administration and operation purposes.

34. U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland WD; CVP; California: Water service contracts to provide Level II water supplies for refuges within the CVP pursuant to Pub. L. 102–575; exchange agreements and wheeling contracts to deliver some of the increased refuge water supplies; water to be contracted for is approximately 416,000 acre-feet.

35. Monterey County Water Resources Agency, Castroville Irrigation Water Supply Project, SRPA, California: Loan repayment contract in the amount of $32,600,000 to construct an irrigation distribution system to reduce sea water intrusion in the ground water aquifers.

36. Monterey Regional Water Pollution Control Agency, Water Reclamation Facility for Crop Irrigation Project, SRPA, California: Loan repayment contract in the amount of

$20,544,400 to reduce sea water intrusion in the ground water aquifers.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8536.

1. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts for percentages of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

2. Central Arizona Water Conservation District and The Metropolitan WD of Southern California, CAP/BCP, Arizona/California: Agreement for a demonstration project on underground storage of Colorado River Water in Arizona of up to 100,000 acre-feet.

3. Southern Arizona Water Rights Settlement Act: Sale of up to 28,200 acre-feet per year of municipal effluent to the City of Tucson, Arizona.

4. Milton and Jean Phillips, Kenneth or Ann Easterday, Robert E. Harp, Cameron Brothers Construction Co., Ogram Farms, Bruce Church, Inc., Stephen Sturges, Sunkist Growers, Inc., Clayton Farms, BCP, Arizona: Water service contracts, as recommended by Arizona Department of Water Resources, with agricultural entities located near the Colorado River for up to an additional 20,424 acre-feet per year total.

5. Arizona State Land Department, State of Arizona, BCP, Arizona: Contract for 6,292 acre-feet per year of Colorado River water for agricultural use and related purposes on State-owned land.

6. Armon Curtis, Arlin Dulin, Jacy Rayner, Glen Curtis, Jamar Produce Corporation, and Ansel T. Hall, BCP, Arizona: Water service contracts; purpose is to amend their contracts to exempt them from the Reclamation Reform Act of 1982 (Pub. L. 97–273).

7. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: New and amendatory contracts for repayment of Federal expenditures for construction of distribution systems.

8. Imperial ID, Lower Colorado Water Supply Project, California: Contract providing for O&M of the project well field.

9. Lower Colorado Water Supply Project, California: Water service and repayment contracts with nonagricultural users in California adjacent to the Colorado River for an aggregate consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the All-American Canal from a well field to be constructed adjacent to the canal.

10. County of San Bernardino, San Sevaine Creek Water Project, SRPA, California: Repayment contract for a $32.6 million loan.

11. Tohono O'odham Nation, SRPA, Arizona: Repayment contract for a $7.3 million loan for the Schuk Toak District.

12. Bullhead City, Consolidated Water Co., Lake Havasu City, Havasu Water Co., Quartzsite, McAllister Subdivision, City of Parker, Marble Canyon, and Arizona State Land Department, BCP, Arizona: Contracts for additional M&I allocations of Colorado River water to entities located along the Colorado River in Arizona for up to 15,146 acre-feet per year as recommended by the Arizona Department of Water Resources.

13. National Park Service for Lake Mead National Recreation Area, Supreme Court Decree in *Arizona* v. *California*, and BCP in Arizona and Nevada: Memorandum of Understanding for delivery of Colorado River water for the National Park Service's Federal Establishment present perfected right of 500 acre-feet of diversions annually, and the National Park Service's Federal Establishment perfected right pursuant to Executive Order No. 5125 (April 25, 1930).

14. Imperial ID and/or The Metropolitan WD of Southern California, BCP, California: Construction and funding contract to conserve water along a portion of the All-American Canal in accordance with title II of the All-American Canal Lining Act, dated January 25, 1988.

15. Coachella Valley WD and/or The Metropolitan WD of Southern California, BCP, California: Construction and funding contract to conserve water along a portion of the Coachella Branch of the All-American Canal in accordance with title II of the All-American Canal Lining Act, dated January 25, 1988.

16. Elsinore Valley Municipal WD, Temescal Valley Project, SRPA, California: Repayment contract for a $22.3 million loan.

17. Mohave Valley ID, BCP, Arizona: Amendment of current contract for additional Colorado River water, change in service areas, diversion points, and RRA exemption.

18. Miscellaneous present perfected rights entitlement holders, BCP, Arizona and California: Contracts for entitlements of Colorado River water as decreed by the U.S. Supreme Court in *Arizona* v. *California*, as supplemented or amended, and as required by section 5 of the BCP. Miscellaneous present perfected rights holders are listed in the *Arizona* v. *California* settlement.

19. Federal Establishment present perfected rights entitlement holders: Individual contracts for administration of Colorado River water entitlements of the Colorado River, Fort Mojave, Quechan, and Cocopah Indian Tribes.

20. Yuma County Water Users' Association, Yuma Project, Arizona: Contract to enable the Association to administer non-irrigation water within its service area.

21. City of Yuma, BCP, Arizona: Amendment to Contract No. 14–067–W–106 to add additional points of diversion.

22. Imperial ID and The Metropolitan WD of Southern California, BCP, California: Temporary contract to store approximately 200,000 acre-feet of water that is expected to be saved over a 2-year period under a test water savings program that involves land fallowing and a modified irrigation plan for alfalfa.

23. Crystal Beach Water Conservation District, BCP, Arizona: Contract for delivery of 132 acre-feet per year of Colorado River water for domestic use, as recommended by the Arizona Department of Water Resources.

24. Southern Nevada Water Authority, BCP, Nevada: Assignment of a portion of the Colorado River Commission's entitlement to the Southern Nevada Water Authority. Revision of water delivery contracts concerning points of diversion and delivery with the Cities of Henderson and Boulder City, Big Bend WD, and the Colorado River Commission regarding the Robert B. Griffith Water Project.

25. HoHoKam ID; Central Arizona Water Conservation District; and the Cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe; CAP; Arizona: Principles of agreement to provide the cities with Cliff Dam replacement water and repayment of HoHoKam ID Federal indebtedness.

26. Marble Canyon, BCP, Arizona: Contract for delivery of 70 acre-feet per year of Colorado River water for M&I use, as recommended by the Arizona Department of Water Resources.

27. Gila River Farms, SRPA, Arizona: Amendatory contract to reschedule May 1, 1990 payment over the remaining repayment period.

28. Fort McDowell Indian Community, CAP, Arizona: Amendatory contract to extend the term of the Community's CAP water service contract and to allow the Community to lease its CAP water for off-reservation uses pursuant to the Fort McDowell Indian Community Water Rights Settlement Act of 1990.

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568, (125 South State Street), Salt Lake City, Utah 84147, telephone 801–524–5435.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

(a) The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use; contract term for 40 years for execution.

2. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 2,600 acre-feet per year for irrigation use in Phase One and 700 acre-feet in Phase Two; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

3. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 26,400 acre-feet per year for irrigation use in Colorado; 900 acre-feet per year for irrigation use in New Mexico; contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement.

4. Navajo Indian Tribe, Animas-La Plata Project, New Mexico: Repayment contract for 76,600 acre-feet per year for M&I use.

5. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract for 9,900 acre-feet per year for irrigation use.

6. Vermejo Conservancy District, Vermejo Project, New Mexico: Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

7. San Juan Pueblo, San Juan-Chama Project, New Mexico: Repayment contract for up to 2,000 acre-feet of project water for irrigation purposes.

8. City of El Paso, Rio Grande Project, Texas and New Mexico: Amendment to the 1941 and 1962 contracts to expand acreage owned by the City to 3,000 acres; extend terms of water rights assignments from 25 years to 75 years; and allow assignments outside City limits under authority of the Public Service Board.

9. Mancos Water Conservancy District, Mancos Project, Colorado: Amendatory contract to remove contract restrictions that prevent the Mancos Water Conservancy District from developing hydropower on the Mancos Project.

10. The National Park Service, Bureau of Land Management, Colorado Water Conservation Board, Wayne N. Aspinall Unit, CRSP, Colorado: Contract for between 180,000 to 740,000 acre-feet of project water to provide specific river flow patterns in the Gunnison River through the Black Canyon of the Gunnison National Monument.

11. Upper Gunnison River Water Conservancy District, Wayne N. Aspinall Unit, CRSP, Colorado: Water service contract for 500 acre-feet for 1 year for municipal and domestic use.

12. Upper Gunnison River Water Conservancy District, Wayne N. Aspinal Unit, CRSP, Colorado: Substitute supply plan for the administration of the Gunnison River.

13. Collbran Conservancy District, Collbran Project, Colorado: Amendatory contract defining priority of use of project water.

14. U.S. Fish and Wildlife Service, North Fork Water Conservancy District, Paonia Project, Colorado: Contract for releases to support endangered fish in the Gunnison and Colorado Rivers; water available for releases will come from reserve capacity held by Reclamation as a sediment pool, estimated to be 1,800 acre-feet annually; contract will define the terms and conditions associated with delivery of this water.

15. Rio Grande Water Conservation District, Closed Basin Division, San Luis Valley Project, Colorado: Water service contract for furnishing priority 4 water to third parties; contract will allow District to market priority water, when available, for agricultural, municipal and/or industrial use.

16. Bridger Valley Water Conservancy District, Lyman Project, Wyoming: Repayment contract under safety of dams program for the repair of Meeks Cabin Dam.

Great Plains Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, telephone 406–657–6413.

1. Individual irrigators, M&I, and miscellaneous water users; Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, Nebraska, Oklahoma, and Texas; Temporary (Interim) water service contract for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5-years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Fort Shaw ID, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

3. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts; contract negotiations for sale of water from the marketable yield to water users within the Colorado River Basin of Western Colorado.

4. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Water service contracts; proposed second round contract negotiations for sale of agricultural, municipal, domestic, and industrial water from the regulatory capacity of Ruedi Reservoir.

5. Cedar Bluff ID No. 6, Cedar Bluff Unit, P–SMBP, Kansas: In accordance with Section 901 of Pub. L. 102–575, 106 Stat. 4600, terminate the Cedar Bluff Irrigation District's repayment contract and transfer use of the District's portion of the reservoir storage capacity to the State of Kansas for fish, wildlife, recreation, and other purposes.

6. Garrison Diversion Unit, P–SMBP, North Dakota: Renegotiation of the master repayment contract with Garrison Diversion Conservancy District of conform with the Garrison Diversion Unit Reformulation Act of 1986; negotiation of repayment contracts with irrigators and M&I users.

7. Corn Creek ID, Glendo Unit, P–SMBP, Wyoming: Repayment contract for 10,350 acre-feet of supplemental irrigation water from Glendo Reservoir.

8. East Bench ID, East Bench Unit, P–SMBP, Montana: D&MC contract for $300,000 for minor construction work over a 10-year period.

9. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

10. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs of the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

11. Chinook Water Users Association, Milk River Project, Montana: SRPA contract for loan of up to $6,000,000 for improvements to the Association's water conveyance system.

12. Midvale ID, Riverton Unit, P–SMBP, Wyoming: Long-term contract for water service from Boysen Reservoir.

13. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Contingent upon passage of authorizing legislation, negotiate amendatory contract to increase irrigable acreage within the project.

14. Palmetto Bend Project, Texas: Amendment of the tripartite contract among the United States, the Lavaca-Navidad River Authority and the Texas Water Development Board to transfer the Board's remaining repayment

obligation and interest in the Palmetto Bend Project to the Authority.

15. Canadian River Municipal Water Authority, Canadian River Project, Texas: Amendatory contract to reflect credit for project lands transferred to the National Park Service under Pub. L. 101–628 for the Lake Meredith National Recreation Area.

16. Lakeview ID, Shoshone Project, Wyoming: New long-term water service contract for up to 3,200 acre-feet of firm water supply annually and up to 11,800 acre-feet of interim water from Buffalo Bill Reservoir.

17. Hidalgo County ID No. 6, Texas: SRPA contract for a 20-year loan for up to $5,712,900 to rehabilitate the District's irrigation facilities.

18. City of Rapid City and Rapid Valley Water Conservancy District, Rapid Valley Unit, P-SMBP, South Dakota: Contract renewal for up to 55,000 acre-feet of storage capacity in Pactola Reservoir.

19. City of Aurora, Fryingpan-Arkansas Project, Colorado: Long-term carriage contract for up to 1,000 acre-feet of M&I conveyance capacity in the Fryingpan-Arkansas Project facilities.

20. Thirty Mile Canal Company, Nebraska: SRPA contract for a loan of $2,264,000 to reline the main canal, replace open laterals with buried pipe, and replace bridges.

21. City of Estes Park, Colorado-Big Thompson Project, Colorado: Modification of water service contract to change point of diversion and other administrative revisions.

22. City of Loveland, Colorado-Big Thompson Project, Colorado: Long-term M&I conveyance contract for conveyance of up to 12,000 acre-feet of city-owned water annually through Federal project facilities.

23. Belle Fourche ID, Belle Fourche Unit, P-SMBP, South Dakota: Amendment to D&MC contract to extend work through 1995 and provide an additional $1 million to complete the work.

24. North Platte Project and Glendo Unit, P-SMBP, Wyoming and Nebraska contractors: Repayment contracts under safety of dams program for the modification of Pathfinder, Guernsey, and Glendo Dams.

25. State of Colorado, Armel Unit, P-SMBP, Colorado: Repayment contract under safety of dams program for the modification of Bonny Dam.

26. Bostwick ID and Kansas-Bostwick ID, P-SMBP, Kansas and Nebraska: Renewal of existing water service and repayment contracts for irrigation water supplies.

27. Mountain Park Master Conservancy District, Mountain Park Project, Oklahoma: In accordance with section 3102 of Pub. L. 102–575, 106 Stat. 4600, amend the District's contract to reflect a discounted prepayment of the City of Frederick's obligation for the reimbursable costs of its M&I water supply.

28. Northern Cheyenne Indian Reservation, Montana: In accordance with section 9 of the Northern Cheyenne Reserved Water Rights Settlement Act of 1992, the U.S. and the Northern Cheyenne Indian Tribe are proposing to contract for 30,000 acre-feet per year of stored water from Bighorn Reservoir, Yellowtail Unit, Lower Bighorn Division, P-SMBP, in Montana. The Tribe will pay the U.S. both capital and O&M costs associated with each acre-foot of water the Tribe sells from this storage for M&I purposes.

Dated: January 15, 1993.

J. Austin Burke,

Assistant Commissioner.

[FR Doc. 93–1742 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation 337–TA–338]

Twin Pak, Inc., Initial Determination Terminating Respondent on the Basis of Settlement Agreement

In the matter of: Certain Bulk Bags and Process For Making Same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Twin Pak, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on January 15, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

By order of the Commission.

Issued: January 15, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–1609 Filed 1–22–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 337–TA–338]

Fib-Pak, Inc.; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

In the matter of: Certain Bulk Bags and Process for Making Same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Fib-Pak, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties,

unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on January 15, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

By order of the Commission.

Issued: January 15, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–1608 Filed 1–22–93; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 11, 1993, a proposed consent decree in *United States* v. *Alcan Aluminum Corporation,* Civil Action No. C93–0003–O (CS), was lodged with the United States District Court for the Western District of Kentucky.

The Complaint, brought pursuant to section 113(b) of the Clean Air Act ("CAA"), as amended, 42 U.S.C. 7413(b), alleges that Alcan's discharge of total fluorides at its primary aluminum reduction plant in Sebree, Kentucky into the air in July 1989 exceeded the emission standards for fluoride promulgated under 40 CFR 60.192. The Complaint seeks an order enjoining the defendant to comply with the New Source Performance Standards ("NSPS") for Primary Aluminum Reduction Plants, which were promulgated pursuant to section 111 of the Act, 42 USC 7411, and imposition of a civil penalty for the unauthorized discharge.

The proposed decree provides, among under requirements, that Alcan will (1) operate the Sebree plant in compliance with the Act and with all applicable subparts of 40 CFR part 60, including, but not limited to, the provisions of Subpart S; (2) submit to EPA region IV within 45 days of the lodging of the decree an internal audit workplan, which will include a schedule for the defendant to audit all three potlines at the Sebree plant qualitatively four times a week and quantitatively one time a week; (3) commence the audits within 30 days of EPA approval of the workplan, to continue such audits for a period of one year, and to implement remedial measures to correct all deficiencies as determined from the audits (to include the implementation of measures to maintain continue compliance); and (4) pursue the development of the "ore distribution dust control project" with the implementation of the capital items in all three potlines if the project is determined to be feasible and effective. The consent decree also requires defendant to pay a civil penalty of $7,000 for its violation of the CAA.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Alcan Corporation,* DOJ Ref. # 90–5–2–1–1683.

The proposed consent decree may be examined at the Office of the United States Attorney, Bank of Louisville Building, 510 W. Broadway, 10th Floor, Louisville, KY 40202 and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Washington, DC 20044, 202–347–2072. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Roger Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–1656 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Consolidated Edison Co.,* Civil Action No. 88–0049 (E.D.N.Y.) has been lodged with the United States District Court for the Eastern District of New York. This Decree provides for Consolidated Edison to pay a civil penalty of $219,500 pursuant to the provision of Section 113(b) of the Clean Air Act, 42 U.S.C. 7513(b). The civil penalty is for violations occurring during renovations at The Hudson Avenue Generating Station, in New York, New York, the Ravenswood Generating Station, in New York, New York, and the 74th Street Generating Station, in New York, New York of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") promulgated for asbestos pursuant to Sections 112 and 114 of the Clean Air Act, 42 U.S.C. 7412 and 7414.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Consolidated Edison Co.,* Civil Action No. 88–0049 (E.D.N.Y.), D.J. Ref. 90–5–2–1–1136.

The proposed consent decree may be examined at the office of the United States Attorney, One Pierrepont Plaza, 11th Floor, Brooklyn, N.Y. 11201 and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. The proposed consent decree may also be examined at the Consent Decree Library, 601 Pennsylvania Avenue NW., Washington, DC 20004 (202–347–7829). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the

amount of $1.75 (25 cents per page reproduction cost, payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–1655 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmenal Response, Compensation, and Liability Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed consent decree in *United States* v. *Motorola et al.*, Civ. No. 92–2314 PHX SMM, was lodged with the United States District Court for the District of Arizona on December 11, 1992. That action was brought against defendants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for cleanup of, and payment of past costs incurred by the United States at, the North Indian Bend Wash Superfund Site in Scottsdale and Tempe, Arizona. Pursuant to an earlier decree, a group of settlors is implmenting the Environmental Protection Agency's (EPA) remedy for the Middle and Lower Alluvial Units of the groundwater. Under this decree, these settlors are required to implement EPA's slected remedy for the Upper Alluvial Unit and the vadose zone, estimated to cost $11–15 million, to pay $5,066,048.44 toward the United States' past costs, and to pay future costs incurred by the United States in overseeing implmentation of the remedy.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20503. All comments should refer to *United States* v. *Motorola, et al.*, D.J. Ref. 90–11–2–413B.

The proposed consent decree may be examined at the office of the United States Attorney for the District of Arizona, 4000 United States Courthouse, 230 North First Avenue, Phoenix, Arizona 85025, at the Region IX office of Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, and at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, 202–347–2072. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $22.75 for the decree alone or $159.25 for the IBW decree plus its attachments (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *Motorola, et al.*, D.J. Ref. 90–11–2–413B.

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–1568 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. Hospital Association of Greater Des Moines, Inc., et al.; Public Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), the United States publishes below the comment it received on the proposed Final Judgment in *United States* v. *Hospital Association of Greater Des Moines, Inc., et al.*, Civil Action No. 4–92–70648, filed in the United States District Court for the Southern District of Iowa, Central Division, together with the response of the United States to the comment.

Copies of the response and the public comment are available on request for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue NW., Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the Southern District of Iowa, Central Division, United States Courthouse, East 1st Walnut Streets, Des Moines, Iowa 50309.

Constance K. Robinson,

Deputy Director of Operations, Antitrust Division.

[Civil Action No. 4–92–CV–70648]

Filed: January 14, 1993.

United States' Response to Public Comments

In the matter of United States of America, Plaintiff, v. Hospital Association of Greater Des Moines, Inc.; Broadlawns Medical Center; Des Moines General Hospital Company; Iowa Lutheran Hospital; Iowa Methodist Medical Center; Mercy Hospital Medical Center, Des Moines, Iowa, Defendants.

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d) (the "APPA"), the United States responds to public comments to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

This action began on September 22, 1992, when the United States filed a Complaint alleging that the defendants unreasonably restrained competition among the hospitals in Polk County, Iowa by agreeing to limit the types and amounts of advertising in which they would engage, in violation of section 1 of the Sherman Act, 15 U.S.C. 1. The United States simultaneously filed a proposed Final Judgment, Competitive Impact Statement, and a stipulation signed by all the defendants for entry of the proposed Final Judgment. The proposed Final Judgment embodies the relief sought in the Complaint.

The 60-day period provided by 15 U.S.C. 16(d) for submission of public comments expired on January 13, 1993. The United States received one comment. As required by 15 U.S.C. 16(b) and 16(d), this comment is being filed with this response.

The United States responded individually to the person who commented on the proposed Final Judgment.[1] Dr. Mayank K. Kothari questioned the adequacy of the proposed Final Judgment. The United States answered Dr. Kothari's concern by reviewing the allegations in the Complaint and explaining that the proposed Final Judgment would preclude the defendants from continuing the agreement that was the basis of the suite and from entering into any similar agreement during the ten-year term of the judgment. Therefore, the anticompetitive effects noted in the Complaint are unlikely to continue. The United States' reply also noted that the antitrust compliance program required under the Final Judgment provided further assurance that the defendants will not engage in other violations of the Sherman Act as it requires the decision-making officials of the defendants to attend annual briefings on the meaning of the antitrust laws. Because of this program, the defendants are unlikely to engage in anticompetitive activities in the future. Thus, the proposed Final Judgment is more than adequate to remedy the antitrust violations contained in the Complaint.

Dated: January 13, 1993.

[1] The comment and response are both attacned as Exhibit 1.

Respectfully submitted,

Nancy M. Goodman,

Karen L. Gable,

John B. Arnett, Sr.,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 4th Street, NW., Washington, DC 20001. Telephone: (202) 307–0798.

Exhibit 1

Wednesday, December 23, 1992.

The Honorable Harold Vietor,
Federal Judge, United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa.

Re: Civil Action No. 4–92–70648, U.S. V. 'Hospitals' Follow-up.

Dear Judge Vietor: As per the permission from your law clerk, the following is being submitted.

In wishing you a great New Year, I particularly wish to think you for your correspondence throughout this year that will soon pass. Citizenry whom I have shared the concerns of not having adequate knowledge of the health care options in the area continually remind all of us the importance of this case now before the Court. Surprisingly, the institutions involved are behaving as though nothing has happened and no case is pending.

Your wisdom applied should ameliorate this institutional apathy and instruct those of the importance of the Sherman Act. Promises that are kept are the only ones that court.

The Public Interests respect the Court's ability to look past a weak prosecutorial process that is ready, willing and able to settle for much less than what is due. Now the concerns are that the case will be heard, information of hospital pricing/performance/procedures will be properly disseminated and the history will not be repeated.

Sincerely yours,

Mayank K. Kothari, M.D.,

1221 Center St., #3, Des Moines, Iowa 50309.

cc. The Clerk of the Court

Exhibit 1

January 13, 1992.

REB:JBA
60–8062–0021

Mayank K. Kothari, M.D.,
1221 Center St., #3, Des Moines, Iowa 50390

Re: United States v. Hospital Association of Greater Des Moines, et al.

Dear Mr. Kothari: This letter responds to your December 23, 1992, letter to Judge Harold Vietor, which has been forwarded to the Antitrust Division by the Court. In that letter, you discuss the above-referenced case and state that the United States "is ready, willing and able to settle for much less than what is due." From this statement, it appears to be your position that the terms of the proposed final judgment are insufficient given the activities of the named defendants.

As you know, the defendants is this case were charged with entering into an agreement to restrain competition among themselves by agreeing to limit the types and amount of advertising that they would do. Under the proposed final judgment, they are precluded from continuing the challenged agreement or from undertaking any other action that would have a similar purpose or effect. In addition, the defendants are required to conduct an antitrust compliance program over the next 10 years to ensure that similar conduct is not undertaken in the future and that officials of the hospitals understand how the antitrust laws relate to their activities. Taking into consideration all of the circumstances, this relief is substantial and is likely to ensure that similar conduct is not undertaken in the future. To our knowledge, all of the defendants have ceased participating in the activities which led to the filing of this case.

I hope that the above information is useful to you in understanding our decision to enter into the proposed final judgment. Thank you for sharing your viewpoint, and for your interest in antitrust enforcement.

Sincerely yours,

Robert E. Bloch,

Chief, Professionals & Intellectual, Property Section.

Certificate of Service

I, John B. Arnett, Sr., hereby certify that a copy of the United States' Response to Public Comments in *United States* v. *Hospital Association of Greater Des Moines, Inc., et al.*, Civil Action No. 4–92–70648, was served on the 13th day of January 1993, first class mail, to counsel as follows:

Mark McCormick, Esq., Belin, Harris, McCormick, 2000 Financial Center, Des Moines, Iowa 50309

Gene Olson, Esq., Connolly Law Office, 820 Liberty Building, 418 6th Avenue, Des Moines, Iowa 50309

Norene Jacobs, Esq., Dorsey & Whitney, 801 Grand, Suite 3900, Des Moines, Iowa 50309

Thomas Burke, Esq., Whitfield, Musgrave, 1300 First Interstate Bank Building, Des Moines, Iowa 50309

John Shors, Esq., Davis Hockenberg, 2300 Financial Center, 666 Walnut Street, Des Moines, Iowa 50309

Edgar Hansell, Esq., Nyemaster, Goode, McLaughlin, Voigts, West & O'Brien, 1900 Hub Tower, 699 Walnut Street, Des Moines, Iowa 50309

John B. Arnett, Sr.

[FR Doc. 93–1652 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Microelectronics and Computer Technology Corporation

Notice is hereby given that, on May 21, 1992, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and project status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the changes are as follows: (1) CAD Framework Initiative, Inc. ("CFI"), Austin, TX, has entered into a Research and Development Service Agreement with MCC's Advanced Technology Laboratory for Acceleration of Standards ("ATLAS"). ATLAS is an independent MCC subsidiary which will prototype, demonstrate, and validate proposed enterprise integration standards. It will encompass a number of projects. ATLAS will provide services to CFI pursuant to this agreement; (2) Eden International Corporation, Austin, TX, has become an Associate Member of MCC and a participant in the CARNOT Project within MCC's Advanced Computing Technology Program; (3) Amoco Laser Company, Naperville, IL, has executed a Component Supplier Agreement for MCC's Holostore commercialization research; (4) MCC has established an Enterprise Integration Division with an information services project, EINet Services. MCC's EINet Services Project is composed of three principal elements: (1) Interconnection of participants on a single enterprise integration network, called EINet; (2) monitoring and analysis of EI technologies, methodologies and standards worldwide; and (3) information exchange forums to help accelerate the national development of a common high-speed, standards-based EI network.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MCC intends to file additional written notifications disclosing all changes in membership.

On December 21, 1984, MCC and its shareholders filed their original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on September 25, 1992. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 27, 1992 (57 FR 48635).

Constance K. Robinson,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 93–1651 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Gas-Fueled Railway Research Program

Notice is hereby given that, on January 4, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Morrison Knudsen Corporation, Boise, ID; Southern California Gas Company, Los Angeles, CA; Columbia Gas of Ohio, Inc., Columbus, OH; Norfolk Southern Corporation, Roanoke, VA; California Department of Transportation, Division of Rail, Sacramento, CA; CSX Transportation, Jacksonville, FL; and Atchison, Topeka and Santa Fe Railway Company, Topeka, KS. The general area of planned activities is the identification of technical requirements and quantifications of economic and environmental incentives for using natural gas instead of diesel as a railroad fuel, addressing refueling, emissions benefits, costs, market size, route characteristics, safety and regulatory issues. The major areas of research are (1) the identification of the infrastructure and supporting technologies needed for the widespread use of natural gas as a railway fuel in the United States; (2) the identification and quantification of the most cost effective refueling strategies; (3) the development of a selection criteria for choosing CNG and LNG fuel storage systems as the medium for specific rail applications; and (4) the quantification of the effect of using natural gas as a railroad fuel on capital costs, operating costs, and maintenance requirements. Membership in the venture remains open, and the parties intend to file additional written notification disclosing all changes in membership to the venture.

Constance K. Robinson,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 93–1650 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984 "Ultra Low Emission Engine Program"

Notice is hereby given that, on December 14, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Siemens Corporation, Auburn Hills, MT (November 11, 1992) has become a party to the group research project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

On November 13, 1991 SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 9, 1991, 56 FR 64276. The last substantive change notification was filed with the Department on October 16, 1992. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 19, 1992, 57 FR 54610. The last correction notification was filed with the Department on August 13, 1992. A notice was filed in the **Federal Register** pursuant to section 6(b) of the Act on September 10, 1992, 57 FR 41549.

Joseph H. Widmar,

Director of Operations; Antitrust Division.

[FR Doc. 93–1569 Filed 1–22–93; 8:45 am]

BILLING CODE 4410–01–M

Office of the Attorney General

[Order No. 1658–93]

Memorandum of Guidance on Implementation of the Litigation Reforms of Executive Order No. 12778

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice promulgates a memorandum providing guidance to Federal agencies regarding the implementation of those provisions of Executive Order No. 12778 (Order) that concern the conduct of civil litigation with the United States Government, including the methods by which attorneys for the government conduct discovery, seek sanctions, present witnesses at trial, and attempt to settle cases. The Order authorizes the Attorney General to issue guidelines carrying out the Order's provisions on civil and administrative litigation.

EFFECTIVE DATE: This action is effective on January 25, 1993.

FOR FURTHER INFORMATION CONTACT: Jeffrey Axelrad, Director, Torts Branch, Civil Division, Department of Justice, 601 "D" Street NW., Washington, DC 20004–2904 (mailing address: Benjamin Franklin Station, P.O. Box 888, Washington, DC 20044), (202) 501–7075.

SUPPLEMENTARY INFORMATION: Executive Order No. 12778 (56 FR 55195, October 25, 1991), which President Bush signed on October 23, 1991, is intended to "facilitate the just and efficient resolution of civil claims involving the United States Government." 56 FR 55195. The Order, *inter alia*, mandates reforms in the methods by which attorneys for the government conduct discovery, seek sanctions, present witnesses at trial, and attempt to settle cases. These reforms apply to litigation begun on or after January 21, 1992.

The Order requires agencies to implement civil justice reforms applicable to each agency's civil litigation. It provides, in sections 4(a), 4(b) and 7(d), that the Attorney General has both the duty to coordinate efforts by Federal agencies to implement the litigation process reforms and the authority to issue further guidelines implementing the Order, and to provide guidance as to the scope of the Order.

Preliminary guidelines were issued as interim direction for applying the Order. A Memorandum of Preliminary Guidance on Implementation of the Litigation Reforms of Executive Order No. 12778 (Memorandum of Preliminary Guidance) was signed on January 24, 1992 and has been published in the **Federal Register**. 57 FR 3640 (January 30, 1992). Agencies were requested to provide comments concerning their experience in carrying out the Order and their recommendations for revising the preliminary guidance. Numerous helpful comments have been received from agencies, United States Attorneys and other persons and organizations.

The present Memorandum has been prepared after consideration of comments and in the light of experience to date under the Order. This Memorandum incorporates much of the prior Memorandum of Preliminary

Guidance. In addition, the present Memorandum also includes elaboration on matters included in the Memorandum of Preliminary Guidance and additional guidance and direction. In particular, additional commentary has been included in the discussion of sections 1(a), 1(b), 1(c), 1(d)(1), 1(e) and 3 of the Order, and in the text pertaining to exclusions from the Order. Thus, the present Memorandum supersedes the prior Memorandum of Preliminary Guidance and should be utilized in lieu of that earlier Memorandum.

During the relatively brief period since the January 21, 1992 effective date of the Order, it has not been possible to assess fully the impact of reforms the Order has initiated. Therefore, further guidance may be developed in the light of experience. Comments on implementation of the Order continue to be welcomed.

By virtue of the authority vested in me by law, including Executive Order No. 12778, I hereby issue the following Memorandum:

Department of Justice Memorandum of Guidance on Implementation of the Litigation Reforms of Executive Order No. 12778

Introduction

Executive Order No. 12778, which President Bush signed on October 23, 1991, is intended to "facilitate the just and efficient resolution of civil claims involving the United States Government." 56 FR 55195, October 25, 1991. The Order, *inter alia*, mandates reforms in the methods by which attorneys for the government conduct discovery, seek sanctions, present witnesses at trial, and attempt to settle cases. These reforms apply to litigation begun on or after January 21, 1992.

The Order authorizes the Attorney General to issue guidelines carrying out the Order's provisions on civil and administrative litigation.

The present Memorandum provides guidance for applying the Order's provisions concerning the conduct of civil litigation involving the United States Government.

Pre-filing Notice of a Complaint

[Section 1(a)]

The objective of section 1(a) of the Order is to ensure that a reasonable effort is made to notify prospective disputants of the government's intent to sue, and to provide disputants with an opportunity to settle the dispute without litigation. "Disputants" means persons from whom relief is to be sought in a contemplated civil action.

Section 1(a) requires either the agency or litigation counsel to notify each disputant of the government's contemplated action unless an exception to the notice requirement (set forth in section 7(b) of the Order) applies. The notifying person shall offer to attempt to resolve the dispute without litigation. However, it is not appropriate to compromise litigation by providing pre-filing notice if the notice would defeat the purpose of the litigation.

Under section 1(a), a reasonable effort to notify disputants and to attempt to achieve a settlement may be provided either by the referring agency in administrative or conciliation processes or by litigation counsel. For example, many debt collection cases and tax cases are the subject of extensive agency efforts to notify the debtor and resolve the dispute prior to litigation. If the referring agency has provided notice, it should supply the documentation of the notice to litigation counsel. Such efforts by the agency may well satisfy the requirements of section 1(a). In those cases, litigation counsel need not repeat the notice although litigation counsel should consider whether additional notice may be productive, for example if a substantial period has elapsed since the prior notice.

The section requires a "reasonable" effort to provide notification and to attempt to achieve a settlement. Both the timing and the content of a reasonable effort depend upon the particular circumstances. However, unless an exception set forth in section 7 of the Order (or otherwise provided for by the Attorney General) is applicable, complete failure to make an effort can not be deemed "reasonable."

If pre-complaint settlement efforts by government counsel require information in the possession of prospective defendants, litigating counsel or client agency counsel may request such information from such defendants as a condition of settlement efforts. If prospective defendants refuse, or fail, to provide such information upon request within a reasonable time, government counsel shall have no further obligation to attempt to settle the case prior to filing.

The Department of Justice retains authority to approve or disapprove any settlements proposed by the client agency or litigation counsel, consistent with existing law, guidelines, and delegations. The Order confers no litigating or settlement authority on agencies beyond any existing authority under law or explicit agreement with the Department.

Settlement Conferences

[Section 1(b)]

Section 1(b) of the Order requires litigation counsel to evaluate the possibilities of settlement as soon as adequate information is available to permit an accurate evaluation of the government's litigation position. Thereafter, litigation counsel has a continuous obligation to evaluate settlement possibilities. Litigation counsel is to offer to participate in a settlement conference or, when it is reasonable to do so, move the court for such a conference.

Under section 1(b), settlement possibilities shall be evaluated by litigation counsel at the outset of the litigation. Litigation counsel shall thereafter, and throughout the course of the litigation, use reasonable efforts to settle the litigation, including the use of settlement conferences by offering or moving to do so. However, the most appropriate timing of a settlement conference should be determined by litigation counsel consistent with the goal of promoting just and efficient resolution of civil claims by avoiding unnecessary delay and cost. To that end, in keeping with section 1(g) of the Order ("Improved Use of Litigation Resources"), early filing of motions that potentially will resolve the litigation is encouraged. In those cases, litigation counsel should initiate settlement conference efforts after resolution of dispositive motions, thereby avoiding the cost and delay associated with an unnecessary settlement conference.

Prior to any such conference, litigation counsel should consult with the affected agency and with litigation counsel's supervisor. At the conference, litigation counsel should clearly state the terms upon which litigation counsel is prepared to recommend that the government conclude the litigation, but should not be expected to obtain authority to bind the government finally at settlement conferences. Final settlement authority is the subject of applicable regulations and may be exercised only by the officials designated in those regulations. The Order does not change those regulations regarding final settlement authority.

The Order does not constrain the government's full discretion to determine which government counsel represents the government at settlement conferences. Normally, a trial attorney assigned to the case will attend on behalf of the United States.

Section 1(b) does not permit settlement of litigation on terms that are not in the interest of the government; while "reasonable efforts" to settle are

required, no unreasonable concession or offer should be extended. The section also does not countenance evasion of established agency procedures for development of litigation positions.

Alternative Methods of Resolving the Dispute in Litigation

[Section 1(c)]

Section 1(c) of the Order encourages prompt and proper settlement of disputes. The section states: "Whenever feasible, claims should be resolved through informal discussions, negotiations, and settlements rather than through utilization of any formal or structured Alternative Dispute Resolution (ADR) process or court proceeding."

The Order does not permit litigation counsel to agree that ADR will result in a binding determination as to the government, without exercise of an agency's discretion. Further, the Order's authorization of the use of ADR does not authorize litigation counsel to agree to resolve a dispute in any manner or on any terms not in the interest of the United States.

Each agency should seek to use the skills of litigation counsel, including skills gained through training, to bring about a reasonable resolution of disputes. Attorneys should bring the same high level of expertise to ADR proceedings that they bring to formal judicial proceedings. Disputes will be resolved reasonably if an ADR technique is used when the technique holds out a likelihood of success. Litigation counsel should consult with the affected agency as to the desirability of using ADR if resort to ADR offers a reasonable prospect of success.

When evaluating whether proceeding with ADR is likely to lead to a prompt, fair, and efficient resolution of the action and thus be in the best interest of the government, government counsel should consider the amount and allocation of the cost of employing ADR.

Normally, the costs associated with ADR, such as the neutral's fee and related expenses, will be payable as an ordinary cost of litigation. Litigation counsel can voluntarily agree to share the payment of ADR costs, even when the court mandates ADR. Litigation counsel should assert sovereign immunity when costs are involuntarily imposed on the United States.

Disclosure Of Core Information

[Section 1(d)(1)]

Section 1(d)(1) of the Order requires litigation counsel, to the extent practicable, to make the offer to participate at an early stage of the litigation in a mutual exchange of "core information" (as defined in section 1(d)(1) of the Order). Reasonable efforts shall be made to obtain the agreement of other parties to such an exchange. When making the offer, litigation counsel should emphasize that the government is willing to be bound to disclose core information as defined in the section if, and only if, other parties agree to disclose the same core information and the court adopts the agreement as a stipulated order.

A mutually agreed-upon exchange of core information should occur reasonably early in the litigation, so as to serve the Order's purpose of expediting and streamlining discovery. However, when the government is plaintiff, disclosure of core information need not be requested prior to receipt of opposing parties' answers to the complaint. Litigation counsel should not permit the core information disclosure offer requirement to delay the initiation of necessary discovery on behalf of the government when the parties to whom the offer is directed have not accepted it within a reasonable period of time.

Offers to exchange core information are not mandated if a dispositive motion is pending or if the exceptions to the ADR and core disclosure provisions set forth in section 7(c) of the Order (involving asset forfeiture proceedings and debt collection cases involving less than $100,000) apply. Nothing in section 1(d)(1) requires disclosure of information that litigation counsel does not consider reasonably relevant to the claims for relief set forth in the complaint.

In cases involving multiple opposing parties, the government may agree to exchange disclosures of core information with one or more opposing parties. The government need not delay disclosure pending agreement by all of the parties unless individual exchange of core information would unfairly undermine the government's case.

Except when local practice warrants another means of memorializing the agreement, an agreement to provide core information ordinarily should be in the form of a consent order to ensure enforcement by the court. The consent order should also provide for use of the core information in the same manner as material discovered pursuant to Rules 26 through 36 of the Federal Rules of Civil Procedure.

All referrals from agencies requesting litigation counsel to file suit should include the core information described in section 1(d)(1) of the Order. The identification of the location of documents most relevant to the case should be specific enough to enable litigation counsel to locate and, if necessary, retrieve the documents, and should specify the name, business address, and telephone number of the custodians of the documents. The identification of individuals having information relevant to the claims and defenses should include, where possible, current or last-known telephone numbers at which such persons can be reached.

In determining the extent to which compliance with the requirements of section 1(d)(1) of the Order is "practicable" in a given case, litigation counsel shall consider, *inter alia*, the utility of early issue-narrowing motions and devices, and scope and complexity of the disclosure that will be required, the time available to comply with the provisions of the section, the extent to which disclosure of core information will expedite or limit the scope of subsequent discovery, and the cost to the government of compliance.

In cases where the government takes the position that the scope of judicial review of one or more issues involved in the litigation is limited to an agency's administrative record, identifying and affording access to the administrative record shall satisfy the requirements of section 1(d)(1) with respect to such issues.

Litigation counsel is entitled to rely in good faith on the representations of agency counsel as to the existence, extent, and location of core information.

Nothing in section 1(d)(1) prevents government counsel from seeking other discovery pursuant to the Federal Rules of Civil Procedure simultaneously with providing, or seeking, disclosure of core information pursuant to the section.

Review of Proposed Document Requests

[Section 1(d)(2)]

Under section 1(d)(2) of the Order, government counsel shall pursue document discovery only after complying with review procedures designed to ensure that the proposed document discovery is reasonable under the circumstances of the litigation.

When an agency's attorneys act as litigation counsel, that agency must establish a coordinated procedure, including review by a senior lawyer, before service or filing of any request for document discovery. The senior lawyer is to determine whether the proposed discovery meets the substantive criteria of section 1(d)(2). Senior lawyers must be designated within each agency to perform this review function. While no particular title, level, or grade of senior lawyer is mandated, the persons

designated should have substantial experience with regard to document discovery and should have supervisory authority. This designation should be made forthwith. If the designated senior lawyer is personally preparing the document discovery, further oversight is not necessary.

The designated senior lawyer reviewing document discovery proposals should determine whether the requests are cumulative or duplicative, unreasonable, oppressive, or unduly burdensome or expensive, and in doing so shall consider the requirements of the litigation, the amount in controversy, the importance of the issues at stake in the litigation, and whether the documents can be obtained in a manner that is more convenient, less burdensome, or less expensive than pursuit of the documentary discovery as proposed. Consideration of whether documents can be obtained in a more convenient, less burdensome, or less expensive manner shall include consideration of the convenience, burden, and expense to both the government and the opposing parties.

In conducting this review of document requests, the senior lawyer is entitled to rely in good faith upon factual representations of agency counsel and the trial attorney. The review system should not be permitted to deter the pursuit of reasonable document discovery in accord with the procedures established in the Order.

Discovery Motions

[Section 1(d)(3)]

Section 1(d)(3) of the Order provides that litigation counsel shall not ask the court to resolve a discovery dispute, including imposition of sanctions as well as the underlying discovery dispute, unless litigation counsel first attempts to resolve the dispute with opposing counsel or *pro se* parties. If pre-motion efforts at resolution are unsuccessful or impractical, a description of those efforts shall be set forth in the government's motion papers.

Litigation counsel, however, should not compromise a discovery dispute unless the terms of the compromise are reasonable.

Expert Witnesses

[Section 1(e)]

The function of section 1(e) of the Order is to ensure that litigation counsel proffer only reliable expert testimony in judicial proceedings. This practice, already widely used by the government, will enhance the credibility of the government's position in litigation and improve the prospects for a reasonable outcome of disputes warranting utilization of expert witnesses.

Litigation counsel shall use experts who have knowledge, background, research, or other expertise in the particular field of the subject of their testimony, and who base conclusions on widely accepted explanatory theories, *i.e.*, those that are propounded by at least a substantial minority of experts in the relevant field.

In cases requiring expert testimony on newly emerging issues, litigation counsel shall ensure that the proffered expert and his or her testimony are reliable and meet the requirements of Rule 702 of the Federal Rules of Evidence. In evaluating the reliability of an expert's conclusions in new areas where there are no established majority or minority views, it is important for the trial attorney to keep in mind that, under section 1(e), only the theory, not the conclusion based on the theory, need be "widely accepted." Litigation counsel may offer expert testimony that uses a widely accepted explanatory theory to support a conclusion in a novel area, based on the qualifications of the expert to testify on that issue, the extent of peer acceptance or recognition of the expert's past work in the field, particularly of any work that is related to the issue on which the testimony is to be offered, and any other available indicia of the reliability of the proffered testimony. However, if an expert is unable to support the conclusion with any "widely accepted" theories, the expert's testimony shall not be offered.

Litigation counsel shall offer to engage in mutual disclosure of expert witness information pertaining to experts a party expects to call at trial. "Expert witness information" within the meaning of section 1(e) of the Order should ordinarily include the information specified in Rule 26(4)(A)(i) of the Federal Rules of Civil Procedure, the expert's résumé or curriculum vitae, a list of the expert's relevant publications, data, test results, or other information on which the expert is expected to rely in the case at issue, the fee arrangements between the party and the expert and any written reports or other materials prepared by the expert that the party expects to offer into evidence.

An agreement to provide expert witness information should be memorialized in a consent order, except when local practice warrants another means of memorializing the agreement, with the same general provisions concerning enforceability and use at trial as are provided in consent orders for disclosures of core information. The requirement to offer mutual disclosure of expert witness information can be satisfied by an agreement to take depositions of experts that the parties plan to call to testify.

Litigation counsel shall not offer to pay an expert witness based on the success of the litigation. Section 1(e)(4). Similarly, litigation counsel should ordinarily object to testimony on the part of an expert whose compensation is linked to a successful outcome in the litigation and should bring out on cross-examination of the expert such compensation arrangements or agreements.

Sanctions Motions

[Section 1(f)]

Litigation counsel shall take steps to seek sanctions against opposing counsel and parties where appropriate, subject to the procedures set forth in section 1(f) of the Order regarding agency review of proposed sanction filings. Before filing a motion for sanctions, litigation counsel should normally attempt to resolve disputes with opposing counsel. Sanctions motions should not be used as a vehicle to intimidate or coerce government counsel or counsel adverse to the government when the dispute can be resolved on a reasonable basis.

Section 1(f)(2) of the Order mandates that each agency which has attorneys acting as litigation counsel designate a "sanctions officer" to review proposed sanctions motions and motions for sanctions that are filed against litigation counsel, the United States, its agencies, or its officers. The section also requires that the sanctions officer or designee "shall be a senior supervising attorney within the agency, and shall be licensed to practice law before a State court, courts of the District of Columbia, or courts of any territory or Commonwealth of the United States." The sanctions officer or his or her designee should be a senior lawyer with substantial litigation experience and supervisory authority. By way of illustration, rather than limitation, a Senior Executive Service level attorney should meet these criteria.

The persons acting as sanctions officers within each agency should be designated specifically by title or name. Action shall be taken forthwith to designate sanctions officers within each agency. Cabinet or subcabinet officers, such as Assistant Attorneys General or Assistant Secretaries, officials of equivalent rank, and United States Attorneys are authorized pursuant to this Memorandum to designate sanctions officers meeting the criteria of this Memorandum.

Improved Use of Litigation Resources

[Section 1(g)]

Litigation counsel are to use efficient case management techniques and make reasonable efforts to expedite civil litigation as set forth in section 1(g) of the Order.

In appropriate cases, litigation counsel should move for summary judgment to resolve litigation or narrow the issues to be tried. This rule is not intended to suggest that summary judgment practice should be used prematurely in a manner which will permit opposing counsel to defeat summary judgment.

Litigation counsel should seek to stipulate to facts that are not in dispute and move for early trial dates where practicable. Referring agencies should identify facts not in dispute and inform litigation counsel of the lack of dispute and the basis for concluding that there is no factual dispute, as soon as it is feasible to do so. Litigation counsel should seek agreement to fact stipulations as early as practicable, taking into account the progress of discovery and after exercising sound judgment to determine the most appropriate and efficient timing for such stipulations.

At reasonable intervals, litigation counsel should review and revise submissions to the court and should apprise the court and all counsel of any narrowing of issues, resulting from discovery or otherwise.

These requirements are not intended to suggest that litigation counsel should concede facts or issues as to which there is reasonable dispute, uncertainty, or inability to corroborate.

Fees And Expenses

[Section 1(h)]

Section 1(h) of the Order provides that litigation counsel shall offer to enter into a two-way fee shifting agreement with opposing parties in cases involving disputes over certain federal contracts or in any civil litigation initiated by the United States. Under such an agreement, the losing party would pay the prevailing party's fees and costs, subject to reasonable terms and conditions. This section is to be implemented only "[t]o the extent permissible by law." The section also requires the Attorney General to review the legal authority for entering into such agreements. Because no legislation currently provides specific authority for these agreements, litigation counsel shall not offer to enter into a two-way fee shifting agreement until legislation is enacted or other authority is provided by the Attorney General.

Principles to Promote Just and Efficient Administrative Adjudications

[Section 3]

Section 3 of the Order encourages agencies to implement the recommendations of the Administrative Conference of the United States, entitled "Case Management as a Tool for Improving Agency Adjudication," to the extent it is reasonable and practicable to do so (and to the extent it does not conflict with any provision of the Order). The agency proceedings within the ambit of section 3 are adjudications before a presiding officer, such as an administrative law judge.

The Order does not require the application of section 1 to such agency proceedings. However, it has become apparent that application of the relevant provisions of section 1 would have a salutary effect and would be in concert with the reforms required by the Order. Agencies are therefore encouraged to extend the application of section 1 to agency counsel in administrative adjudications where appropriate, for example where an evidentiary hearing is required by law, and where, in agency counsel's best judgment, such extension is reasonable and practicable.

Exceptions to the Executive Order

The Order does not apply to criminal matters or proceedings in foreign courts, and shall not be construed to require or authorize litigation counsel or any agency to act contrary to applicable law. Sections 7(a) and 8.

Attorneys for the Federal government are obligated to follow the requirements of the Order unless compliance would be contrary to law. In the event of an overlap between the requirements of the Order and any local rules or court orders, attorneys for the Federal government are obligated to comply with both the provisions of the Order and the provisions of applicable local rules or court orders.

In section 5(a), the Order defines "agency" to include each establishment within the definition of "agency" in 28 U.S.C. 451; establishments in the legislative or judicial branches are excluded. Thus, litigation counsel, including private attorneys representing the government, and the agency are subject to the provisions of the Order even where the agency is considered "independent" for other purposes. The President clearly has the authority to supervise and guide the exercise of core executive functions such as litigation by government agencies.

The Order does not compel or authorize disclosure of privileged information or any other information the disclosure of which is prohibited by law. Section 9.

Dated: January 15, 1993.

William P. Barr,

Attorney General.

[FR Doc. 93-1654 Filed 1-22-93; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-27,859]

Revised Determination on Reconsideration; Armor Elevator Co., Louisville, KY

On December 23, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Armor Elevator Company in Louisville, Kentucky. This notice was published in the **Federal Register** on December 30, 1992 (57 FR 62388).

Local #369 of the International Brotherhood of Electrical Workers claims that company is importing elevator controls and has closed the Louisville plant.

Findings on reconsideration confirm the union's allegation of company imports of elevator controls. New findings on reconsideration show that on November 15, 1992 the company received its first shipment of elevator controls from Finland. Additional shipments from Finland have also arrived in the U.S. It is the company's plan to continue importing elevator controls from its parent company in Finland.

Other findings on reconsideration show that all production of elevator controls ceased at the Louisville plant in November 1992 when all production workers were laid off.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with elevator controls produced at the Louisville, Kentucky plant of Armor Elevator Company contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Armor Elevator Company. In accordance with the provisions of the Trade Act of 1974, I made the following revised determination:

All workers of Armor Elevator Company, Louisville, Kentucky who became totally or

partially separated from employment on or after October 1, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 12th day of January 1993.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 93–1729 Filed 1–22–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,971]

Termination of Investigation; Bethenergy Mines, Inc. Eighty-Four, PA

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 9, 1992 in response to a worker petition which was filed on November 9, 1992 on behalf of workers at Bethenergy Mines, Incorporated, Eighty-four, Pennsylvania.

A negative determination applicable to the petitioning group of workers was issued on December 15, 1992 (TA–W–28,037). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 14th day of January, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–1728 Filed 1–22–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28, 056]

Termination of Investigation; Dale Electronics Inc., El Paso, TX

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 30, 1992 in response to a worker petition which was filed on November 30, 1992 on behalf of workers at Dale Electronics, Incorporated, El Paso, Texas.

An active certification covering the petitioning group of workers remains in effect through February 25, 1993 (TA–W–25,246). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 14th day of January, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–1730 Filed 1–22–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–004]

Establishment of the National Aeronautics and Space Administration (NASA)—National Institutes of Health (NIH) Advisory Committee on Biomedical and Behavioral Research

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of establishment.

SUMMARY: Pursuant to sections 9 (a) and (c) of the Federal Advisory Committee Act, Pub. L. 92–462, and after consultation with the Committee Management Secretariat, General Services Administration, the National Aeronautics and Space Administration (NASA) has determined that establishment of the Advisory Committee on Biomedical and Behavioral Research is in the public interest in connection with the performance of duties imposed upon NASA by law.

ADDRESSES: National Aeronautics and Space Administration, Code S, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–1430).

SUPPLEMENTARY INFORMATION: The NASA Administrator, in consultation with the National Institutes of Health, has determined that it is appropriate for NASA to establish the Advisory Committee on Biomedical and Behavioral Research to serve as principal source of oversight and advice regarding the progress and program strategies for joint activities conducted by NASA and NIH in the fields of biomedical and behavioral research. The Committee will advise the NASA Administrator and the Director of NIH on these joint activities. The Committee is chaired by Charles A. LeMaistre, M.D., and is composed of 10 members selected from a cross-section of qualified individuals with an extensive knowledge of biomedical and behavioral research.

Dated: January 15, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–1637 Filed 1–22–93; 8:45 am]

BILLING CODE 7510–01–M

[Notice 93–005]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee.

DATES: February 3, 1993, 8:30 a.m. to 5:30 p.m.; February 4, 1993, 8:30 a.m. to 5:30 p.m.; and February 5, 1993, 8:30 a.m. to 3 p.m.

ADDRESSES: National Aeronautics and Space Administration, room MIC-5, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1430.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—OSSA Program Status and Outlook
—Strategic Planning Discussion
—Mission Operations and Data Analysis
—Presentation of Technology
—FY 1994 Budget Issues
—Subcommittee Reports
—Committee Writing Assignments

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: January 15, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–1638 Filed 1–22–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Audience Development Section) to the National Council on the Arts will be held on February 17–19, 1993 from 9 a.m.– 5 p.m. in room M–07 at the Nancy Hanks Center, 1100

Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 19 from 1 p.m. - 3:30 p.m. The topics will be guidelines review and policy discussion.

The remaining portions of this meeting on February 17–18 from 9 a.m. - 5 p.m. and February 19 from 9 a.m. - 1 p.m. and 3:30 p.m. - 5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)((4), (6), and (9) (B) of section 552b to title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: January 13, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–1698 Filed 1–22–93; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision.
2. The title of the information collection:

Submittal, in computer readable format, of the following forms in accordance with listed instructions:

—DOE/NRC Forms 741 & 741A, "Nuclear Material Transaction Report,"

NUREG/BR–0006, "Instructions for completing forms 741, 741A, and 740M," and

NMMSS Report D–24, "Personal Computer Data Input for NRC Licensees"

—DOE/NRC Form 740M, "Concise Note"

—DOE/NRC Form 742, "Material Balance Report," and NUREG/BR–0007, Instructions for Completing Forms 742, 742C, and 740M

—DOE/NRC Form 742C, "Physical Inventory Listing"

3. The form number if applicable: Same as item 2 above.
4. How often the collection is required:
   —DOE/NRC Forms 741/741A: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria.
   —DOE/NRC Form 740M: When specified in Facility Attachments or Transitional Facility Attachments, or as necessary to inform the U.S. or IAEA of any qualifying statement or exception to data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement.
   —DOE/NRC Forms 742 and 742C: Semiannually for affected special nuclear material licensees. Annually for affected source material licensees. As specified in Facility Attachments for licensees reporting under 10 CFR part 75.
5. Who will be required or asked to report: Persons licensed to possess specified quantities of special nuclear material or source material.
6. An estimate of the number of responses annually:
   —DOE/NRC Forms 741/741A: 20,000
   —DOE/NRC Form 740M: 1,140
   —DOE/NRC Form 742: 600
   —DOE/NRC Form 742C: 240
7. An estimate of the total number of hours needed annually to complete the requirement or request:
   —DOE/NRC Forms 741/741A: 15,000 (0.75 hours per response)
   —DOE/NRC Form 740M: 855 (0.75 hours per response)
   —DOE/NRC Form 742: 450 (0.75 hours per response)
   —DOE/NRC Form 742C: 1,440 (6 hours per response)
8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Applicable.
9. Abstract: NRC is proposing a regulatory change to make it mandatory that licensee submittals of DOE/NRC Forms 741, 741A, 740M, 742, and 742C be in computer readable format. The change will streamline the collection of nuclear material transaction data, increase accuracy of reported information, and decrease burden on respondents by eliminating preparation of paper copies.

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 may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0003, –0057, –0004, and –0058), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 15th day of January 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–1642 Filed 1–22–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Pressurized Water Reactors; Notice of Meeting

The ACRS Subcommittee on Advanced Pressurized Water Reactors will hold a meeting on February 10, 1993, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss proprietary information (5 U.S.C. 552(b)(c)(4)).

The agenda for the subject meeting shall be as follows:

Wednesday, February 10, 1993—8:30 a.m. until the conclusion of business.

The Subcommittee will begin its review of the NRC staff's Draft Safety Evaluation Report (NUREG–1462) for certification of the ABB–CE System 80+ Design. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, its consultants, ABB–CE representatives, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Elpidio G. Igne (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 14, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–1554 Filed 1–22–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on February 10, 1993, room P-422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that will be closed to discuss the qualifications of candidates nominated for appointment to the ACRS. This session will be closed to discuss information, the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6). The purpose of this meeting will be to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

The agenda for the subject meeting shall be as follows:

Wednesday, February 10, 1993—3 p.m. until 5:30 p.m.

The Subcommittee will discuss proposed ACRS activities, practices and procedures for conduct of Committee business, and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Dr. John T. Larkins (telephone 301/492–8158) between 7:30 a.m. and 4:15 p.m., EST. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, ect., that may have occurred.

Dated: January 14, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–1555 Filed 1–22–93; 8:45 am]

BILLING CODE 7390–01–M

Draft Regulatory Guide: Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is temporarily identified as DG–3008, "Nuclear Criticality Safety Training," and is intended for Division 3, "Fuels and Materials Facilities." This regulatory guide is being developed to provide guidance on an appropriate nuclear criticality safety training program for the use of special nuclear material, especially the prevention of criticality accidents.

This draft and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guide and the draft value/impact statement. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by March 19, 1993.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555,

Attention: Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 31st day of December 1992.

For the Nuclear Regulatory Commission.

Bill M. Morris, Director,

Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 93–1641 Filed 1–22–93; 8:45 am]

BILLING CODE 7590–01–M

Northeast Nuclear Energy Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

[Docket No. 50–245]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21 issued to Northeast Nuclear Energy Company (the licensee/NNECO) for operation of Millstone Nuclear Power Station, Unit 1, located in New London County, Connecticut.

The proposed amendment to the Technical Specifications would allow for temporarily bypassing the Main Steam Line Radiation Monitor (MSLRM) trip function in order to allow condensate demineralizers to be returned to service, thereby eliminating the possibility of an inadvertent initiation of the MSLRM trip function. A time limit of 2 hours per occurrence has been set to minimize the overall time that the MSLRM trip function may be bypassed.

The licensee requested expeditious review of this request because continued plant operation dictates that the current typical ultrasonic resin cleaning cycle of two condensate demineralizers per week be resumed promptly. A clean demineralizer has not been rotated into service since December 29, 1992, because the licensee believes the evolution may result in a spurious and unnecessary main steam line high radiation monitor trip setpoint being exceeded.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECO has reviewed the attached proposed change and has concluded that the change does not involve an SHC [Significant Hazards Consideration]. The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The trip function of the MSLRMs is a postaccident function and hence changes to this function can not increase the probability of occurrence of previously evaluated accidents. The Millstone Unit No. 1 design basis accident analysis does not take credit for this trip function and hence there are no effects on the consequences of previously evaluated accidents. In the control rod drop accident, all activity from failed fuel rods is assumed to be immediately transported to the turbine/condenser and is available for leakage from the condenser.

Additionally, the main steam activity detected by the MSLRMs will be removed by the steam jet air ejectors, be monitored by the redundant off-gas monitors and be directed to the off-gas treatment system. The sensitivity of the off-gas monitors is much greater than the MSLRMs. The noble gas activity required to cause the MSLRMs to exceed their alarm setpoint will be well above the trip setpoint for the off-gas monitors. The off-gas monitors will automatically initiate closure of the off-gas system discharge valve after a 15 minute time delay and hence, trap all activity within the off-gas system. No significant activity is expected to be released to the public, since it would be contained within the off-gas system.

Furthermore, not closing the MSIVs will reduce the potential dose, as the steam jet air ejector will remain available to direct activity to the off-gas system. If the MSIVs were closed, the activity would remain in the condenser. More activity would be expected to leak out of the condenser than the off-gas system.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes allow the MSLRM trip function to be bypassed for a short period of time (conservatively selected as two hours per occurrence) while condensate demineralizers are placed into service. The direct impact on the plant is that this particular trip function (i.e., MSIV closure and reactor scram) will not actuate while it is bypassed. Since the design basis accident analysis does not credit this trip function to demonstrate acceptable radiological consequences, the proposed changes have effectively been evaluated previously and are enveloped by the existing analysis. As stated above, in the control rod drop accident, all activity from failed fuel rods is assumed to be immediately transported to the turbine/condenser and is available for leakage from the condenser.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not impact the physical protective boundaries, nor do they affect the calculated off-site dose consequences. Therefore, there is no impact on the margin of safety. Furthermore, the changes will improve the overall reliability of the plant when compared to the as-found system, since the proposed changes will reduce the chances of an unnecessary plant transient occurring as a result of an inadvertent MSIV closure at 100 percent power.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 24, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the

proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30 days, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment requests involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 12, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland, this 15th day of January 1993.

For the Nuclear Regulatory Commission.
James W. Andersen,
Acting Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.
[FR Doc. 93–1643 Filed 1–22–93; 8:45 am]
BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: Computer Matching Programs—OPM/Department of Labor, Office of Workers' Compensation Programs

AGENCY: Office of Personnel Management (OPM).

ACTION: Publication of notice of computer matching to comply with Public Law 100–503, the Computer Matching and Privacy Act of 1988.

SUMMARY: OPM is publishing notice of its computer matching program with the Department of Labor, Office of Workers' Compensation Programs (OWCP) to meet the reporting and publication requirements of Pub. L. 100–503. The match will identify individuals receiving prohibited concurrent benefits under the Civil Service Retirement Act (CSRA) or the Federal Employees' Retirement System Act (FERSA) and the Federal Employees' Compensation Act (FECA). Both the CSRA and FERSA, on one hand, and the FECA, on the other, prohibit the receipt of certain concurrent payments covering the same period of time. The match will involve the OPM system of records published as OPM CENTRAL–1, Civil Service Retirement and Insurance Records (OPM/CENTRAL–1) (57 FR 35698, August 10, 1992) and the Department of Labor system of records published as DOL/ESA–13, 55 FR 7121–7123, February 28, 1990. The purpose of the match is to identify and/or prevent erroneous payments under both the CSRA, FERSA, and FECA.

DATES: The matching program will begin in January 1993 or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. The data exchange will begin at a date mutually agreeable between OPM and OWCP after January 2, 1993, unless comments are received which will result in a contrary determination. Subsequent matches will take place semi-annually on a recurring basis until one of the parties advises the other in writing, of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESSES: Send comments 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 deliver to OPM, Room 4351, 2900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joy Anderson, (202) 606–0299..

SUPPLEMENTARY INFORMATION: The computer matching program between OWCP and OPM will involve comparison of beneficiaries under the FECA and the CSRA and FERSA. The match will identify beneficiaries receiving payment of compensation for wage loss or death under the FECA and those receiving retirement or death benefits under the CSRA and FERSA covering the same period of time.

The concurrent receipt of benefits under the FECA based on wage loss and under the CSRA and FERSA for retirement, or under the FECA, CSRA or FERSA based on the death of the Federal employee is prohibited. It is the responsibility of OPM to monitor retirement annuity and survivor benefits paid under the CSRA or FERSA to ensure that its beneficiaries are not receiving benefits under the FECA which are prohibited during receipt of benefits under the CSRA or FERSA. Similarly, it is the responsibility of the OWCP to ensure that Federal employees or dependents of deceased Federal employees receiving benefits under the FECA are not also receiving benefits under the CSRA which are prohibited.

By comparing the information received through this computer matching program on a recurring basis, the agencies will be able to make a timely and more accurate adjustment in the benefits payable. The match will prevent overpayments, fraud and abuse, thus assuring that benefits payments are proper under the appropriate Act.

Additional information, regarding the matching program, including the authority for the program, a description of the matches, the personal records to be matched, the dates of the program, security safeguards, and plans for disposition following completion of the matches are provided in the text below.

Office of Personnel Management.
Douglas A. Brook,
Acting Director.

Matching of Records Between Office of Workers' Compensation Programs and Office of Personnel Management

A. *Authority:* The Civil Service Retirement Act (CSRA), 5 U.S.C. 8331, et seq.; the Federal Employees' Retirement System Act (FERSA), 5 U.S.C., 8401, et seq.; and the Federal Employees' Compensation Act (FECA), 5 U.S.C., 8101, et seq.

B. *Description of Computer Matching Program:* OPM pays annuities or survivor benefits to individuals who may also receive benefits under the FECA. It is the responsibility of OPM as the administrator of the CSRA and FERSA to assure that such benefit payments are proper and to prevent fraud and abuse. The computer matching program is an efficient and nonobtrusive method of determining whether these individuals are receiving benefits from OWCP and OPM prohibited by the FECA and CSRA and FERSA. The OWCP will provide OPM with extracts of its payment files containing data (names, social security numbers, dates of birth, claim numbers, payee relationship codes, addresses, zip codes, and payment data) needed to identify the individual and determine if he or she is receiving benefits from both organizations at the same time. OPM will match OWCP's extract of its payment files against its payment records for the same dates to determine if benefits were being paid on the same date by both agencies. OPM will provide OWCP with a listing of valid matches. Both organizations will detect, identify, and follow-up on payment of prohibited dual benefits. An individual identified as receiving prohibited dual benefits will be afforded an opportunity to contest the findings and proposed actions and the opportunity to elect the benefits he or she wishes to receive. The organization responsible for initiating recovery of the overpayment of benefits will afford the individual due process before any payment modifications are made.

C. *Personal Records to be Matched:* The OPM system of records published as OPM CENTRAL–1, Civil Service Retirement and Insurance Records, 57 FR 35698, August 10, 1992, which contains payment data on recipients of CSRA and FERSA benefits disbursed by OPM will be matched to OWCP records published as DOL/ESA–13, 55 FR 7121–7123, February 28, 1990, which contains data pertinent to the payment of Federal employees and their dependents under the FECA.

D. *Dates:* Data exchanges will begin during calendar year 1993 at a mutually agreeable time and will be repeated every six months, until one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

E. *Privacy Safeguards and Security:* The personal privacy of the individuals whose names are included in the tapes is protected by strict adherence to the provisions of the Privacy Act of 1974 and OMB's Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988 (54 FR 25818). Security safeguards include limiting access only to the files agreed to and only to agency personnel having a "need to know." All automated records will be password protected and the data listing will be locked in file areas after normal duty hours. Records matched or created by the match will be stored in an area that is physically safe from access by unauthorized persons during duty hours and nonduty hours or when not in use.

F. *Disposal of Records:* The files will remain the property of the respective source agencies and all records including those not containing matches will be returned to the source agency for destruction. "Hits," the records relating to matched individuals, will be disposed of in accordance with the provisions of the Privacy Act and the Federal Record Schedules after serving their purposes. The data obtained from confirmed hits will be entered in the claims file, subject to release only in accordance with the provisions of the Privacy Act.

[FR Doc. 93–1576 Filed 1–22–93; 8:45 am]
BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Implementation of Decisions Amending the List of Articles Eligible for Duty-Free Treatment Under the GSP

AGENCY: Office of the United States Trade Representative.

ACTION: Implementation of certain decisions regarding the Generalized System of Preferences.

SUMMARY: This notice serves to announce the implementation of decisions amending the list of articles eligible for duty-free treatment under the GSP.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: On June 15, 1992, the President, by way of proclamation, modified the Generalized System of Preferences (GSP). 57 FR 26981 (June 17, 1992). Annex VI, paragraphs 1 and 2 of the proclamation modified the GSP by adding lime peel (HTS subheading 0814.00.40) and bonito (HTS subheading 1604.19.25) to the list of articles eligible for duty-free treatment under the GSP. The proclamation deferred implementation of this modification until a date announced in the **Federal Register** by the United States Trade Representative.

The United States Trade Representative, upon the advice of the Trade Policy Staff Committee (TPSC), has decided to implement the decisions to add lime peel and bonito to the list of articles eligible for duty-free treatment under the GSP. Accordingly, the Harmonized Tariff Schedule is modified as provided in Annex VI, paragraphs 1 and 2 of Presidential Proclamation 6447 of June 15, 1992. This modification is effective with respect to articles both (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after publication of this notice in the **Federal Register**.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 93–1566 Filed 1–22–93; 8:45 am]
BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

January 15, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Citizens First Bancorp, Inc.
Common Stock, No Par Value (File No. 7–10012)
CompUSA, Inc.
Common Stock, No Par Value (File No. 7–10013)
Davstar Industries, Inc.
Warrants, No Par Value (File No. 7–10014)
MGM Grand, Inc.
Common Stock, $.01 Par Value (File No. 7–10015)
Student Loan Corp.
Common Stock, $.01 Par Value (File No. 7–10016)
Swift Energy Co.
Common Stock, $.01 Par Value (File No. 7–10017)
Taubman Centers, Inc.
Common Stock, $.01 Par Value (File No. 7–10018)
Vintage Petroleum, Inc.
Common Stock, $.005 Par Value (File No. 7–10019)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–1577 Filed 1–22–93; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–31736; File No. SR–BSE–93–01]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Examination Specifications for its Floor Member Examination

January 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 1993, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed

[1] 15 U.S.C. 78s(b)(1) (1988).
[2] 17 CFR 240.19b–4 (1991)

rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed the Examination Specifications for its Floor Member Examination.

The Exchange is requesting temporary accelerated effectiveness of the proposed rule change. The Exchange believes that such accelerated effectiveness is necessary and appropriate in view of the administrative nature of the exam and its importance in determining the level of training, competence and experience of members employed on the trading floor.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Floor Member Examination was created as an Exchange regulatory initiative designed to codify, clarify and give specificity to compliance obligations of Exchange members and member organizations. The BSE's Floor Member Examination is a qualifications examination intended to ensure that the individual floor members have the knowledge, skills and abilities necessary to carry out their job responsibilities. The Examination Specifications detail the areas covered by the exam and break down the proportion of examination questions culled from each area.

Independent floor brokers and specialists who are employed by member firms on the trading floor must take and pass the examination before the commencement of employment on the trading floor in order to be in compliance with the requirements of the Constitution and Rules of the Board of Governors.[3] Floor clerks, with the consent of the Exchange, however have three months from commencement of employment to pass the exam.[4]

The Exchange is requesting temporary accelerated approval of this exam for a ninety day period in order to replace the current exam which has become obsolete. At this time, it is anticipated that the exam will be administered on or about January 18, 1993 to a new member.

2. Statutory Basis

The statutory basis for the Floor Member Examination lies in section 6(c)(3)(B) of the Act in that it is the responsibility of the Exchange to prescribe standards of training, experience and competence for persons associated with Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Floor Member Examination will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the Floor Member Examination.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–93–01 and should be submitted by February 16, 1993.

IV. Commission's Findings and Order Granting Temporary Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of sections 6 and 15 of the Act.[5] In particular, the Commission believes that the proposal is consistent with the section 6(b)(5)[6] requirement that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest. The Commission believes preliminarily that the revised Floor Member Examination should help to ensure that only those individuals with a comprehensive knowledge of the specific rules of the Exchange, as well as an understanding of the relevant provisions of the Act, will be eligible to act in a variety of capacities on the BSE floor, such as floor broker, floor clerk or specialist.

The Commission also believes that the proposal is consistent with sections 6(c)(3) (A) and (B)[7] of the Act, which set forth the basis upon which a national securities exchange may deny membership to, or condition the membership of, a registered broker or dealer, or may bar a natural person from becoming a member or associated with a member, or condition the membership of a natural person or association of a natural person with a member of an exchange. The Commission believes preliminarily that the BSE has tailored its exam toward evaluating a floor member's knowledge of specific Exchange rules and policies. The revised exam should ensure that the Exchange grants members access to its floor based on a demonstration of

[3] The BSE requires that independent floor brokers, specialists and floor clerks pass the Exchange's Floor Member Examination. Independent floor brokers and specialists must first pass the Floor Broker Examination before acting in their respective capacity. See BSE Constitution art. IX, sec. 3(d) and Rules of Board of Governors, chapter XIV, section 2152(b)(2), Independent Floor Brokers; chapter XV, section 2155.01 Dealer-Specialists.

[4] The BSE's rules permit a floor clerk to perform limited clerical duties, with the consent of the Exchange, for three months without having passed the Floor Member Examination. See chapter XIV, section 2153 (iii).02, Floor Clerks.

[5] 15 U.S.C. 78f and 78o (1989).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(c)(3)(A), (B) (1989).

training, experience and competence as prescribed by the rules of the Exchange.

In addition, the Commission believes that the proposed rule change is consistent with section 15(b)(7)[8] which requires that prior to effecting any transaction in, or inducing the purchase or sale of, any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer (and all natural persons associated such broker or dealer) must meet certain standards of training, experience, competence and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. The Commission believes preliminarily that the BSE exam should satisfy the requirements of section 15(b)(7) by requiring that floor members demonstrate requisite knowledge, training and competence to satisfactorily discharge their individual duties on the BSE floor.

For these reasons, the Commission believes that it is reasonable to grant temporary approval of the BSE's revised Floor Member Examination for a ninety day period. Temporary approval will enable the BSE to administer its revised exam while allowing the Commission time to fully review the exam questions.

As noted above, the BSE has represented that the revised exam would replace an exam whose questions have become obsolete, and that the Exchange will need to administer its Floor Member Examination on or about January 18, 1993 to a new member. The Commission recognizes that, under these circumstances, temporary approval of the proposed rule change should prevent BSE floor members from taking an exam which has become outdated due to market development on the BSE floor. During the ninety day temporary approval period, however, the Commission will continue its review of the exam to determine whether the proposed rule change warrants permanent approval. In this regard, the Commission will review the proposal to determine if the BSE's revised exam sufficiently reflects the requisite minimum knowledge a floor member must possess to comply with the BSE's rules as well as with the pertinent rules and regulations of the Act.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that temporary accelerated approval of the proposed rule change should benefit investors and the public interest because it will allow the Exchange to administer the revised Floor Broker Examination on or about January 18, 1993 to ensure that BSE floor members have the knowledge, skills and abilities necessary to carry out their job responsibilities.

It is therefore ordered, Pursuant to section 19(b)(2)[9] that the proposed rule change (SR–BSE–93–01) is hereby approved for a ninety day period expiring on April 15, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[8] 15 U.S.C. 78o(b)(7) (1989).

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

January 15, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Public Service Electric & Gas Co.
5.28% Cum. Pfd. E, $100.00 Par Value (File No. 7–10021)
Public Service Electric & Gas Co.
6.80% Cum. Pfd. G, $100.00 Par Value (File No. 7–10022)
Public Service Electric & Gas Co.
7.52% Cum. Pfd. J, $100.00 Par Value (File No. 7–10023)
Public Service Electric & Gas Co.
7.40% Cum. Pfd. I, $100.00 Par Value (File No. 7–10024)
Public Service Electric & Gas Co.
8.08% Cum. Pfd. K, $100.00 Par Value (File No. 7–10025)
Public Service Electric & Gas Co.
7.80% Cum. Pfd. L, $100.00 Par Value (File No. 7–10026)
Public Service Electric & Gas Co.
7.80% Cum. Pfd. M, $100.00 Par Value (File No. 7–10027)
Public Service Electric & Gas Co.
8.16% Cum. Pfd. $100.00 Par Value (File No. 7–10028)
Puerto Rican Cement Co., Inc.
Common Stock, $1.00 Par Value (File No. 7–10029)
Putnam Dividend Income Fund
Common Stock, No Par Value (File No. 7–10030)
Putnam Investment Grade Municipal Trust
Shares of Beneficial Interest, No Par Value (File No. 7–10031)
Putnam Managed Municipal Income Trust
Common Stock, No Par Value (File No. 7–10032)
RAC Income Fund, Inc.
Common Stock, $0.1 Par Value (File No. 7–10033)
RAC Mortgage Investment Corp.
Common Stock, $.01 Par Value (File No. 7–10034)
Raytech Corp.
Common Stock, $1.00 Par Value (File No. 7–10035)
Reader's Digest Association, Inc.
Class A Common Stock, No Par Value (File No. 7–10036)
Real Estate Investment Trust of California
Common Stock, No Par Value (File No. 7–10037)
Repsol, S.A.
American Depositary Receipts, No Par Value (File No. 7–10038)
Republic New York Corp.
Cum. Pfd. Fltg. Rte. Ser. B, No Par Value, (File No. 7–10039)
RMI Titanium Co.
Common Stock, $.01 Par Value (File No. 7–10040)
Robert Half International, Inc.
Common Stock, $1.00 Par Value (File No. 7–10041)
Rockwell International Corp.
$4.75 Conv. Pfd. Ser. A, No Par Value (File No. 7–10042)
Rockwell International Corp.
$1.35 Conv. Pfd. Ser. B, No Par Value (File No. 7–10043)
Rollins Truck Leasing Corp.
Common Stock, $1.00 Par Value (File No. 7–10044)
Royal Bank of Scotland Group Plc
American Depositary Shares Ser. A, No Par Value (File No. 7–10045)
Royce Value Trust, Inc.
Common Stock, No Par Value (File No. 7–10046)
Rymer Foods, Inc.
Common Stock, $1.00 Par Value (File No. 7–10047)
Rymer Foods, Inc.
$1.175 Cum. Conv. Exch. Pfd., $10.00 Par Value (File No. 7–10048)
Schwitzer, Inc.
Common Stock, $.10 Par Value (File No. 7–10049)
Scotsman Industries, Inc.
Common Stock, $.10 Par Value (File No. 7–10050)
Scudder New Europe Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10051)
Sea Containers
$4.125 Conv. Cum. Pfd. Shs., $.01 Par Value (File No. 7–10052)
Shelby Williams Industries, Inc.
Common Stock, $.05 Par Value (File No. 7–10053)
Smith Corona Corp.
Common Stock, $.01 Par Value (File No. 7–10054)
Sterling Bancorp
Common Stock, $1.00 Par Value (File No. 7–10055)

These securities are listed and registered on one or more other national

securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–1580 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 15, 1993.

The above named securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Advanced Photonix, Inc.
Class A Common Stock, $.001 Par Value (File No. 7–10056)
Chesapeake Utilities Corporation
Common Stock, $.4867 Par Value (File No. 7–10057)
Sunshine-Jr. Stores, Inc.
Common Stock, $.10 Par Value (File No. 7–10058)
Acceptance Insurance Companies, Inc.
Common Stock, $.40 Par Value (File No. 7–10059)
Coles Myer Ltd.
American Depositary Receipts (each representing 8 Ordinary Shares), No Par Value (File No. 7–10060)
National Semiconductor Corporation
Depositary Shares (each representing 1/10 share Convertible Preferred Stock, $32.50 Par Value) (File No. 7–10061)
Painewebber Premier Tax-Free Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10062)
TCW/DW Term Trust 2002
Common Stock, $.01 Par Value (File No. 7–10063)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–1581 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31728; File No. SR–NASD–92–55]

January 13, 1993.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Market Maker Location

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations's Statement of the Terms of Substance of the Proposed Rule Change

The following is the full text of the proposed rule change to Part VI, Section 1 of Schedule D to the NASD By-Laws. Additions are in italics.

Schedule D

* * * * *

Part VI—Requirements Applicable to NASDAQ Market Makers

* * * * *

Sec. 1 Registration as a NASDAQ Market Maker

* * * * *

(g) In cases where a market making member has more than one trading location, a fifth character geographic indicator shall be appended to the market maker's identifier for that security to identify the branch location where the security is traded. The fifth-character branch indicators are established by the Association and published from time to time in the Nasdaq/COS symbol directory.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing an amendment to Part VI of Schedule D to the By-Laws to require members to append a fifth-character indicator to their market making symbol ("MMID") when a trading desk is located somewhere other than the firm's primary trading location. The NASD currently requests that members attach such a fifth-character indicator to the MMIDs that are carried on the NASDAQ Workstation screen to alert market participants to the fact that the trading desk of a member in a particular stock may not be located at the main trading office. This fifth MMID character has been available for many years, but its use is currently voluntary. The NASD believes that the use of this character should be mandatory to eliminate confusion and delay in contacting the appropriate market maker in a particular security. Use of the fifth-character with the MMID will ensure that when traders call to transact an order, they will direct the call to the appropriate location and avoid instances where multiple phone calls are needed to access a market maker's quote.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. The NASD believes that use of the location identifier will foster cooperation between market makers in transacting business in securities that are traded at branch offices. Moreover, use of the location identifier should eliminate unnecessary confusion and delay in the trading of securities, which is in the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 16, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1583 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31731; International Series Release No. 518; File No. SR–NASD–92–54]

Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Market Maker Participation in the Nasdaq International Service

January 14, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1992, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby submits, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, a proposed rule change that would modify the operational rules ("International Rules") governing the Nasdaq International Service ("Service" or "NIS"). The Service supports an early trading session that runs from 3:30 a.m. to 9 a.m. ET on each U.S. business day ("European Session"). This time period overlaps the business hours of the London financial markets. Participation in the Service is open to NASD member firms, as well as approved affiliates of members that maintain market making operations in the United Kingdom ("UK"). The Service and the International Rules have been implemented on a pilot basis, for a term of two years, pursuant to an order issued by the Commission in October, 1991.[1] The instant proposal primarily modifies provisions of the International Rules applicable to market maker participants. The text of the amendatory language is set forth below. (New language is italicized while deleted language is bracketed.)

NASDAQ International Service Rules

Definitions

Section 2. Unless the context otherwise requires, or unless defined in the International Rules, the terms used herein shall retain their present meanings as defined in the By-Laws, Schedules to the NASD By-Laws or Rules of Fair Practice, respectively.

h. "European-only market maker" means a broker-dealer that is registered with the NASD to make markets in one or more qualified securities in the SERVICE, but is not registered in the same security(ies) for purposes of making a market during the Domestic Session.

i. "International market maker" means a broker-dealer that is registered with the NASD to make markets in one or more qualified securities in the SERVICE and is also registered with the NASD to make markets in the same security(ies) during the Domestic Session.

Requirements Applicable to Market Makers

Section 6. NASD members and approved affiliates can function as SERVICE market makers by registering with the NASD in one or more qualified securities. Two classifications of SERVICE market-makers are authorized: (i) European-only and (ii) International. [An] NASD members can register in either capacity in any qualified security; approved affiliates [is] *are* limited to European-only registration. *At the time of registration, a SERVICE market maker must select one of the following time periods to define its daily market making commitment, on a security-by-security basis: 3:30 a.m. to 9 a.m.; 5:30 a.m. to 9 a.m., and 7:30 a.m. to 9 a.m.* Every [European-only registrant] SERVICE market maker must fulfill the market making obligations specified below in each of its registered securities

[1] Release No. 34–29812 (October 11, 1991).

[during] *while participating in* the European Session. [Every International registrant assumes identical responsibilities in its registered securities during the European Session as well as the responsibilities of a Nasdaq market maker and/or a market maker in exchange-listed securities traded off-board during the Domestic Session.] *Based on experience gained with SERVICE market makers' use of the multiple openings, the NASD may determine to alter the specified times by up to one hour or to eliminate an opening altogether.*

(b) Normal Business Hours

SERVICE market makers must be open for business, [from 3:30 a.m. to 9 a.m. E.T.] on each U.S. business day, *during the time periods established by their registration in one or more qualified securities. By virtue of the multiple openings feature, a SERVICE market maker would have the flexibility, for example, to register and quote markets in some securities during the 5:30 a.m. to 9 a.m. segment and others during the 7:30 a.m. to 9 a.m. segment. This flexibility is equally available to NASD members and approved affiliates that participate as SERVICE market makers.* [Appropriate adjustments will be made in the event that the U.S. and U.K. move to (or from) daylight saving time on different dates.] [Additionally, SERVICE market makers that are International market makers in one or more qualified securities must be open for business during the hours of the Domestic Session.]

(e) Voluntary Termination of Registration

A SERVICE market maker may voluntarily terminate its registration in a qualified security by withdrawing its quotations in that security from the SERVICE. A market maker that voluntarily terminates its registration in a qualified security may re-register to quote that security in the SERVICE in accord with procedures contained in subsection (a)(*v*) above.

Reports

Section 8. Every NASD member and approved affiliate that functions as a SERVICE market maker shall submit the following reports to the NASD at the frequency specified.

[(a) As to each non-NMS security that a SERVICE market maker is registered to quote in the SERVICE, it shall report daily, no later than 9:17 a.m. E.T., its total volume (purchases and sales) transacted during that day's European Session. If a SERVICE market makers in a non-NMS security transacts no volume during the European Session, it shall report "zero volume" in that security for the Session. Every SERVICE market maker shall report the foregoing volume information via a Nasdaq Workstation™ unit authorized for market maker participation in the SERVICE or though a computer-to-computer interface ("CTCI"). In the event of equipment malfunction or failure, volume information shall be telephoned to Market Operations.]

(*a*) A SERVICE market maker shall report each business day [all other] *any* data relating to qualified securities quoted in the SERVICE as the NASD shall require.

(*b*) A SERVICE market maker shall report monthly such data on qualified securities that are quoted in the SERVICE as the NASD shall require.

(*c*) A SERVICE market maker shall make such other reports as the NASD may prescribe from time-to-time.

Transaction Reporting Requirements

Section 12. During the European Session, broker-dealers registered as International or European-only market makers shall observe the following requirements for reporting transaction information to the NASD on [certain] *qualified* securities quoted in NASDAQ INTERNATIONAL.

(a) Definitions.

(i) "International Participant" includes any NASD member registered as an International or European-only market maker in at least one qualified security, [including a non-NMS security] and any approved affiliate registered as a European-only market maker in at least one qualified security, [including a non-NMS security].

(ii) "SERVICE security" means any *qualified* [Nasdaq/NMS or exchange-listed] security that is quoted in NASDAQ INTERNATIONAL by at least one registered market maker.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The instant proposal consists of a series of largely technical changes to the International Rules that would (1) allow two additional openings that broker-dealers may elect to participate as Service market makers and (2) eliminate distinctions between Nasdaq/NMS and Nasdaq Small-Cap securities for purposes of the trade reporting requirements applicable to the Service.

Currently, broker-dealers that participate in the NIS as market makers assume the obligation to maintain continuous, two-sided quotes in their registered securities during the entire European Session (*i.e.*, from 3:30 a.m. to 9 a.m. ET on each U.S. business day). Thus, a participating firm must be willing to staff its trading facility during this time period that overlaps the business hours of the London markets. From the outset of the Service's operation, a small number of NASD member firms have participated as market makers through an approved affiliate based in London.[2] Although NASD members can also participate directly in the NIS by using their U.S. trading facilities and personnel, no firm has done so since April of this year. Accordingly, the NASD proposes to allow two additional openings—one at 5:30 a.m. and a second at 7:30 a.m. ET—to encourage participation by U.S. based firms during a portion of the European Session. Such participation would offer additional liquidity and provide expanded opportunities for order execution before the domestic market session commences at 9:30 a.m. ET. More importantly, the proposed openings would permit U.S. based firms to participate without a significant additional commitment of staff resources.

Under this proposal, Service market makers could elect to participate starting from 5:30 a.m. or 7:30 a.m. ET. This election would be made on a security-by-security basis at the time a firm registers with the NASD as a

[2] Section 2(g) of the International Rules defines an "approved affiliate" to be a broker-dealer that meets all of the following requirements: (i) It is not admitted to membership in the NASD or any registered national securities exchange; (ii) it is authorized to conduct securities business in the United Kingdom in accord with all applicable provisions of the Financial Services Act 1986; (iii) it controls, is controlled by, or is under common control with an NASD member (hereinafter referred to as a "control relationship"); and (iv) it has been approved by the NASD to participate as a SERVICE market maker, in an agency capacity, on behalf of the NASD member with whom it has a control relationship.

Service market maker. Regardless of the opening chosen, the subject firm would be required to fulfill all the obligations of a Service market maker from that time (*i.e.*, either 5:30 a.m. or 7:30 a.m. ET) until the European session closes at 9 a.m. ET. Although mainly intended to foster market maker participation from the U.S., the multiple opening feature would be equally available to approved affiliates operating from the U.K. For example, an approved affiliate might elect to participate in 10 securities during the entire European Session and 5 additional securities from 7:30 a.m. onward. Similarly, a U.S. based firm might elect to participate in 10 securities beginning at 5:30 a.m. and 10 more starting from 7:30 a.m. By providing greater flexibility to current and prospective participants, the NASD believes that the multiple opening feature will stimulate an expansion of market maker participation and an increase in the number of securities quoted in the NIS.

The introduction of multiple openings does not involve the creation of a new market maker classification within the NIS or the International Rules. As is the case today, a European-only market maker will be one that maintains a market in a particular qualified security solely during the European Session, while an International Market Maker is one that maintains a market in the same security during the Domestic and European Sessions. The instant proposal simply provides flexibility in terms of the starting times for daily participation in the European Session. Finally, it should be noted that the same market making requirements will apply regardless of the opening selected for participation in the NIS.

The NASD also proposes certain changes in sections 8 and 12 of the International Rules. Section 8 is being modified to remove the requirement for end-of-European Session volume reporting by Service market makers in certain Nasdaq Small-Cap securities that qualify for inclusion in the NIS. A parallel change in the section 12(a)(ii) definition of "Service security" would expand that definition to include this subset of Nasdaq securities. As a result, a Service market maker would have the same trade reporting obligations in all categories of securities that qualify for inclusion in the Service.[3]

Assuming Commission approval, the proposed amendments to the International Rules would be implemented in the second half of 1993 when the corresponding system changes have been completed.

The NASD believes that the proposed rule change is consistent with sections 11A(a)(1)(B)–(C) and 15A(b)(6) of the Act. Subsections (B) and (C) of Section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, broader availability of information with respect to quotations for securities, and the execution of investor orders in the best market through the use of advanced data processing and communications techniques. Among other things, section 15A(b)(6) provides that the NASD rules be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. The NASD believes that its proposed modifications to the Service and the International Rules are fully consistent with these statutory provisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 16, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 C.F.R. 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1584 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[3] It should be noted that the Commission's approval of the International Rules predated the extension of trade-by-trade reporting to Nasdaq Small-Cap securities during U.S. market hours. Currently, the Service has no market making positions in qualified Nasdaq Small-Cap securities.

[Release No. 34–31735; File No. SR–NASD–92–56]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Trade Reporting Requirements

January 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of substance of the Proposed Rule Change

The NASD is proposing amendments to Parts XII and XIII of Schedule D and section 2 of Schedule G to the By-Laws and to the Rules of Practice and Procedure for the Automated Confirmation Transaction Service ("ACT Rules") to require members to input the time of execution on late trade reports, to require trade reporting for

transactions in Nasdaq securities between the hours of 9 and 9:30 a.m. Eastern Time, and to add a section regarding audit trail data.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing amendments to Schedules D and G of the NASD By-Laws to require members to append the time of execution on any trade report that is reported more than 90 seconds after execution and to require trade reporting for transactions in Nasdaq securities between the hours of 9 and 9:30 a.m. Eastern Time. The Association is also modifying the ACT Rules to reflect the same time-of-execution requirements and to adopt an "audit trail" provision. The proposals are designed to enable the NASD to capture accurate audit trail information for surveillance purposes and will also facilitate market surveillance of member compliance with the proposed Nasdaq short sale rule or "bid test" should that proposal be approved by the Commission.

1. Audit Trail Provision

The NASD has a statutory responsibility to surveil trading in its marketplace for potential violations of the securities laws and the NASD's own rules. To discharge this responsibility, the NASD relies upon computerized analyses of trade details reported by member firms through the trade reporting and trade clearance processes. This transactional data is processed to form the NASD's transaction audit trail, a critical function supporting the NASD's market surveillance and enforcement programs. Hence, members' submission of accurate and complete audit trail information is essential. Currently, the NASD has no specific rule memorializing the obligation of members to submit accurate and complete information for audit trail purposes.

Over the past two years, the NASD's ACT service has evolved to permit the capture of trade-by-trade information for virtually all segments of the NASD's marketplace. Although originally designed as the mechanism to compare and lock-in the terms of telephonically-negotiated trades in Nasdaq securities, the ACT service now processes transactions in exchange-listed ("CQS") securities traded over-the-counter, and non-Nasdaq securities that are cleared through NSCC. In addition, the trade reporting systems that were stand alone systems prior to ACT's development have now been integrated into ACT service, so that internalized transactions and trades executed and compared in members' internal systems are required to be reported into the ACT service. Because ACT facilitates the collection and dissemination of all reportable real-time trade reports for Nasdaq/NMS securities, Nasdaq Small-Cap securities and exchange-listed securities, it offers the capability to gather complete audit trail information for every trade in a single input process. Accordingly, the NASD is amending the ACT rules to provide an audit trail provision.

2. Time of Execution

Ensuring that trade reports are properly sequenced on the basis of time is critical to constructing an accurate audit trail for surveillance purposes. At present, however, there is no effective manner to place transactions reported as ".SLD" (i.e., not reported within 90 seconds after execution) in their proper sequence. The NASD performs many surveillance functions, both on-line and off-line, that require accurate sequencing of trade report data and knowledge of the time of execution for investigations of questionable trading activity. With regard to exchange-listed securities, time of execution appended to late trade reports will also enable the Association to respond more expeditiously and completely to inquiries from exchanges dealing with late trade reports and trade-through allegations. It will also be imperative to ascertain the time of trade executions to initiate on-line monitoring for compliance with the proposed Nasdaq bid test. The NASD believes that comprehensive monitoring of member compliance with the bid test is necessary to ensure the credibility of the bid test itself while providing for the capability to respond immediately to situations requiring further investigation and analysis. Accordingly, the NASD has determined that members should be required to report through ACT the time of execution of a transaction not reported within 90 seconds.

Although "time of execution" is already an existing field in the ACT system, it is voluntary in nature. Due to the importance of developing and maintaining an accurate audit trail, the NASD believes that a rule amendment is necessary to require members to make use of the time of execution field in ACT when trade reports are submitted to the NASD after 90 seconds following execution.

3. Hours of Trade Reporting

The final amendment is a proposal that deals with transaction reporting requirements in Nasdaq/NMS and Nasdaq Small-Cap securities. More specifically, the new language recognizes that the after hours automated trade reporting facility (the ".T" system) for Nasdaq securities has been extended to the one-half hour period preceding the opening of the Nasdaq market. This has occurred in conjunction with the NASD's expansion of the SelectNet service to the 9 a.m. to 9:30 a.m. Eastern Time period that commenced on November 23, 1992.

The details of trades executed from 9 a.m.–9:30 a.m. through SelectNet are captured automatically and forwarded to ACT to facilitate trade reporting, comparison and vendor dissemination. Because ACT will be open to process trade reports from SelectNet during the 9 a.m.–9:30 a.m. period, it is appropriate to use this same facility to capture reports of trades executed by telephone during that time period. The changes proposed would mandate the reporting of such trades through ACT within 90 seconds of execution. This requirement will also reduce the use of paper Form T for reporting transactional data to the NASD and ensure that all trades in Nasdaq securities occurring between 9 and 9:30 a.m. are fully integrated into the Nasdaq audit trail file.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. The new requirements would improve the quality of the NASD's audit trail by

making the information more timely, complete, and accurate in order to facilitate surveillance of market activity, including compliance with the proposed short sale rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 16, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1720 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31733; File No. SR–NYSE–92–40]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Extension of the Use of Quarterly Auxiliary Opening Procedures to Monthly Expirations

January 14, 1993

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 4, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On January 7, 1993, the NYSE submitted to the Commission Amendment No. 1 to the proposed rule change to clarify certain language in Exchange's Information Memo which describes the NYSE auxiliary opening procedures.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the use of quarterly auxiliary opening procedures for assisting in handling the order flow associated with the concurrent expiration of stock index futures, stocks index options and options on stock index futures (collectively, "index contracts") to monthly expiration Fridays.[4]

The Exchange requests that the proposed rule change be put into effect on an accelerated basis by the Commission since the Exchange wishes to utilize the procedures on the expiration Friday of January 15, 1993. The auxiliary opening procedures provide mechanisms to address increased order flow and potential excess volatility associated with opening price settlement of derivative products. The Exchange believes that the use of the auxiliary opening procedures on monthly expiration Fridays, prompted by the change in settlement of the Standard & Poor's ("S&P") 500 Stock Price Index based on opening rathar than closing procedures, will provide important customer protection benefits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organizations has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the auxiliary opening procedures currently used on quarterly expiration Fridays to monthly expiration Fridays. These procedures augment the Exchange's regular opening procedures. The auxiliary procedures have been utilized since June 1987 on quarterly expiration Fridays.[5] The reason for this proposed rule change is

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] See letter from Donald Seimer, NYSE, to Diana Luka-Hopson, Branch Chief, Commission, dated January 7, 1993, amending the text of the NYSE Information Memo furnished to members regarding expiration Friday procedures. Specifically, the Information Memo, as amended, clarifies that the NYSE auxiliary opening procedures will apply to all monthly expiration Fridays, and that certain Standard & Poor's MidCap 400 stocks will be added to the Exchange's expiration Friday opening imbalance dissemination procedures. The NYSE has filed a proposed rule change, which the Commission also approved today, which extends the auxiliary opening imbalance dissemination procedures to the ten highest weighted component stocks of the ("S&P") 500 Stock Price Index based on opening rather than Standard & Poor's MidCap 400 Index. See Securities Exchange Act Release No. 31732 (order approving File No. SR–NYSE–92–38).

[4] Expiration Friday is the trading day, usually the third Friday of the month, when some stock index futures, stock index options and options on stock index futures expire or settle concurrently. Currently, the NYSE expiration Friday auxiliary opening procedures are used only for quarterly expiration Fridays. See Securities Exchange Act Release Nos. 24596 (June 16, 1987), 52 FR 23618 (order approving File No. SR–NYSE–87–17) and 25804 (June 15, 1988) 53 FR 23474 (order approving File No. SR–NYSE–88–04).

[5] See Securities Exchange Act Release No. 24596 (June 16, 1987), 52 FR 23618 (order approving File No. SR–NYSE–87–17).

the change in settlement pricing for the Chicago Board Option Exchange's ("CBOE") S&P 500 Stock Index option from closing to opening prices on expiration Fridays. The S&P 500 Stock Index option has monthly settlements.[6]

The Exchange believes that settling index contracts based upon the opening prices of the constituent stocks, and thereby permitting use of the Exchange's time-tested opening procedures, provides the best mechanism for handling the accompanying stock volume. The Commission echoed this in approving opening settlement of the S&P 500 Index option by stating its belief that "settling these index products based on opening prices, coupled with the auxiliary opening procedures developed by the NYSE, have significantly improved the ability of the market to alleviate and accommodate large and potentially destabilizing order imbalances associated with the unwinding of index-related positions."[7]

The auxiliary procedures provide that stock orders relating to opening-price settling contracts must be appropriately identified orders and be received by the Exchange by 9 a.m. The Exchange disseminates market order imbalances of 50,000 shares or more as soon as practicable after 9 a.m. in the expiration Friday "pilot" stocks and the ten highest weighted MidCap 400 Index stocks.[8] The Exchange makes SuperDot available to accept orders at 7:30 a.m.

The auxiliary opening procedures are an important part of the Exchange's approach to minimize excess volatility that is associated with expiration Fridays. The procedures provide off-floor participants with a picture of the unique impact of the index-related orders, and allow an opportunity for them to react to it. Because the regular opening procedures will continue to operate, an off-Floor participant will, as always, be able to obtain a minute-to-minute Floor picture through a Floor broker. Similarly, the pre-opening application of the Intermarket Trading System Plan will be in effect.[9] Moreover, if it becomes evident that a significant change from the previous closing price is likely, the specialist can, with the approval of a Floor Official, disseminate regular price indications over the tape as needed.

2. Statutory Basis

The basis under the Act for this proposed rule change is section 6(b)(5), which requires that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–92–40 and should be submitted by February 16, 1993.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NYSE's proposal to extend the auxiliary opening procedures currently used on quarterly expiration Fridays to monthly expiration Fridays is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of section 6(b)(5) of the Act.[10] In particular, section 6(b)(5) requires, among other things, that the rules of an Exchange be designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market, and to protect investors and the public interest. For the reasons set forth below, the Commission believes that the NYSE proposal to extend the use of its quarterly auxiliary opening procedures to month expiration Fridays may aid in ameliorating or reducing volatility associated with the monthly expiration of index products and, therefore, further the objectives of section 6(b)(5).

The Commission believes that one of the principal reasons that opening-price settlement has helped to quell expiration Friday volatility is that the NYSE's auxiliary opening procedures permit the Exchange to handle relatively smoothly the increased volume diverted to the opening as the result of opening-price settlement of certain options and futures contracts. In particular, the early collection and dissemination of opening order imbalances provide market participants with sufficient opportunity to react accordingly and generally lessen the potential impact of such imbalances on specialists and other market participants.

As noted above, the NYSE's current proposal is intended to accommodate the recent change in settlement pricing for the CBOE's S&P 500 Index option. Indeed, the Commission approved the CBOE's proposal to change the S&P 500 Index option settlement price to the[9] opening, in part, because the NYSE's auxiliary opening procedures provide for the orderly entry and dissemination of orders.[11] Although the S&P 500 Stock Index settles monthly and on the open, the Exchange currently employs its auxiliary opening procedures on each quarterly expiration Friday.[12] The present proposal would extend the same opening order-entry and order imbalance dissemination procedures currently in place for quarterly expiration Friday openings to monthly expiration Friday openings.

The Commission believes that the NYSE's auxiliary opening procedures should work to reduce order imbalances

[6] See Securities Exchange Act Release No. 30944 (July 21, 1992) 57 FR 33376 (order approving File No. SR–CBOE–92–09).

[7] *Id.*

[8] The term "pilot" stocks refers to the 50 highest weighted S&P 500 Index stocks and the 20 Major Market Index stocks. The Commission also has approved the Exchange's extension of its auxiliary opening imbalance dissemination procedures to the ten highest weighted S&P MidCap 400 Index stocks. See *supra* note 3.

[9] See NYSE Rule 15.

[10] 15 U.S.C. 78f(b)(5) (1988).

[11] See Securities Exchange Act Release No. 30944, *supra* note 6.

[12] For a description of the NYSE's auxiliary opening procedures, see the NYSE's Information Memo to members and member organizations, as amended, attached as Exhibit A to the proposed rule change, File No. SR–NYSE–92–40.

at the open, and thus dampen potential volatility associated with monthly expiration Friday openings. In this regard, the Commission believes that the early entry of orders related to expiring indexes should enable the Exchange to identify promptly those stocks in which a large opening imbalance is likely to occur, and where order imbalance dissemination is necessary, thereby assisting the Exchange in ensuring orderly openings in those stocks. Further, the auxiliary opening procedures related to imbalance dissemination are intended to increase information available to investors on expiration Fridays and can help facilitate the development of contra-side interest to alleviate order imbalances in stocks that are related to the unwinding of index-related positions. In summary, the Commission believes that the NYSE's proposal will permit the market to benefit from the Exchange's opening procedures on monthly expiration Fridays. Accordingly, the Commission finds that the extension of the NYSE's auxiliary opening procedures to monthly expiration Fridays is consistent with the Act and the protection of investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because the proposed rule change should enable the Exchange to quickly implement and notify market participants about procedures that it believes appropriately address any stock volatility that may be associated with index-related strategies on expiration Friday January 15, 1993, and expiration Fridays thereafter. Moreover, the proposal contains no substantive changes to the NYSE's auxiliary opening procedures which have been in place for more than five years, on which there has been ample opportunity to comment, and which have appeared to work well for market participants and investors.

It is therefore ordered, Pursuant to section 19(b)(2) [13] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1585 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–31732; File No. SR–NYSE–92–38]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Dissemination of Opening Order Imbalances in Certain Stocks in the S&P MidCap 400 Index

January 14, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On January 7, 1993, the NYSE submitted to the Commission Amendment No. 1 to the proposed rule change to clarify certain language in the Exchange's Information Memo which describes the NYSE auxiliary opening procedures.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the use of auxiliary opening procedures for disseminating market-at-the-opening order imbalances of 50,000 shares or more on monthly expiration Fridays[4] in certain stocks which are part of the Standard & Poor's MidCap 400 Index ("MidCap 400 Index").[5]

The Exchange requests that the proposed rule change be put into effect on an accelerated basis by the Commission since the Exchange wishes to utilize the procedures on the expiration Friday of January 15, 1993. The Exchange believes that the dissemination of opening market order imbalances of 50,000 shares or more in certain highly capitalized stocks which are part of the MidCap 400 Index will provide important benefits by enhancing information available to investors and facilitating the offsetting of imbalances.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to allow the Exchange to disseminate, as soon as practicable after 9 a.m. on expiration Fridays, imbalances of 50,000 shares or more in market orders for the ten most highly capitalized component stocks of the MidCap 400 Index.[6] All of the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] See letter from Donald Seimer, NYSE, to Diana Luka-Hopson, Branch Chief, Commission, dated January 7, 1993, amending the text of the NYSE Information Memo furnished to members regarding expiration Friday Procedures. Specifically, the Information Memo, as amended, clarifies that the ten highest weighted Standard & Poor's MidCap 400 stocks will be added to the Exchange's expiration Friday opening imbalance dissemination procedures.

[4] Expiration Friday is the trading day, usually the third Friday of the month, when some stock index futures, stock index options and options on stock index futures expire or settle concurrently. Currently, the NYSE expiration Friday auxiliary opening procedures are used only for quarterly expiration Fridays. See Securities Exchange Act Release Nos. 24596 (June 16, 1987), 52 FR 23618 (order approving File No. SR–NYSE–87–17) and 25804 (June 15, 1988) 53 FR 23474 (order approving File No. SR–NYSE–88–04). The NYSE has filed a proposed rule change, which the Commission has also approved concurrently with this filing on an accelerated basis, which extends the use of quarterly expiration Friday auxiliary opening procedures to monthly expiration Fridays. See Securities Exchange Act Release No. 31733 (order approving File No. SR–NYSE–92–40).

[5] The Standard & Poor's MidCap 400 Index is a market-weighted index composed of 400 domestic stocks from four broad-market sectors: Industrials, utilities, financials and transportation. The MidCap 400 is designed to track the performance of domestic stocks that fall in the middle-capitalization range of securities. The MidCap 400 is an index developed by Standard & Poor's, and options are traded on the index on the American Stock Exchange, Inc. The MidCap 400 is calculated continuously, and options on the index settle monthly based on opening prices in the component securities (a.m. settlement). See Securities Exchange Act Release No. 30290 (January 27, 1992), 57 FR 4072 (order approving File No. SR–Amex–91–27). Each month the NYSE will determine the ten most highly capitalized MidCap 400 Index component stocks and will apply the auxiliary opening procedures to those stocks.

[6] As discussed, *supra* note 5, the MidCap 400 Index settlement price is based on a.m. settlement.

remaining auxiliary opening procedures will remain the same.[7]

The auxiliary opening procedures are an important aspect of the Exchange's approach to minimize excess volatility that is associated with expiration Fridays. The procedures provide off-Floor participants with a picture of the unique impact of the index-related orders, and allow an opportunity for them to react to it. The addition of imbalance information for certain highly capitalized MidCap stocks will enhance the information available to investors, and facilitate the entry of orders to offset imbalances, thereby minimizing the market impact of strategies related to the expiration of this index product.

2. Statutory Basis

The basis under the Act for this proposed rule change is section 6(b)(5), which requires that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–92–38 and should be submitted by February 16, 1993.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NYSE's proposal to include certain highly capitalized MidCap 400 Index stocks in its expiration Friday opening order imbalance dissemination procedures is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of section 6(b)(5) of the Act.[8] In particular, section 6(b)(5) requires, among other things, that the rules of an Exchange be designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market, and to protect investors and the public interest. For the reasons set forth below, the Commission believes that the NYSE proposal to disseminate, as soon as practicable after 9 a.m., imbalances of 50,000 shares or more in market orders for the ten most highly capitalized component stocks of the MidCap 400 Index, in accordance with the Exchange's expiration Friday auxiliary opening procedures furthers the objectives of section 6(b)(5).

Currently, the expiration Friday auxiliary opening procedures require that all stock orders relating to expiring index contracts, whose settlement value is based on opening prices on expiration Fridays, must be received by the Exchange by 9 a.m. After 9 a.m., the Exchange promptly disseminates any opening order imbalances of 50,000 shares or more in any of the "pilot" stocks.[9] As noted above, the Midcap 400 Index settlement price is based upon the opening, so all stock orders related to the MidCap 400 Index settlement must be entered on the Exchange before 9 a.m. However, the NYSE currently does not require the dissemination of opening order imbalances for MidCap 400 Index stocks. The present proposal would extend the same opening order imbalance dissemination procedures in place for pilot stocks to the ten highest weighted MidCap 400 Index stocks.

The Commission believes that the NYSE's auxiliary opening procedures should work to reduce order imbalances at the open, and thus dampen potential volatility associated with the unwinding of index-related strategies on expiration Friday openings. The proposed addition of MidCap 400 Index stocks for opening order imbalance dissemination is intended to ensure that the Exchange may efficiently process sizeable order flow at the open. In this regard, the proposal should complement the NYSE's existing auxiliary opening procedures which require that orders related to the opening settlement of the MidCap 400 Index be entered on the Exchange before 9 a.m. on expiration Fridays. The Commission believes that, by requiring early submission of orders related to the opening settlement of the MidCap 400 Index and disseminating imbalances, the NYSE may be able to attract contra-side interest to help alleviate the imbalances. Moreover, the Commission believes that the inclusion of the MidCap 400 Index stocks in the existing auxiliary opening imbalance dissemination procedures should enhance information available to investors and, as a result, may reduce excess volatility on expiration Friday openings.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because the proposed rule change should enable the Exchange to quickly implement and notify market participants about procedures that it believes appropriately address any stock volatility that may be associated with index-related strategies on expiration Friday, January 15, 1993, and expiration Fridays thereafter. Moreover, the proposal contains no substantive changes to the NYSE's auxiliary opening procedures which have been in place for more than five years, on which there has been ample opportunity to comment, and which have appeared to work well for market participants and investors.

It is therefore ordered, Pursuant to section 19(b)(2)[10] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1586 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[7] For a description of the NYSE's auxiliary opening procedures, see the NYSE's Information Memo to members and member organizations, as amended, attached as Exhibit A to the proposed rule change, File No. SR–NYSE–92–38.

[8] 15 U.S.C. 78f(b)(5) (1988).

[9] The term "pilot" stocks refers to the 50 highest weighted Standard & Poor's 500 Index stocks and the 20 Major Market Index stocks.

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

January 15, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following security:

Superior Industries International, Inc.
Common Stock, $.50 Par Value (File No. 7-10020)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-1579 Filed 1-22-93; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 15, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Nuveen Texas Premium Income Municipal Fund, Inc.
Shares of Beneficial Interest, $.01 Par Value (File No. 7-10004)
Nuveen Michigan Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-10005)
Nuveen Ohio Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-10006)
Nuveen Insured Florida Premium Income Municipal Fund, Inc.
Shares of Beneficial Interest, $.01 Par Value (File No. 7-10007)
Chesapeake Utilities Corporation
Common Stock, $0.4867 Par Value (File No. 7-10008)
Giant Industries, Inc.
Common Stock, $0.01 Par Value (File No. 7-10009)
Giant Group Ltd.
Common Stock, $0.01 Par Value (File No. 7-10010)
Graco, Inc.
Common Stock, $1 Par Value (File No. 7-10011)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 9, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-1578 Filed 1-22-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-19213; File No. 812-8090]

New England Mutual Life Insurance Company, et al.

January 13, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: New England Mutual Life Insurance Company ("The New England"), New England Variable Life Insurance Company ("NEVLICO"), New England Variable Life Separate Account ("Variable Account"), and New England Securities Corporation ("New England Securities") (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS AND RULES: Order requested under section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(1), 26(a)(2), 27(a)(1), 27(a)(3), 27(c)(1), 27(c)(2), 27(d) and 27(e) of the 1940 Act and Rules 6e-2(b)(1), (b)(12), (b)(13)(i), (b)(13)(ii), (b)(13(iii), (b)(13)(iv), (b)(13)(v), (b)(13)(vii), (c)(1) and (c)(4) and 22c-1 and 27e-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit them to issue variable life insurance policies (the "Policies"), in reliance on 1940 Act Rules 6c-3 and 6e-2, that provide for: (i) A death benefit that will not always vary based on investment experience; (ii) both a contingent deferred sales charge and a sales charge deducted from premiums; (iii) a contingent deferred administrative charge; (iv) deduction from the policy's account value for cost of insurance charges, charges for substandard mortality risks and incidental insurance benefits, and a minimum death benefit guarantee charge; (v) values and charges based on the 1980 Commissioners' Standard Ordinary Mortality Tables (the "1980 CSO Tables"); (vi) the holding of mutual fund shares funding the Variable Account without the use of a trustee, in an open account arrangement and without a trust indenture; and (vii) a waiver of notice of refund and withdrawal rights.

FILING DATE: September 16, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 8, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549.

Applicants, 501 Boylston Street, Boston, MA 02117.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Senior Attorney, at (202) 272–2058 or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. NEVLICO is a wholly owned subsidiary of The New England, a mutual life insurance company organized in Massachusetts in 1835. The Variable Account is a separate investment account of NEVLICO, and is registered under the 1940 Act as a unit investment trust. The Variable Account funds scheduled premium variable life insurance policies, single premium variable life insurance policies and variable ordinary life insurance policies. It currently consists of five investment sub-accounts: a Money Market Sub-Account, a Bond Income Sub-Account, a Capital Growth Sub-Account, a Stock Index Sub-Account, and a Managed Sub-Account. Each sub-account invests its assets in a different portfolio of the New England Zenith Fund.

2. The existing variable life insurance policies are, and it is intended that the Policies will be, sold through agents who are licensed by state authorities to sell NEVLICO's insurance policies and who are also registered representatives of New England Securities, the principal underwriter of the Variable Account. New England Securities in an indirect wholly-owned subsidiary of The New England.

3. Policy owners have a choice between two forms of death benefit under a Policy. The Option 1 death benefit is the greater of (a) the face amount of the Policy or (b) the Policy's cash value divided by the net single premium per $1 of death benefit at the insured's attained age. The Option 2 death benefit is the greater of (a) the face amount of the Policy plus any excess of the Policy's cash value over the Policy's "tabular cash value" or (b) the Policy's cash value divided by the net single premium per $1 of the death benefit at the insured's attained age. The net single premium factor is that necessary to qualify the Policy as life insurance for federal income tax purposes. The death benefit under the Policy will vary based on investment experience when the net single premium factor computation of death benefit is applicable. Death benefit Option 2 also varies with investment experience whenever the Policy's cash value exceeds its "tabular cash value."

4. Policy owners have considerable flexibility under the terms of the Policy. Within limits, for example, premiums in excess of the required premiums may be paid, and, if the Policy's cash value exceeds its "tabular cash value," no required premium need be paid (if nonpayment would not result in any Policy loan exceeding the Policy loan value.) NEVLICO intends, in the near future, to permit face amount reductions. Partial surrenders, partial withdrawals and policy loans are also available.

5. The premium and other flexible options under the Policy are a potential benefit to Policy owners. For example, they may be able to make premium payments in accordance with their own personal financial cycle, or at times during the year when they perceive the securities markets to present favorable investment opportunities.

6. NEVLICO deducts the following amounts from each scheduled premium to arrive at a basic scheduled premium: (i) Charges for any supplementary benefits provided by rider; (ii) any extra premiums paid for a Policy in a substandard risk or automatic issue class; and (iii) an annual Policy administrative charge. The annual Policy administrative charge is $55 for Policies under which scheduled premiums are paid annually. This charge will be higher if premiums are paid more frequently than annually, but will not exceed $57.75. All of the administrative charges under the Policies cover the cost of administering the Policies as well as legal, actuarial, systems, mailing and other overhead costs connected with NEVLICO's variable life operations. NEVLICO does not deduct any of these from unscheduled payments.

7. NEVLICO will deduct a premium expense charge of 9% of each premium paid. This deduction is for sales expenses (5.5%), for a portion of its Federal income tax liability determined solely by the amount of life insurance premiums NEVLICO receives (1%) and for state premium taxes (2.5%). NEVLICO will also deduct a contingent deferred sales charge upon surrender, partial surrender, face amount reduction or lapse of a Policy during the first fifteen Policy years. The contingent deferred sales charge is based on the lesser of (a) the sum of the basic scheduled premiums payable up to the date of surrender, face amount reduction or lapse, whether or not each such premium has been paid or (b) the sum of the actual premiums paid to date, including the charges for supplementary benefits provided by rider, extra premiums for substandard risk classification and the Policy administrative charge.

For Policies under which scheduled premiums are payable annually and which cover insureds with an issue age of 53 or less, the maximum contingent deferred sales charge is an amount equal to 43.5% of the basic scheduled premium for the first Policy year plus 23.5% of the basic scheduled premiums for Policy years two and three plus 14.5% of the fourth year's basic scheduled premiums. The maximum percentage of the contingent deferred sales charge which will apply upon surrender, partial surrender, face amount reduction or lapse in the years indicated under the Policies which cover insureds with an issue age of 53 or less and under which scheduled premiums are paid annually are as follows:

For policies which are surrendered, reduce face amount or lapse during policy year	The maximum deferred sales charge is the following percentage of one annual basic scheduled premium	Which is equal to the following percentage of the total annual basic scheduled premiums due to date of surrender, face amount reduction or lapse
Entire year 1	43.5%	43.5%
Entire year 2	67.0	33.5
Entire year 3	90.5	30.17
Entire year 4	105.0	26.25
Entire year 5	105.0	21.0
Entire year 6	105.0	17.5

For policies which are surrendered, reduce face amount or lapse during policy year	The maximum deferred sales charge is the following percentage of one annual basic scheduled premium	Which is equal to the following percentage of the total annual basic scheduled premiums due to date of surrender, face amount reduction or lapse
Entire year 7	105.0	15.0
Entire year 8	105.0	13.125
Last month of year 9	90.0	10.0
Last month of year 10	75.0	7.5
Last month of year 11	60.0	5.46
Last month of year 12	45.0	3.75
Last month of year 13	30.0	2.31
Last month of year 14	15.0	1.08
Last month of year 15 and thereafter	0	0

For insureds with an issue age above 53, a different contingent deferred sales charge will apply in which the percentages will be less than or equal to those shown in the table above.

With respect to a surrender, a partial surrender, face amount reduction or lapse during either of the first two Policy years under a Policy with scheduled premiums that are paid annually, the applicable contingent deferred sales charge will not exceed (i) 23.5% of the total annual basic scheduled premiums due in the first Policy year or (ii) 13.5% of the total annual basic scheduled premiums due in the first two Policy years.

8. All of the administrative charges under the Policies, including the deferred administrative charge, cover the cost of administering the Policies (such as the cost of processing Policy transactions, issuing Policy owner statements and reports and record keeping) as well as legal, actuarial, systems, mailing and other overhead costs connected with NEVLICO's variable life operations. The deferred administrative charge is assessed in the following amounts:

For policies which are surrendered, reduce face amount or lapse during	The deferred administrative charge will be the following amount per $1,000 of face amount
Entire Year 1	$2.50
Last Month of Year 2	2.25
Last Month of Year 3	2.00
Last Month of Year 4	1.75
Last Month of Year 5	1.50
Last Month of Year 6	1.25
Last Month of Year 7	1.00
Last Month of Year 8	.75
Last Month of Year 9	.50
Last Month of Year 10	.25
Last Month of Year 11 and thereafter	0

9. NEVLICO deducts from a Policy's cash value, on the Policy date and on the first day of each Policy month, a monthly deduction, consisting of the following charges: (i) An administrative charge of $0.05 per $1,000 of the Policy's face amount to cover annual administrative costs of the type also covered by the annual Policy administrative charge; and (ii) a minimum death benefit guarantee charge of $0.01 per $1,000 of the Policy's face amount. This charge is designed to compensate NEVLICO for the risk it assumes by guaranteeing that, regardless of the investment experience of the Policy's sub-accounts, the Option 1 or Option 2 death benefit will not be less than the face amount if all required scheduled premiums have been paid when due.

NEVLICO also deducts from a Policy's cash value, on the Policy date and on the first day of each Policy month, a charge for the cost of providing insurance protection for the Policy month equal to the amount at risk multiplied by the cost of insurance rate for that month. The amount at risk is the amount by which the death benefit on the first day of the Policy month, discounted at the monthly equivalent of 4.5% per year, exceeds the cash value on the same day after the monthly deduction has been processed. NEVLICO guarantees the monthly cost of insurance rates to be no greater than those based on the 1980 CSO Tables with smoker/non-smoker modifications.

10. NEVLICO charges the subaccounts of the Variable Account for the mortality and expense risks it assumes, at an effective annual rate of .60% of the value of each sub-account's assets attributable to the Policies. The mortality risk NEVLICO assumes is that insureds may live for shorter periods of time than NEVLICO estimated. The expense risk NEVLICO assumes is that NEVLICO's costs of issuing and administering Policies may be more then NEVLICO estimated.

11. The scheduled premiums under a Policy include an additional amount if the insured is in a substandard risk or automatic issue category or if optional fixed insurance benefits have been added to the Policy by rider. If a scheduled Premium is not paid pursuant to the flexibility features of the Policy, 91% of this additional amount will be deducted from the Policy's cash value. The remaining 9% will be collected by NEVLICO out of any unscheduled payments which are made, pursuant to the premium expense charge referred to above.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Rule 6c–3 of the 1940 Act grants exemptions from numerous provisions of the 1940 Act to separate accounts of life insurance companies that support variable life insurance policies. The exemptions provided by Rule 6c–3 are available only to registered separate accounts whose assets are derived solely from the sale of "variable life insurance contracts" that meet the definition set forth in Rule 6e–2(c)(1) of the 1940 Act and certain advances made by the insurer. The term "variable life insurance contract" is defined by Rule 6e–2(c)(1) of the 1940 Act to include only life insurance policies that provide a death benefit and a cash surrender value, both of which vary to reflect the investment experience of the separate account, and that guarantee that the death benefit will not be less than an

initial dollar amount stated in the policy.

A Policy under the Option 1 death benefit, however, will fail to satisfy this requirement if the death benefit has not been otherwise increased to satisfy Federal tax law requirements. In this connection, Applicants note that the proposed amendments to Rule 6e–2 of the 1940 Act would amend Rule 6e–2(c)(1) to require only that the death benefit may vary based on investment experience. The Policy also contains other provisions that are not specifically contemplated by Rule 6e–2. (These provisions relate primarily to flexibility of premium payments.)

Applicants therefore request exemptions from Rule 6e–2(c)(1) and from all sections of the 1940 Act and rules thereunder specified in Rule 6e–2(b) (other than sections 7 and 8(a)), under the same terms and conditions (except as otherwise set forth herein and in the Application) applicable to a separate account that satisfies the conditions set forth in Rule 6e–2(a), to the extent necessary to permit the offer and sale of certain variable life insurance Policies ("Policies") in reliance on Rule 6e–2.

3. Applicants submit that the definition of "variable life insurance contract" in Rule 6e–2(c)(1) of the 1940 Act was drafted at a time when all the variable life insurance policies then contemplated clearly met this definition and that the considerations that led the Commission to grant the exemptions in Rule 6e–2 did not depend in any material way upon the fact that the death benefit, as well as the cash values, varied with investment experience.

4. Section 2(a)(35) of the 1940 Act and Rules 6e–2(b)(1) and (c)(4) thereunder, in pertinent part and in effect, may be read to contemplated that the sales charge for a variable life insurance policy will be deducted from premiums. NEVLICO's deduction of the deferred sales charge may be deemed inconsistent with these provisions. NEVLICO's deferred sales charge may also be deemed to be inconsistent with Rule 6e–2(c)(4) because, in order to facilitate the premium and other flexibility features under a Policy, the deferred sales charge is computed based on the lesser of actual payments made or basic scheduled premiums payable.

5. Section 27(a)(1) of the 1940 Act and Rule 6e–2(b)(13)(i) thereunder could be read to contemplate, in pertinent part and in effect, that the sales charge under the Policy will be deducted from premiums. NEVLICO's deduction of part of its sales charge on a contingent deferred basis may be deemed to be inconsistent with the foregoing provisions.

6. Sections 26(a)(2) and 27(c)(2) of the 1940 Act may be read to require, in pertinent part and in effect, that proceeds of all payments under a Policy be deposited in the Variable Account and that no payment be made from the Variable Account to any Applicant, or any affiliated person thereof, except for bookkeeping and other administrative services. NEVLICO's imposition of the deferred sales charge may be deemed to be inconsistent with the foregoing provisions, to the extent that the deduction could constitute payment for an expense not specifically permitted.

7. Sections 2(a)(32), 27(c)(1) and 27(d) of the 1940 Act, in pertinent part and in effect, prohibit Applicants from selling the Policy unless it is a "redeemable security," defined as entitling an owner of a Policy, upon surrender, to receive approximately his or her proportionate share of the Variable Account's current net assets. Rules 6e–2(b)(12), (b)(13)(iv) and (b)(13)(v) afford exemptions from Section 27(c)(1) of the 1940 Act, and Rules 6e–2(b)(13)(iv) and (b)(13)(v) afford exemptions from Section 27(d) of the 1940 Act, to the extent necessary for cash value to be regarded as satisfying the redemption and sales charge refund requirements of the 1940 Act. However, the exemptions afforded by Rules 6e–2(b)(12), 6e–2(b)(13)(iv) and (b)(13)(v) may not contemplate the deduction of contingent deferred sales and administrative charges. NEVLICO's deduction of the contingent deferred sales charge can be viewed as reducing the proceeds that the owner of a Policy would receive on surrender below the Policy owner's proportionate share of the Variable Account's current net assets.

Although section 2(a)(32) of the 1940 Act does not specifically contemplate the imposition of a sales charge and an administrative charge at the time of redemption, such charges are not necessarily inconsistent with the definition of "redeemable security." Applicants submit that the Policy will be a "redeemable security." The Policy provides for full surrender of the Policy for its net cash value and is expected to provide for partial surrenders of the Policy and partial withdrawals of excess cash value. The prospectus for the Policy will disclose the contingent deferred nature of part of the sales charge and the administrative charge. Accordingly, there will be no restrictions on, or impediment to, surrender that should cause the Policy to be considered other than a redeemable security within the meaning of the 1940 Act and the rules thereunder.

8. Rule 22c–1 adopted pursuant to section 22(c) of the 1940 Act prohibits Applicants from redeeming a Policy except at a price based on the current net asset value of the Policy that is next computed after receipt of the request for full or partial surrender of the Policy. Rule 6e–2(b)(12) of the 1940 Act affords exemptions from Rule 22c–1. However, the rule may not contemplate the deduction of contingent deferred sales charge and administrative charges. NEVLICO's contingent deferred sales charge may be deemed to be inconsistent with the foregoing provisions, to the extent that the sales and administrative charges can be viewed as causing a Policy to be redeemed at a price based on less than the current net asset value that is next computed after full or partial surrender of the Policy.

Applicants point out that the Commission's purpose in adopting Rule 22c–1 was to minimize (i) dilution of the interest of the other security holders and (ii) speculative trading practices that are unfair to such holders. The contingent deferred sales charge would in no way have the dilutive effect Rule 22c–1 is designed to prohibit, because a surrendering Policy owner would "receive" no more than an amount equal to the net cash value determined pursuant to the formula set out in his or her Policy and after receipt of his or her request. Furthermore, variable life insurance policies, by nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was aimed against, and, even if they could be so used, the contingent deferred sales charge would discourage, rather than encourage, any such trading.

9. Applicants request exemptions from sections 2(a)(35), 26(a)(2), 27(a)(1) and (3), 27(c)(2) of the 1940 Act and Rules 6e–2(b)(1), (b)(13)(i), (b)(13)(ii) and (c)(4) thereunder, to the extent necessary to permit a contingent deferred sales charge to be deducted, as described herein and in the application, upon surrender, partial surrender, face amount reduction or lapse of a Policy. Applicants also request exemptions from Sections 2(a)(32), 22(c), 27(c)(1) and 27(d) of the 1940 Act and Rules 6e–2(b)(12), (b)(13)(iv), (b)(13)(v) and 22c–1 thereunder to the extent necessary to permit a contingent deferred sales load and a contingent deferred administrative charge to be deducted, as described herein and in the application, upon surrender, partial surrender, face amount reduction or lapse of Policy.

10. Applicants assert that the deduction of part of the sales charge and

the administrative charge as a deferred charge on surrender, partial surrender, face amount reduction or lapse will be advantageous to Policy owners, for several reasons. First, the deferred charge structure has been accepted as an appropriate feature of life insurance products, provides investors a valuable choice and reinforces the intention that the product be held as a long-term investment. Second, the amount of the Policy owner's premium payment that will be allocated to the Variable Account, and be available to earn a return for the Policy owner, will be greater than it would be if the sales and administrative charges were deducted from premiums. Third, Applicants represent that the total dollar amount of sales load under a Policy is no higher than would be permitted, by Rule 6e–2(b)(13), if taken entirely as front-end deductions from premiums under a Policy for which all scheduled premiums have been paid, as well as any additional payments actually made by the Policy owner; and for a Policy owner who does not lapse or surrender in the early Policy years, the dollar amount of sales load is lower than would be permitted if taken entirely as front-end deductions. Similarly, Applicants represent that the total dollar amount of deferred administrative charge under a Policy is no higher than if the charge were taken in full for the first Policy year and is less for Policy owners who do not lapse or surrender prior to the fifteenth Policy year. Fourth, the allocation of a greater amount of the Policy owner's premium to the Variable Account initially reduces the amount at risk upon which the cost of insurance charge is based. If NEVLICO is not permitted to charge a sales and administrative charges in the form of contingent deferred charges and deducts these charges entirely from the premiums, it could be charging persisting Policy owners more than may otherwise be necessary to recover the distribution and issuance costs attributable to such Policy owners. Applicants contend that their charge structure, by contrast, provides greater equity among Policy owners.

11. Applicants request exemptions from sections 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 6e–2(b)(13)(iii) thereunder, to the extent necessary to permit deduction from cash value of charges for cost of insurance, substandard risks, automatic issue and incidental insurance benefits, and a minimum death benefit guarantee charge. Applicants represent that their method of deducting these charges is not designed to yield more revenues than if these charges were assessed solely against premiums.

12. Cost of insurance charges will be deducted from cash value on the first day of each Policy month at rates that do not exceed those prescribed in the 1980 CSO Tables. Applicants state that deduction of these charges from cash value is reasonable and in accordance with the practice of most other variable life insurance policies.

13. Applicants represent that the deduction of a portion of the charges for substandard risks, automatic issue and incidental insurance benefits from cash value is also reasonable and appropriate. If all such charges were required to be deducted solely from premiums, it would be necessary for NEVLICO (a) to reduce the premium flexibility under the Policy and/or (b) further limit the classes of insureds for whom the Policy will be available and limit or eliminate the kinds of rider benefits which NEVLICO intends to make available. Applicants argue that these results would be undesirable from the standpoint of purchasers and prospective purchasers of Policies.

14. The minimum death benefit guarantee charge compensates NEVLICO for the risk that NEVLICO assumes in guaranteeing death benefits under the Policies, including the risk that the cash value will not be sufficient to support the guarantees.

15. Applicants submit that Rule 6e–3(T) authorizes deductions from cash value for a minimum death benefit guarantee charge in connection with policies qualified to rely on that rule, conditioned on the life insurer's making certain representations. The proposed amendments to Rule 6e–2 would similarly authorize such deductions from cash value. NEVLICO makes the following representations and undertakings: (a) The level of the minimum death benefit guarantee charge is reasonable in relation to the risks assumed by NEVLICO under the Policy. The methodology used to support this representation is based on an analysis of the pricing structure of the Policies, including all charges, and an analysis of the various risks, including special risks arising out of Policy provisions that allow unscheduled premium payments and, in certain circumstances, skipping premium payments. NEVLICO undertakes to keep and make available to the Commission on request the documents or memoranda used to support this representation; (b) NEVLICO has concluded that: the proceeds from the sales charges may not cover the expected costs of distribution; surplus arising from the minimum death benefit guarantee charge (among other sources) may be used to cover the distribution costs; and there is a reasonable likelihood that the distribution financing arrangement of the Variable Account will benefit the Variable Account and Policy owners. NEVLICO undertakes to keep and make available to the Commission on request a memorandum setting forth the basis of this representation; and (c) the Variable Account will invest only in management investment companies that have undertaken, in the event they should adopt any plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees, as appropriate), a majority of whom are not interested persons of NEVLICO, formulate and approve such plan.

16. Rule 6e–2(b)(1) of the 1940 Act makes the definition of "sales load" in Rule 6e–2(c)(4) applicable to the Policy. Section 27(a)(1) of the 1940 Act prohibits an issuer of periodic payment plan certificates from imposing a sales load exceeding 9% of the payments to be made on such certificates. Rule 6e–2(b)(13)(i) provides an exemption from section 27(a)(1) to the extent that sales load, as defined in Rule 6e–2(c)(4), does not exceed 9% of the payments to be made on the variable life insurance policy during the period equal to the lesser of 20 years or the anticipated life expectancy of the insured based on the 1958 CSO Table. Rule 6e–2(c)(4), in defining sales load, contemplates the deduction of an amount for the cost of insurance based on the 1958 CSO Table and an assumed investment rate specified in the policy.

17. Applicants request exemptions from section 27(a)(1) of the 1940 Act and Rules 6e–2 (b)(1), (b)(13)(i) and (c)(4) thereunder, to the extent necessary to permit cost of insurance to be calculated, for purposes of testing compliance with Rule 6e–2, based on the 1980 CSO Tables.

18. In establishing Premium rates and determining reserve liabilities for the Policies, NEVLICO also uses the 1980 CSO Tables. Furthermore, the mortality rates reflected in the 1980 CSO Tables more nearly approach the mortality experience which NEVLICO believes will pertain to the Policy.

19. Section 26(a)(1) and section 26(a)(2) of the 1940 Act prohibit Applicants from selling the Policy, unless the Policy is issued pursuant to a trust indenture or other such instrument that designate one or more trustees or custodians, qualified as specified, to have possession of all securities in which NEVLICO and the Variable Account invest.

Section 27(c)(2) of the 1940 Act could be read to prohibit Applicants from selling the Policy unless the proceeds of all purchase payments are deposited with a trustee or custodian as specified. Rule 6e–2(b)(13)(iii) affords an exemption from sections 26(a)(1), 26(a)(2) and 27(c)(2), provided that NEVLICO complies, to the extent applicable, with all other provisions of Section 26 of the 1940 Act as though it were a trustee or custodian for the Variable Account and assuming it meets the other requirements set forth in the rule.

The holding of Fund shares by NEVLICO and the Variable Account under an open account arrangement, without having possession of share certificates and without a trust indenture or other such instrument, may be deemed to be inconsistent with the foregoing provisions.

20. Applicants request exemptions from sections 26(a)(1), 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 6e–2(b)(13)(iii) thereunder to the extent necessary to permit the holding of fund shares by NEVLICO and the Variable Account under an open account arrangement, without having possession of share certificates and without a trust indenture or other such instrument.

21. Current industry practice calls for unit investment trust separate accounts, such as the Variable Account, to hold shares of underlying management investment companies in uncertificated form. This practice is thought to contribute to efficiency in the purchase and sale of such shares by separate accounts and to bring about cost savings generally.

22. NEVLICO represents that it will comply with all other applicable provisions of section 26 of the 1940 Act as if it were a trustee or custodian for the Variable Account; will file with the insurance regulatory authority of Delaware an annual statement of its financial condition in the form prescribed by the National Association of Insurance Commissioners, which most recent statement indicates that it has a combined capital and surplus of not less than $1,000,000; is examined from time to time by the insurance regulatory authority of Delaware as to its financial condition and other affairs; and is subject to supervision and inspection with respect to its separate account operations.

23. Section 27(e) of the 1940 Act and Rules 27e–1 and 6e–2(b)(13)(vii) thereunder, require a notice of right of withdrawal and refund, on Form N–27I–1 to be provided to Policy owners entitled to a refund of sales load in excess of the limits permitted by Rule 6e–2(b)(13)(v).

24. Applicants request exemptions from section 27(e) of the 1940 Act and Rules 27e–1 and 6e–2(b)(13)(vii) thereunder to the extent necessary to waive the requirements to provide notice to Policy owners of any withdrawal and refund rights contemplated by those provisions.

25. In the context of a declining contingent deferred charge policy where no excess sales load is deducted from premiums, Policy owners have no right to a refund of any excess sales load and requiring delivery of a Form N–27I–1 could confuse Policy owners and, at worse, could encourage a Policy Owner to surrender during the first two Policy years when it may not be in the owner's best interest to do so. An owner of a Policy with a declining deferred sales charge, unlike a front-end loaded policy, does not foreclose his or her opportunity, at the end of the first two policy years, to receive a refund of monies spent. Not only has such an owner not paid any excess load, but also as the deferred charge declines over the life of the Policy he or she may never have to pay it. Encouraging a surrender during the first two Policy years could, in the end, cost such an owner more in total sales load (relative to total premium) than he or she would otherwise pay if the policy, which is designed as a long-term investment vehicle, were held for the period originally intended.

26. Section 27(a)(3) of the 1940 Act generally provides, with respect to periodic payment plan certificates, that the amount of sales load deducted from any one of the first 12 monthly payments, or their equivalent, cannot exceed proportionately the amount deducted from any such payment, and that the amount deducted from any subsequent payment cannot exceed proportionately the amount deducted from any subsequent payment. Rule 6e–2(b)(13)(ii) grants an exemption from section 27(a)(3) of the 1940 Act, provided that the proportionate amount of sales load deducted from any payment during the contract period shall not exceed the proportionate amount deducted from any prior payment, unless the increase is caused by the grading of cash value into reserves or reductions in the annual cost of insurance.

27. Section 27(a)(3) of the 1940 Act and Rule 6e–2(b)(13)(ii) thereunder could be interpreted to be inconsistent with any contingent deferred sales charge. Also, Rule 6e–2 was adopted at a time when less flexibility regarding premium payments and other policy features was offered than subsequently has been permitted. Because of this, Applicants request an exemption from those provisions, to the extent necessary to permit deduction of the front-end sales charge and deduction of the contingent deferred sales charge on surrender, partial surrender, face amount reduction or lapse of a Policy.

28. The amount of sales charge deducted from premium payments under the Policy is 5.5%. NEVLICO intends to waive the portion of the sales charge otherwise deducted from each scheduled premium on a Policy after the fifteenth Policy year, but not on unscheduled payments. The continuation of this waiver, however, is not contractually guaranteed, and NEVLICO may withdraw or modify the waiver at any time. Thus, it is possible that the waiver could apply at some times with respect to a given Policy and not a subsequent time with respect to the same Policy. It is also possible after the fifteenth Policy year for an unscheduled payment to be made, subject to the 5.5% front-end sales load, subsequent to a scheduled premium not subject to the 5.5% front-end sales load, with respect to the same Policy. Because section 27(a)(3) of the 1940 Act and rule 6e–2(b)(13)(iii) thereunder appear to prohibit both of those scenarios, Applicants also request an exemption from those provisions to the extent necessary to permit them to waive the sales charge deducted from scheduled premiums under the circumstances described herein.

29. Applicants represent that they do not believe the sales charge structure violates the "stair-step" provisions of the 1940 Act and rules thereunder. The deferred sales charge, if calculated as a percentage of scheduled premiums due each year, decreases from year to year. The sales charge imposed against unscheduled payments, when analyzed separately from the sales charge imposed against scheduled premiums, complies with the "stair-step" requirements. Moreover, if NEVLICO does not waive the 5.5% charge on scheduled premiums after the fifteenth Policy year (and thereafter reinstate the charge), the sales charge imposed against schedule premiums, when analyzed separately from the sales charge imposed against unscheduled payments, would also comply with the "stair-step" requirements. The continuation of the sales charge against unscheduled payments reflects the fact the NEVLICO may incur greater distribution costs in connection with unscheduled payments than scheduled Premiums after the fifteenth Policy year Applicants submit that the sales charge

design of the Policy is not unduly complicated and will clearly be of benefit to those for whom it applies. Full disclosure of the sales charge waiver will be contained in the prospectus pertaining to the Policy. Moreover, the sales charges are not designed to generate more revenues from later payments than from earlier payments.

Applicants' Conclusion

Applicants submit, for all of the reasons stated herein, and in the Application, that their requests for exemptions meet the standards set out in section 6(c) and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1582 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35—25736]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 15, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 8, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System, et al. (70–7765)

Granite State Electric Company ("Granite"), Massachusetts Electric Company, Narragansett Energy Resources Company, The Narragansett Electric Company, New England Electric Transmission Corporation, New England Energy Incorporated, New England Hydro Finance Company, Inc., New England Hydro-Transmission Electric Company, Inc., New England Hydro-Transmission Corporation, New England Power Company and New England Power Service Company ("NEPSCO"), subsidiaries of New England Electric System ("NEES"), a registered holding company, all of Westborough, Massachusetts, and NEES, Westborough, Massachusetts, (collectively, "Applicants") have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 42, 43, 45 and 50(a)(5) thereunder.

By orders dated September 21, 1990, January 7, 1991 and March 3, 1992 (HCAR Nos. 25156, 25238 and 25483, respectively), the Commission, among other things, authorized the Applicants, through October 31, 1993, to make short-term borrowings from the NEES Money Pool ("Money Pool") and/or banks, including authority for NEPSCO to make such borrowings in amounts not exceeding $10 million outstanding at any one time. In order to fund certain obligations in connection with providing post-retirement health care and life insurance ("PBOP") to its retired employees, NEPSCO now proposes to increase its short-term borrowing authority in outstanding amounts not exceeding $20 million.

NEPSCO currently provides PBOP to its retired employees. Under the Statement of Financial Accounting Standards No. 106 issued by the Financial Accounting Standards Board in 1990, beginning in 1993, NEPSCO is required to account for its PBOP expense on an accrual basis rather than the cash basis currently used by NEPSCO. In conjunction with its compliance with this requirement, NEPSCO will participate in and make contributions to: (1) Voluntary employee benefit association trusts to be established by Granite and (2) subaccounts to be established under the existing pension plans, to externally fund its PBOP obligation as permitted under the tax code. NEPSCO expects to make the initial PBOP contribution prior to the end of 1992 and will make periodic contributions thereafter.

The timing and amount of these PBOP contributions will differ from the timing and amount of NEPSCO's related charges under its service agreements. Consequently, NEPSCO's current $10 million short-term borrowing authority is expected to be inadequate to provide for these periodic contributions to PBOP trusts and subaccounts and its regular short-term borrowing needs. NEPSCO, therefore, requests authorization to increase its short-term borrowing authority to an amount not to exceed $20 million outstanding at any one time through October 31, 1993, under the same terms and conditions as previously authorized.

New Orleans Public Service Inc. (70–8089)

New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana, a public-utility subsidiary company of Entergy Corporation, a registered holding company, has filed a declaration under sections 9(a), 10 and 12(c) of the Act and rule 42 thereunder.

NOPSI intends to issue and sell under the exemptive provisions of rule 52, from time to time through December 31, 1994, one or more new series of its preferred stock having an aggregate par value not to exceed $20 million ("New Preferred Stock").

The terms of one or more series of the New Preferred Stock may include provisions for mandatory or optional redemption at various redemption prices and may include various restrictions on optional redemption for a given number of years. NOPSI may include provisions for a sinking fund for any series of New Preferred Stock designed to redeem annually, commencing a specified number of years after the first day of the calendar month in which such series is issued, at the par value per share of such series plus accumulated dividends, a number of shares equal to a given percentage of the total number of shares of such series, and may further provide for NOPSI having a noncumulative option to redeem annually at such price an additional number of shares up to a given percentage of the total number of shares of such series. The terms of the sinking fund may also permit NOPSI to purchase shares and credit these shares against the sinking fund requirement. In addition, NOPSI may "sink" New Preferred Stock in amounts equal to the sinking fund option by purchasing amounts equal to such annual option at prices equal to or less than the optional sinking fund redemption price.

NOPSI requests authorization for the period during which any shares of the New Preferred Stock are outstanding: (i) To redeem shares of the New Preferred

Stock in accordance with any mandatory or optional redemption provisions established at the time of initial issuance thereof; and (ii) to redeem (or purchase in lieu of redemption) shares of New Preferred Stock in accordance with the sinking fund provisions established at the time of initial issuance thereof.

NOPSI further proposes to acquire, from time to time prior to December 31, 1994, certain of its outstanding securities, in whole or in part, prior to their respective maturities: (i) Not to exceed $135 million aggregate principal amount of one or more series of its outstanding first mortgage bonds and/or general and refunding mortgage bonds ("G&R Bonds"); and (ii) not to exceed $6.5 million aggregate par value of one or more series of its outstanding preferred stock (such first mortgage bonds, G&R Bonds and preferred stock, collectively, the "Outstanding Securities").

NOPSI may choose to acquire Outstanding Securities by means of tender offer, negotiated, open market or other forms of purchase or otherwise (subject to any limitations or conditions on acquisition of particular series) if such means of acquisition are more beneficial to NOPSI than redemption at the applicable redemption price. If any Outstanding Securities are acquired by means of tender offer, NOPSI may offer to acquire specified amounts of a particular series or an entire series of such Outstanding Securities.

NOPSI states that it may use the proceeds from the sale of New Preferred Stock, or the sale of up to $145 million of G&R Bonds (contemplated to be issued and sold through December 31, 1994 under rule 52), together with or as an alternative to, other available funds, to acquire Outstanding Securities.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1721 Filed 1–22–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1755]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Tuesday and Wednesday, February 16–17 1993 at 8:30 a.m. at the Hyatt Regency, Coral Gables, Florida. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Patricia Richards, Overseas Security Advisory Council, Department of State, Washington, DC 20522–1003, phone: 703/204–6210.

Dated: January 11, 1993.

Clark Dittmer,

Director of the Diplomatic Security Service.

[FR Doc. 93–1700 Filed 1–22–93; 8:45 am]

BILLING CODE 4710–24–M

Bureau of International Communications and Information Policy

[Public Notice 1757]

Preparatory Meeting for U.S. Participation in International Telecommunication Union Regional Development Conference for Asia and the Pacific (AS–RDC); Notice of Meeting

The Department of State/CIP and the Department of Commerce/NTIA announce that the initial meeting of the Working Group to prepare for U.S. participation in the International Telecommunication Union (ITU) Development Conference for Asia and the Pacific (AS–RDC) will be held on Tuesday, February 2, 1993 from 1:30 p.m. to 3 p.m. in room 3519, Department of State, 2201 "C" Street, NW., Washington, DC 20520.

The ITU AS–RDC is scheduled for May 10–15, 1993 in Singapore. The U.S. will be preparing proposals addressing the principal topics for consideration in the following Conference structure:

Committee A—Role of telecommunications, policy and development strategies. Investment considerations, financial strategies, and international cooperation.

Committee B—Networks and services, development of telecommunications in rural areas.

Committee C—Organization and management, human resources management and development. International and regional cooperation.

The purpose of this initial meeting will be to review the Conference agenda and to establish a process for preparing U.S. positions.

Mr. Richard C. Beaird, Senior Deputy Coordinator, Bureau of International Communications and Information Policy, U.S. Department of State, and Ms. Jean Prewitt, Associate Administrator, National Telecommunications and Information Administration, U.S. Department of Commerce, will chair the meeting.

Members of the general public may attend the meeting and participate in the Working Group, subject to the instructions of the Chairpersons. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled, and individual passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting.

Prior to the meeting, persons who plan to attend should so advise the office of Mr. D. Clark Norton, CIP, room 5310, Department of State, Washington, DC 20520; telephone (202) 647–5220, FAX (202) 647–0158. They must provide their name, title, company name, social security number, and date of birth. All attendees must use the "C" Street entrance to the building.

Dated: January 15, 1993.

D. Clark Norton,

Senior Counselor, Bureau of International Communications and Information Policy.

[FR Doc. 93–1558 Filed 1–22–93; 8:45 am]

BILLING CODE 4710–45–M

Office of the Historian

[Public Notice 1756]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet February 18–19, 1993, at 9:30 a.m. in the Department of State.

The Committee will meet in open session from 9:30 a.m. on the morning of Thursday, February 18, 1993, until noon of that day, in room 1207, Main State. The remainder of the Committee's sessions, until the end of this session on Friday, February 19, at 4 p.m., will be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). It has been determined that discussions

during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities will be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123.

Dated: January 15, 1993.

William Z. Slany,

Executive Secretary.

[FR Doc. 93–1563 Filed 1–22–93; 8:45 am]

BILLING CODE 4710–11–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Certification of Relinquishment of Rights
(2) *Form(s) submitted:* G–88
(3) *OMB Number:* 3220–0016
(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(6) *Frequency of response:* On occasion
(7) *Respondents:* Individuals or households
(8) *Estimated annual number of respondents:* 3,600
(9) *Total annual responses:* 3,600
(10) *Average time per response:* .1 hour
(11) *Total annual reporting hours:* 360
(12) *Collection description:* Under section 2(e)(2) of the Railroad Retirement Act, the Railroad Retirement Board must have evidence that an applicant for an age and service, spouse, or divorced spouse annuity has relinquished rights to return to the service of a railroad employer. The collection provides the means for obtaining this evidence.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 93–1699 Filed 1–22–93; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Service Station at Miles City, MT; Notice of Closing

Notice is hereby given that on or about March 3, 1993, the flight service station at Miles City, Montana, will be closed. Services to the aviation public formerly provided by this facility will be provided by the automated flight service station in Great Falls, Montana. This information will be reflected in the FAA Organization Statement the next time it is issued. Sec. 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Seattle, Washington, on January 26, 1993.

Frederick M. Isaac,

Regional Administrator, Northwest Mountain Region.

[FR Doc. 93–1669 Filed 1–22–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Schenectady County, New York

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge/highway project in Schenectady County, New York.

FOR FURTHER INFORMATION CONTACT: Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 472–3616 or Richard A. Maitino, Regional Director, New York State Department of Transportation, Region One, 84 Holland Avenue, Albany, New York 12208, Telephone: (518) 474–6178.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) will prepare an Environmental Impact Statement (EIS) on a proposal to provide a Mohawk River crossing immediately west of the City of Schenectady in Schenectady County. The proposed project involves the construction of a new bridge that will span the Mohawk River to connect NY Route 5 in the Town of Glenville will the New York State Thruway/Interstate Route 890/NY Route 5S Interchange in the Town of Rotterdam. This project is considered necessary to alleviate existing traffic capacity deficiencies and to facilitate economic growth.

In addition to the do-nothing alternative, alternatives under consideration address the following options: (1) Bridge orientation; (2) number of lanes; (3) at grade or grade separated intersection with Route 5.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Also planned are early coordination and exchanges of information with public and private agencies through public information meetings, direct requests to other agencies to become cooperating agencies, and early notification and solicitation with entities affected by the proposed action through the clearinghouse process. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comments. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the address provided above.

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

Issued on: January 12, 1993.

Harold J. Brown,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 93-1701 Filed 1-22-93; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Westmoreland County, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Change from Environmental Impact Statement to Environmental Assessment.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental assessment will be prepared instead of an environmental impact statement for a proposed project in Westmoreland County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John A. Gerner, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086, Telephone (717) 782-3411, or William L. Beaumariage, P.E., District Engineer, Pennsylvania Department of Transportation, P.O. Box 459, North Gallatin Avenue Extension, Uniontown, Pennsylvania 15401, Telephone (412) 439-7315.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PADOT), will prepare an Environmental Assessment (EA) instead of an Environmental Impact Statement (EIS) on a proposal to improve traffic safety on Traffic Route 981, State Route 1040, and State Route 1069 in Bell Township. A Notice of Intent to prepare an EIS for the project was published in the **Federal Register** on September 16, 1985. Preliminary environmental and engineering studies have shown that the proposed project will have no significant impacts, and an EA will be prepared accordingly. The proposed project is approximately 1.7 to 2.5 miles in length and consists of a 2-lane relocation of Traffic Route 981, State Route 1040, and State Route 1069 around the communities of Salina and Tinsmill. The project begins just west of Salina near the intersection of Traffic Route 819 and State Route 1040 and extends to the east, ending at the intersection of Traffic Route 981 and Traffic Route 156.

Three build alternatives will be evaluated in the EA for the project. Two build alternatives would be south of Salina and north of Tinsmill. The third build alternative would be south of Tinsmill. All three build alternatives would involve relocation of the existing highways (Traffic Route 981, State Route 1040, and State Route 1069). A Do-Nothing alternative will also be considered. For each alternative under study, the following areas will be investigated: traffic, preliminary design and cost, air, noise, socioeconomics and land use, historic and archaeological resources, water resources, floodplains, stream modifications, wetlands, vegetation and wildlife, prime or unique agricultural lands, energy, visual impacts, construction impacts, and mineral resources. A Plan of Study (POS) and the opportunity for a Scoping Field View was sent to the appropriate federal, state, and local agencies in September 1985. Public meetings for the project were held in October 1985, February 1989, and December 1992. The EA for the project will be made available for agency and public review and comment prior to a public hearing. EA availability will be advertised in 3 local newspapers, and the EA will be available at the Bell Township Municipal Building in the project area. The EA will be circulated in the winter of 1993. Based on the impacts of the alternatives under study, this project is likely to result in a Finding of No Significant Impact.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA or PADOT at the addresses noted above.

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

Manuel Marks,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 93-1703 Filed 1-22-93; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 92-53; Notice 2]

Determination That Nonconforming 1991 BMW 730i Passenger Cars Are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1991 BMW 730i passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1991 BMW 730i passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1991 BMW 735i), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act; and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) petitioned NHTSA to determine whether 1991 BMW 730i passenger cars are eligible for

importation into the United States. NHTSA published notice of the petition on October 7, 1992 (57 FR 46237) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #24 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1991 BMW 730i is substantially similar to a 1991 BMW 735i originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and that the 1991 BMW 730i is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on January 15, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–1610 Filed 1–22–93, 8:45 am]

BILLING CODE 4910–59–M

Uniform Emergency Medical Services (EMS) Pre-Hospital Data Conference

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

ACTION: Notice of Uniform EMS Pre-Hospital Data Conference.

SUMMARY: This notice announces a forthcoming conference to promote development of a national consensus regarding EMS pre-hospital data, including core and supplemental elements, and their definitions and related issues. This notice is to advise interested organizations and individuals of the procedure to be followed to attend the conference.

DATES: Uniform EMS Prehospital Data Conference, August 16–18, 1993, Ritz Carlton, Pentagon City, Arlington, Virginia. Further details on Conference arrangements and agenda to be provided by letter.

FOR FURTHER INFORMATION CONTACT: Monica Gray; Project Manager, NHTSA Contract DTNH22–92–C–05314; Bright Associates, Inc.; 4600 Duke Street, suite 420; Alexandria, Virginia 22304; Phone (703) 823–6522.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA), in consultation with other interested Federal agencies and non-governmental interest groups, will convene a Uniform EMS Pre-hospital Data Conference on August 16–18, 1993 at the Ritz Carlton Hotel in Arlington, Virginia.

The primary objective of the Conference is to reach consensus on the identification and definition of core and supplemental data elements obtained during pre-hospital EMS operations. In addition, the Conference will develop consensus on several other issues related to the collection, management, and use of pre-hospital EMS data.

EMS pre-hospital data is necessary for the effective management of EMS ambulance services. This data is also used for patient assessment and for determining the need for and short term effects of treatments applied to restore vital functions and to arrest the progress of trauma preparatory to transportation to definitive medical care. In addition, the data has applications for initial hospital assessment and treatment of all types of emergency medical patients. When linked with other prehospital data on the incidence of medical emergencies, and with clinical data on medical treatment, and outcome, such data is also valuable for research, epidemiological studies, and development of prevention programs for trauma and other medical emergencies from all causes. Effective utilization of data obtained during pre-hospital EMS operations requires consensus on the definition of the data.

The Conference will focus on developing consensus on the identification of a set of core and supplemental data elements and criteria for addition of new data elements to the data set.

To facilitate the above objective, the Conference will be administered in accordance with *"Guidelines for the Selection and Management of Consensus Development Conferences"* developed by the Office of Medical Applications of Research of the National Institutes of Health.

The purpose of this notice is to invite all organizations, agencies, interest groups, and individuals who wish to participate in the Conference to send a letter request or to telephone for further information and Conference Registration material to: Monica Gray: EMS–MIS Project Manager, Bright Associates, Inc.; 4600 Duke Street, suite 420; Alexandria, Virginia 22304; Telephone Number (703) 823–6522.

Participants in the Conference must be pre-registered in order to allow time for forwarding, and review of issue papers, and preparation for the Conference. Participants are expected to pay for their own travel and lodging and to make their own reservations at the Conference hotel. Provisions have been made and special hotel rates have been negotiated to accommodate all participants at the Conference hotel. There will be a prepaid registration fee of $150.00 for the Conference. The fee includes continental breakfast on all three days of the conference, working lunches on two days of the Conference and other Conference amenities.

More information on the Conference and registration material will be supplied by the end of February 1993 to all interested parties by Bright Associates Inc. with whom NHTSA has contracted for assistance on this Conference.

The number of Conference participants will be limited to the first 250 paid Conference Registrants.

Following receipt of completed registration forms and fee payment, an invitation will be sent to each registered participant together with detailed information on the Conference Agenda and issue papers for review and evaluation from Conference participation.

Issued on: January 19, 1993.

Michael B. Brownlee,

Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration.

[FR Doc. 93–1673 Filed 1–22–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 15, 1993.

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: 1545–0987.
Regulation ID Number: LR–168–86 NPRM, LR–129–86 TEMP, Notice 88–92, 1988–2 C.C. 414.
Type of Review: Extension.
Title: Capitalization and Inclusion in Inventory Costs of Certain Expenses.
Description: This reporting requirement is necessary to determine whether taxpayers comply with the cost allocation rules of section 263A and with the requirements for changing their methods of accounting. The information will be used to verify taxpayer's changes in methods of accounting.
Respondents: Farms, Businesses or other-profit, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeepers: 10,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 11 hours.
Frequency of Response: Other (In the year of change).
Estimated Total Reporting Burden: 110,000 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, 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. 93–1591 Filed 1–22–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

January 14, 1993.

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.

Special Request: On January 14, 1993, the Department of the Treasury requested a less than 60-day review of the information collection listed below in order to meet a January 19, 1993 deadline. All public comments must be received by close of business January 18, 1993.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: New
Form Number: None
Type of Review: New collection
Title: Knowledge and Attitudes Survey for the Gang Resistance Education and Training G.R.E.A.T. Program
Description: Student survey to assist in the assessment of a program designed to educate middle school students on the dangers of joining street gangs. The program is in the Phoenix, Arizona and Albuquerque, New Mexico areas. The survey will also be conducted in Austin, Texas.
Respondents: Individuals or households
Estimated Number of Respondents: 2,205
Estimated Burden Hours Per Respondent: 1 hour, 45 minutes
Frequency of Response. Other: Arizona and New Mexico, 2 times; Austin, 1 time
Estimated Total Reporting Burden: 7,009 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. 93–1593 Filed 1–22–93; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

January 15, 1993.

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: 1545–0190
Form Number: IRS Form 4876–A
Type of Review: Extension
Title: Election to be Treated as an Interest Charge DISC
Description: A domestic corporation and its shareholders must elect to be an interest charge domestic international sales corporation (IC–DISC). Form 4876–A is used to make the election. IRS uses the information to determine if the corporation qualifies to be an IC–DISC.
Respondents: Businesses or other for-profit
Estimated Number of Respondents/ Recordkeepers: 1,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—4 hours, 4 minutes
Learning about the law or the form—1 hour, 5 minutes
Preparing and sending the form to the IRS—1 hour, 13 minutes
Frequency of Response: Other (one-time selection)
Estimated Total Reporting Burden: 6,360 hours

OMB Number: 1545–0814
Regulation ID Number: EE–44–78 Final
Type of Review: Extension
Title: Cooperative Hospital Service Organizations
Description: This regulation establishes the rules for cooperative hospital service organizations which seek tax-exempt status under section 501(e) of the Internal Revenue Code. Such an organization must keep records in order to show its cooperative nature and to establish compliance with other requirements in section 501(c).
Respondents: Non-profit institutions
Estimated Number of Recordkeepers: 1
Estimated Burden Hours Per Recordkeeper: 1 hour
Frequency of Response: Other
Estimated Total Reporting Burden: 1 hour
Clearance Officer: Garrick Shear (202) 622–3869, 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 93–1733 Filed 1–22–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

January 15, 1993.

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.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0141
Form Number: ATF F 2635 (5620.8)
Type of Review: Extension
Title: Claim—Alcohol, Tobacco and Firearms Taxes
Description: ATF F 2635 (5620.8)
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 10,000
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion, Monthly, Quarterly
Estimated Total Reporting Burden: 10,000 hours

OMB Number: 1512–0195
Form Number: ATF F 5110.25
Type of Review: Extension
Title: Application for Operating Permit Under 26 U.S.C. 5171(d)
Description: ATF F 5110.25 is completed by proprietors of distilled spirits plants who engage in certain specified types of activities. ATF regional officer personnel use the information on the form to identify the applicant, the location of the business and the types of activities to be conducted.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 80
Estimated Burden Hours Per Respondent: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 20 hours

OMB Number: 1512–0386
Form Number: ATF REC 7570/1
Type of Review: Extension
Title: Records of Acquisition and Disposition—Registered Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Import List
Description: These records of items that are listed on the U.S. Munitions List are used to account for the items by the Registered Import and this Bureau in investigation to insure compliance with the Federal Law.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 50
Estimated Burden Hours Per Recordkeeper: 5 hours
Frequency of Response: Other
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. 93–1734 Filed 1–22–93; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

January 14, 1993.

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.

Financial Management Service

OMB Number: 1510–0007.
Form Number: SF 1199A.
Type of Review: Extension.
Title: Direct Deposit Form.
Description: The Direct Deposit Sign-Up Form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. This information is used to route the Direct Deposit payment to the correct account at the correct financial institution. It identifies persons who have processed the form.
Respondents: Individuals or households, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions
Estimated Number of Respondents: 3,850,000
Estimated Burden Hours Per Response: 10 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 654,500 hours
Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
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. 93–1595 Filed 1–22–93; 8:45 am]

BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

January 15, 1993

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: Leadership Effectiveness Analysis
Description: The data collected from this form is used by the executive panels responsible for screening internal and external applicants for the SES Candidate Development Program.
Respondents: Individuals or households, Federal agencies or employees
Estimated Number of Respondents: 2,100
Estimated Burden Hours Per Respondent: 45 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 1,575 hours.

OMB Number: New
Form Number: None
Type of Review: New collection
Title: Self-Assessment—SES Candidate Development Program
Description: The data collected from this form is used by the executive panels responsible for screening internal and external applicants for the SES Candidate Development Program.
Respondents: Individuals or households, Federal agencies or employees
Estimated Number of Respondents: 300
Estimated Burden Hours Per Respondent: 4 hours
Frequency of Response: Annually
Estimated Total Reporting Burden: 1,200 hours.
OMB Number: New
Form Number: None
Type of Review: New collection
Title: Supervisor Assessment—SES Candidate Development Program
Description: The data collected from this form is used by the executive panels responsible for screening internal and external applicants for the SES Candidate Development Program.
Respondents: Individuals or households, Federal agencies or employees
Estimated Number of Respondents: 300
Estimated Burden Hours Per Respondent: 5 hours
Frequency of Response: Annually
Estimated Total Reporting Burden: 1,500 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. 93–1592 Filed 1–22–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

January 14, 1993

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: 1545–1141
Notice Number: Notice 89–102
Type of Review: Extension
Title: Treatment of Acquisition of Certain Financial Institutions; Tax Consequences of Federal Financial Assistance.
Description: Section 597 of the Internal Revenue Code provides that the Secretary shall provide guidance concerning the tax of Federal financial assistance received by qualifying institutions. These institutions may defer payment of Federal income tax attributable to the assistance. Required information identifies deferred tax liabilities.
Respondents: Businesses or other-profit
Estimated Number of Respondents: 250
Estimated Burden Hours Per Respondent: 30 minutes
Frequence of Response: Annually
Estimated Total Reporting Burden: 125 hours
Clearance Officer: Garrick Shear, (202) 622–3869, 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. 93–1594 Filed 1–22–93; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 14
Monday, January 25, 1993

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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, January 26, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Final amendments to Parts 303 and 325 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," and "Capital Maintenance," respectively, which further implement the prompt corrective action provisions in section 38 of the Federal Deposit Insurance Act, as added by section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991, and the prompt corrective action provisions of the Corporation's capital maintenance regulations, as well as make certain other technical amendments to those regulations.

Memorandums and resolutions re: Solicitation of public comment on (1) the conducting of a Pilot Reinsurance Program, and (2) the cost, feasibility, and privacy implications of tracking deposits.

Memorandum re: Corporation's Strategic Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should contact Llauger Valentin, Equal Employment Opportunity Manager, at (202) 898–6745 (Voice); (202) 898–3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: January 19, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–1753 Filed 1–21–93; 9:08 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, January 26, 1993, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Reports of the Office of Inspector General.

Matters relating to the Corporation's corporate activities.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof.

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Matters relating to the possible closing of certain insured depository institutions:

Names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: January 19, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–1754 Filed 1–21–93; 9:08 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Tuesday, January 19, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the Corporation's corporate activities.

Recommendation concerning an administrative enforcement proceeding.

Matters relating to the Corporation's assistance agreements with insured banks.

Matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Stephen R. Steinbrink (Acting Comptroller of the currency), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift

Supervision) and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: January 19, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–1811 Filed 1–21–93; 10:27 am]

BILLING CODE 6714–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–49), U.S.C. 552B:

DATE AND TIME: January 27, 1993, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 972nd Meeting—January 27, 1993, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 10550–002, North Side Canal Company
CAH–2.
Project Nos. 1962–015 and 1988–020, Pacific Gas and Electric Company, Sacramento Municipal Utility District, the Northern California Power Agency, and the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California
CAH–3.
Omitted
CAH–4.
Docket No. EL87–5–001, Island Power Company
Project No. 11161–001, Hanalei Hydropower, Inc.
CAH–5.
Project No. 9401–008, Halecrest Company
Project No. 8595–002, Energy Storage Corporation
Project No. 9105–002, Esperanza Power Limited Partnership
CAH–6.
Project No. 1473–006, Granite County, Montana
CAH–7.
Docket No. UL87–26–006, Mid-State Service Company

Consent Agenda—Electric

CAE–1.
Docket No. ER93–130–000, New England Power Company
CAE–2.
Docket No. ER93–251–000, Wisconsin Electric Power Company
CAE–3.
Docket Nos. ER93–59–000, ER93–65–000 and EL91–29–000, Southern Companies
CAE–4.
Docket No. EG93–5–000, Nevada Sun-Peak Limited Partnership
CAE–5.
Docket No. EL93–1–001, Kramer Junction Company, Harper Lake Company VIII, and HLC IX Company
CAE–6.
Docket No. ER92–809–001, Illinois Power Company
CAE–7.
Omitted
CAE–8.
Docket No. QF88–85–004, LG&E-Westmoreland Hopewell
CAE–9.
Docket Nos. EL84–15–000, Kentucky Utilities Company
CAE–10.
Docket Nos. ER86–562–006, ER87–122–004 and ER91–149–004, Boston Edison Company

Consent Agenda—Oil and Gas

CAG–1.
Docket No. RP93–53–000, Carnegie Natural Gas Company
CAG–2.
Docket No. TA93–1–18–000, Texas Gas Transmission Corporation
CAG–3.
Docket No. TM93–3–18–000, Texas Gas Transmission Corporation
CAG–4.
Docket Nos. TQ93–3–21–000 and TM93–8–21–000, Columbia Gas Transmission Corporation
CAG–5.
Docket Nos. RP92–214–002 and RS92–60–005, El Paso Natural Gas Company
CAG–6.
Docket No. RP93–59–000, High Island Offshore System
CAG–7.
Docket No. RP93–61–000, U–T Offshore System
CAG–8.
Docket No. RP93–18–000, Questar Pipeline Company
CAG–9.
Docket Nos. RP93–62–000 and RS92–15–000, Equitrans, Inc.
CAG–10.
Docket No. RP93–55–000, Trailblazer Pipeline Company
CAG–11.
Docket No. RP93–48–000, Northwest Pipeline Corporation
CAG–12.
Docket No. RP85–39–009, Wyoming Interstate Company, Ltd.
CAG–13.
Docket No. RP93–51–000, Northwest Pipeline Corporation
CAG–14.
Omitted
CAG–15.
Docket Nos. RP92–166–004, 005 and 007, Panhandle Eastern Pipe Line Company
CAG–16.
Omitted
CAG–17.
Docket No. RM87–5–012, Inquiry into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines
Docket No. CP87–238–003, Ozark Gas Transmission System
CAG–18.
Docket Nos. RP93–20–003 and RP91–166–020, Northwest Pipeline Corporation
CAG–19.
Docket No. RP93–15–001, Southern Natural Gas Company
CAG–20.
Docket No. RP92–185–004, El Paso Natural Gas Company
CAG–21.
Docket No. RP92–166–008, Panhandle Eastern Pipe Line Company
CAG–22.
Docket No. GT93–6–001, Texas Eastern Transmission Corporation
CAG–23.
Docket No. RP92–235–001, United Gas Pipe Line Company
CAG–24.
Docket No. RP92–166–006, Panhandle Eastern Pipe Line Company
CAG–25.
Docket Nos. RP91–214–001 and RS92–60–005, El Paso Natural Gas Company
CAG–26.
Docket No. RP91–143–000, Great Lakes Gas Transmission Limited Partnership
CAG–27.
Docket Nos. TQ89–1–46–040, 025, 026, 005, RP86–165–000, *et al.*, RP86–166–000, *et al.*, and CP92–639–000, Kentucky West Virginia Gas Company
Docket No. CP92–640–000, Columbia Gas Transmission Corporation
Docket No. CP92–641–000, Inland Gas Company
CAG–28.
Docket Nos. RP90–109–000, 006, RP87–62–014 and RP86–148–009 (Phase I), Pacific Gas Transmission Company
CAG–29.
Docket Nos. IS87–36–000 and OR92–4–000, Endicott Pipeline Company
CAG–30.

Docket Nos. IS92–25–000 and 001, Amoco Pipeline Company
CAG–31.
Docket No. RM93–9–000, Annual Charge Adjustment Mechanism
CAG–32.
Docket No. RS93–87–004, Transwestern Pipeline Company
CAG–33.
Docket Nos. RP93–6–001 and RS92–75–001, Paiute Pipeline Company
CAG–34.
Docket Nos. RP93–14–002, RS92–28–004, and CP93–77–000, Algonquin Gas Transmission Company
CAG–35.
Docket Nos. RP84–82–012, RP92–164–005 and RP92–97–000, Tarpon Transmission Company
CAG–36.
Docket No. RM92–9–001, Regulations Governing Blanket Marketer Sales Certificates
CAG–37.
Docket No. CP90–687–008, Transcontinental Gas Pipe Line Corporation
CAG–38.
Docket No. CP91–2704–003, Blue Lake Gas Storage Company
Docket No. CP91–2705–002, ANR Pipeline Company
Docket No. CP91–2730–002, ANR Storage Company
CAG–39.
Omitted
CAG–40.
Docket Nos. CP89–460–001, 003, 006, 007, 008, 009, CP90–1–000, 002 and 003, Pacific Gas Transmission Company
CAG–41.
Docket Nos. CP93–57–000, RS92–82–000 and CP92–189–001, Superior Offshore Pipeline Company
Docket No. CP93–47–000, United Gas Pipe Line Company
Docket No. CP76–304, Transcontinental Gas Pipe Line Corporation
CAG–42.
Docket No. CP92–504–001, Arkla Energy Resources, a division of Arkla, Inc. and Arkla Energy Resources Company
CAG–43.
Docket No. CP88–570–007, Mobile Bay Pipeline Projects
Docket No. CP87–415–005, Florida Gas Transmission Company and Southern Natural Gas Company
Docket No. CP88–437–003, Tennessee Gas Pipeline Company
Docket No. CP89–464–004, Florida Gas Transmission Company, Southern Natural Gas Company, and Tennessee Gas Pipeline Company
Docket No. CP89–511–003, Texas Eastern Transmission Corporation and ANR Pipeline Company
Docket No. CP89–512–003, Texas Eastern Transmission Corporation
Docket No. CP89–513–003, Southern Natural Gas Company
Docket No. CP89–523–003, Transcontinental Gas Pipe Line Corporation, Florida Gas Transmission Company, Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation, and ANR Pipeline Company
Docket No. CP89–517–003, Southern Natural Gas Company
Docket No. CP89–522–004, Transcontinental Gas Pipe Line Corporation, Florida Gas Transmission Company, Tennessee Gas Pipeline Company, and Texas Eastern Transmission Corporation
Docket No. CP88–474–003, Texas Eastern Transmission Corporation
Docket No. CI91–16–002, Shell Gas Pipeline Company
CAG–44.
Docket No. CP92–233–003, El Paso Natural Gas Company
CAG–45.
Omitted
CAG–46.
Docket No. CP92–242–000, Northern Natural Gas Company
CAG–47.
Docket No. CP92–563–000, Williams Natural Gas Company
CAG–48.
Docket No. CP92–598–000, Transcontinental Gas Pipe Line Corporation
CAG–49.
Docket No. CP93–43–000, Colorado Interstate Gas Company
CAG–50.
Docket No. CP88–319–001, CNG Transmission Corporation
CAG–51.
Docket No. CP92–448–000, ANR Pipeline Company
CAG–52.
Omitted
CAG–53.
Docket No. TM91–6–37–001, Northwest Pipeline Corporation
CAG–54.
Docket No. RP93–57–000, El Paso Natural Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket Nos. EC92–21–000 and ER92–806–000, Entergy Services, Inc. and Gulf States Utilities Company. Order on proposed merger and proposed rates.
E–2.
Docket Nos. ER92–365–001, Entergy Services, Inc. Order on rehearing.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Restructuring Matters

RS–1.
Docket No. RS92–87–003, Transwestern Pipeline Company. Order on Order No. 636 compliance filing.
RS–2.
Docket No. RS92–3–000, Arkla Energy Resources, a division of Arkla, Inc. Order on Order No. 636 compliance filing.
RS–3.
Docket No. RS92–58–000, Caprock Pipeline Company. Order on Order No. 636 compliance filing.
RS–4.
Docket No. RS92–8–000, Northern Natural Gas Company. Order on Order No. 636 compliance filing.
RS–5.
Docket No. RS92–1–000, ANR Pipeline Company. Order on Order No. 636 compliance filing.

III. Producer Matters

PF–1.
Reserved

IV. Pipeline Certificate Matters

PC–1.
Omitted
PC–2.
Docket No. CP91–1925–001, Southwestern Glass Company, Inc. v. Arkla Energy Resources, a Division of Arkla, Inc. Order on complaint alleging undue discrimination.
P–3.
Docket No. CP93–75–000, Sunrise Energy Company v. Transwestern Pipeline Company. Order on complaint alleging undue discrimination.

Dated: January 19, 1993.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1888 Filed 1–21–93; 3:03 pm]

BILLING CODE 6717–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, January 27, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 19, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1774 Filed 1–21–93; 9:09 am]

BILLING CODE 6210–01–M

UNITED STATES INSTITUTE OF PEACE

DATE/TIME: Thursday January 28, 1993; 9:00 a.m. to 5:30 p.m.

LOCATION: 1550 M Street, NW. (Conference Room, First Floor), Washington, DC.

STATUS: (Open Session)—portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub Law. 98–525.

AGENDA: Approval of minutes of the Fifty-Sixth Meeting of the Board of Directors; Chairmans Report; Presidents Report; Program Reports;

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs and Information, Telephone: 202/457–1700.

Dated: January 19, 1993.

Bernice J. Carney,

Director, Office of Administration, United States Institute of Peace.

[FR Doc. 93–1775 Filed 1–21–93; 9:10 am]

BILLING CODE 3155–01–M

Corrections

Federal Register
Vol. 58, No. 14
Monday, January 25, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT3–5448; FRL–4543–6]

Approval and Promulgation of State Implementation Plans; Montana; Open Burning Regulation Revision

Correction

In rule document 92–30005 beginning on page 60485 in the issue of Monday, December 21, 1992, make the following correction:

1. On page 60486, in the second column, under **Final Action**, in the fourth paragraph, beginning in the fifth line, "February 19, 1992" should read "February 19, 1993".

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[FRL–4153–7]

Administrative Reporting Exemptions for Certain Radionuclide Releases

Correction

In proposed rule document 92–28513 beginning on page 56726 in the issue of Monday, November 30, 1992, make the following correction:

§ 302.6 [Corrected]

On page 56729, in the third column, in § 302.6(c)(1), in the third line, "tracks" should read "tracts".

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 235

[INS No. 1512–92
RIN 1115–AD17

Inspection of Persons Applying for Admission

Correction

In proposed rule document 92–30964 beginning on page 60741 in the issue of Tuesday, December 22, 1992, make the following correction:

§ 235.13 [Corrected]

On page 60742, in the first column, in § 235.13(b), in the fifth line, "25 percent" should read "15 percent".

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 430

RIN 3206–AE76

Performance Management and Recognition System

Correction

In rule document 92–30908 beginning on page 60715 in the issue of Tuesday, December 22, 1992, make the following correction:

§ 430.405 [Corrected]

1. On page 60717, in the first column, in § 430.405(g), in the third line from the end, "than to critical" should read "than to non-critical".

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–ASW–13]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 212 Helicopters

Correction

In proposed rule document 92–19762 beginning on page 37485 in the issue of Wednesday, August 19, 1992, make the following correction:

§ 39.13 [Corrected]

1. On page 37486, in the second column, under § 39.13(a)(2), in the first line, "If no cracks" should read "If cracks".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

[Number 16–41]

Execution of Tax Withholding Agreements

Correction

In notice document 92–30209 appearing on page 59201 in the issue of Monday, December 14, 1992, in the second column, the Number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

Correction

In notice document 92–30641 beginning on page 60538 in the issue of Monday, December 21, 1992, make the following corrections:

1. On page 60539, in the table, under 30 CFR part no. 7, in the next to last entry, after "14 Approval Extension—Electric Cables and Splice Kits" insert an asterisk.

2. On the same page, in the same table, under 30 CFR part no. 15, in the last entry, under Hourly rate insert "45" and under Flat rate remove "45" and insert leaders.

3. On page 60541, in the table, the entries under 30 CFR part no. 29 were printed incorrectly. It should read as follows:

FEE SCHEDULE EFFECTIVE 01–01–93

[Based on FY 1992 data]

30 CFR part No.	Part and action title	Hourly rate	Flat rate	Application fee
	* * * * *			
29	Portable dust analyzers and methane monitors:			
	12 Approval (testing included)	41		100
	14 Approval Extension (testing included)	41		100
	40 Stamped Notification Acceptance Program (SNAP)		314	
	* * * * *			

4. On page 60542, in the first column, under **NOTE**, in the fifth line, "incidence" should read "incidental".

BILLING CODE 1505–01–D

federal register

Monday
January 25, 1993

Part II

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Ohlone/Costanoan—Esselen Nation, P.O. Box 464, Palo Alto, California 94302 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on December 3, 1992, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, room 1362–MIB, 1849 C Street NW., Washington, DC 20240, phone: (202) 208–3592.

FOR FURTHER INFORMATION CONTACT: Michael Lawson, (202) 208–3592.

Dated: January 7, 1993.

Ron Eden,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–1689 Filed 1–22–93; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
January 25, 1993

Part III

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

Mandatory Guidelines for Federal Workplace Drug Testing Programs; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Mandatory Guidelines for Federal Workplace Drug Testing Programs

AGENCY: Substance Abuse and Mental Health Services Administration, PHS, HHS.

ACTION: Notice of proposed revisions.

SUMMARY: The Department of Health and Human Services (HHS) adopts scientific and technical guidelines for Federal drug testing programs and establishes standards for certification of laboratories engaged in urine drug testing for Federal agencies under authority of Public Law 100–71 and Executive Order No. 12564.

The current notice provides proposed amendments revising the Mandatory Guidelines for Federal Workplace Drug Testing Programs published in the **Federal Register** on April 11, 1988 (53 FR 11979). It incorporates changes based on the Agency's first four years of experience in implementing and administering these Guidelines, the experiences of those regulatory agencies citing these Guidelines in their Rules, and many of the recommendations developed by an Agency sponsored conference held in December 1989. There were over 250 attendees at that conference and they included representatives of employee unions, private companies, academia, government agencies, and laboratories. Seven working groups were formed to discuss the following topics: Analytical methods, specimen collection and reporting results, additional drug and cutoff levels, role of the medical review officer, performance testing, laboratory inspections, and monitoring laboratory performance. Additionally, in August 1990 the Agency chartered a Drug Testing Advisory Board, that meets quarterly, consisting of eminent scientists and laboratory directors to advise the Agency on all technical issues affecting the quality of forensic urine drug testing, to evaluate the standards used for laboratory certification for Federal workplace drug testing programs, and to make recommendations pertaining to all aspects of drug testing programs. During the past 2 years, the Board has been very active in addressing many of the topics discussed at the December 1989 conference and other issues associated with the National Laboratory Certification Program. This proposed notice incorporates many of the recommendations made by both the conference working groups and the Drug Testing Advisory Board. These changes are also necessary to ensure that Federal Workplace Drug Testing Program policies are consistent with those being proposed by other regulatory agencies for their regulated industries.

Copies of the above-cited April 11, 1988, **Federal Register** Notice may be obtained from the National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, Maryland 20852; tel. (301) 468–2600, toll-free tel. (800) 729–6686.

DATES: Comments on these proposed revisions to the Mandatory Guidelines are invited and must be submitted by March 26, 1993.

ADDRESSES: Written comments should be addressed to Joseph H. Autry III, M.D., Director, Division of Workplace Programs, SAMHSA, room 9–A–53, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Drug Testing Section, Division of Workplace Programs, SAMHSA, room 9–A–53, 5600 Fishers Lane, Rockville, Maryland 20857, tel. (301) 652-8840 or 652-8964.

SUPPLEMENTARY INFORMATION: These Guidelines, entitled "Mandatory Guidelines for Federal Workplace Drug Testing Programs," were developed in accordance with Executive Order No. 12564 dated September 15, 1986, and section 503 of Public Law 100–71, 5 U.S.C. 7301 note, the Supplemental Appropriations Act for fiscal year 1987 dated July 11, 1987. These Guidelines were published in final form on April 11, 1988.

Explanations of the proposed changes to the Mandatory Guidelines for Federal Workplace Drug Testing Programs are presented below according to the section of the Guidelines which they affect.

Subpart A—General

In section 1.2, the Secretary proposes that a definition for certifying scientists be added to ensure that all results are reviewed by an individual having the appropriate training and experience regarding laboratory practice applicable to test results he or she reviews. Sections 2.3(b) and 2.4(g) are amended to incorporate this definition. These amendments also provide that in certain laboratory situations a certifying scientist may be used who is only certified to review initial drug tests which are negative. Allowing laboratories to have appropriately trained individuals review negative initial test results could assist in decreasing the cost of testing without compromising the reliability of drug testing. The individual who certifies negative results would be expected, for example, to understand all aspects of immunoassay tests and quality assurance and examine negative test results in light of that knowledge. Individuals who certify positive test results are expected to understand all aspects of laboratory procedures and must examine the positive results in light of the immunoassay test, GC/MS results, quality assurance, chain of custody, and all other relevant factors. The Department believes that these requirements will ensure that quality testing is maintained.

The Secretary proposes that definitions for specimen chain of custody form and laboratory chain of custody form be added to section 1.2 to clarify the difference between an external form initiated at the collection site and internal forms used for maintaining chain of custody on specimens and aliquots in the laboratory. It is proposed that the definition for a permanent record book be deleted since all required information is indicated on each specimen chain of custody form.

Finally, the Secretary proposes that the definitions for calibrators, controls, and standards be added to define more clearly the requirements of laboratory testing.

Subpart B—Scientific and Technical Requirements

The Secretary proposes to amend section 2.1(c) to clarify that laboratories may test for possible adulteration or contamination to determine the validity of the specimen.

The Secretary proposes that sections 2.2 and 2.4 be amended by replacing each reference to "record book" or "permanent record book" with "specimen chain of custody form." The permanent record book is unnecessary since the "batch" chain of custody concept is no longer used and Federal agencies are now using a several part specimen chain of custody form, one copy of which is retained by the collection site and contains the same information that would normally be found in the permanent record book.

The Secretary proposes that the requirement to collect 60 mL of urine at the collection site be changed to 30 mL in section 2.2(f)(10). The Secretary proposes this change because the collection of a minimum of 60 mL of urine has led to difficulties in a substantial number of cases in which the donor is required to wait and provide additional urine, so that the final specimen is the accumulation of

intermittent collections. Accordingly, the Secretary proposes to decrease the urine volume to 30 mL. The Secretary believes this amount is adequate for the laboratory to complete the required testing and satisfy other program requirements.

The Secretary proposes that the temperature range specified in section 2.2(f)(13) be changed to read whole numbers from 32°–38°C/90°–100°F. This proposed change is based on practical reasons related to the normal divisions indicated on various types of temperature measuring devices. The Secretary believes that the slightly increased acceptable temperature range will have no significant impact on the opportunity for an individual to defeat the temperature measurement requirement of the collection procedure.

The Secretary proposes to amend sections 2.2(f)(13) and 2.2(f)(16) allowing Federal agencies, in contracting with collection sites, to have an individual, other than a collection site employee, observe the collection of a specimen whenever there is reason to believe the individual may have altered or substituted the specimen. The requirement that the individual be of the same gender as the employee still exists, however. This proposed change is based on the Department's belief that it is not always possible, under all contracts, to have a collection site employee of the same gender observe the collection. The Department believes this determination is best left to the individual Federal agencies.

The Secretary proposes that a new section 2.2(h), as redesignated, be added to describe the procedure to collect "split specimens." Allowing Federal agencies to collect "split specimens" is based on the Secretary's belief that this practice would not compromise the drug testing program, provided that both samples are handled with identical security, confidentiality, and chain of custody safeguards. The procedures proposed are intended to provide for these safeguards.

Among other things, all requirements for collection are to be followed with respect to both specimens (hereinafter referred to as Bottle A and Bottle B), including the requirement that a copy of the chain of custody form accompany each bottle processed under "split specimen" procedures. If the test of Bottle A is verified by the Medical Review Officer (MRO) as positive, the employee may request that the MRO direct that Bottle B be tested in a different HHS-certified laboratory for the presence of the drug(s) for which a positive result was obtained in the test of Bottle A. The test of Bottle B is treated as a retest and the result is transmitted to the MRO without regard to the confirmatory test levels of section 2.4(f)(1). The MRO is to honor such a request if it is made within 72 hours of the employee having actual notice that he or she tested positive. Personnel action required by the agency such as removal from a safety-sensitive position may proceed pending the results of the Bottle B analysis. If the result of the Bottle B analysis is negative, the MRO shall void the results of Bottle A. The Department believes that these proposed procedures provide for timely testing of Bottle B and provide for public safety.

The Secretary proposes to amend section 2.3(a) by simply changing the term "qualified individual" to read "responsible person" to reflect current program terminology. It does not change any educational (or other) requirement involving this individual.

A proposed amendment to the second sentence of section 2.4(b)(2) clarifies that aliquots and laboratory chain of custody forms are to be used by laboratory personnel for conducting initial and confirmatory tests while the original specimen and specimen chain of custody form remain in secure storage. This proposed amendment simply clarifies what is already expected of laboratories.

The Secretary proposes to amend section 2.4(e)(1) by changing the initial test level for marijuana metabolites from 100 ng/mL to 50 ng/mL. This proposed change reflects the advances in technology of immunoassay tests for marijuana metabolites that have occurred since the original Guidelines were adopted in 1988.

Sections 2.4(e)(2) and 2.4(f)(2) are proposed to be amended to require Federal agencies covered by Executive Order 12564 to submit in writing a proposed performance test program when seeking approval of the Secretary for testing of other drugs.

Sections 2.4(e)(3) and 2.4(f)(3) are added to clarify that specimens which test negative on initial immunoassay may be pooled for use in the laboratory's internal quality control program rather than discarded.

The Secretary proposes that section 2.4(e)(4) be amended to permit multiple immunoassay tests for the same drug or drug class to be performed. This would allow laboratories to use, for example, an initial test and then forward all presumptive positives for a second test by a different immunoassay technique to minimize possible presumptive positives due to the presence of structural analogues in the specimen. This procedure may decrease the cost of drug testing while maintaining the full reliability of drug testing since all test performed must meet all Guideline cutoffs and quality control requirements.

The Secretary proposes to amend section 2.4(f)(1) by requiring that a specimen reported as positive for only methamphetamine in the amphetamine class of drugs also contains the metabolite amphetamine at a concentration equal to or greater than 200 ng/mL by the confirmatory test. If this criterion is not met, the specimen must be reported as negative for methamphetamine. This additional requirement for reporting a specimen positive for methamphetamine ensures that high concentrations of sympathomimetic amines (including, but not limited to, ephedrine, pseudoephedrine and phenylpropanolamine) available in over-the-counter and prescription medications will not be misidentified as methamphetamine by the confirmatory test. This reporting criterion has been in effect as a temporary policy since December 22, 1990, and the Department is seeking comment on whether to make this a permanent requirement.

The Secretary proposes that the last sentence in section 2.4(g)(1), "The results (positive and negative) for all specimens submitted at the same time to the laboratory shall be reported back to the Medical Review Officer at the same time," be deleted. This requirement is no longer necessary or practical since individual specimen chain of custody forms, rather than a batch chain of custody form containing information on more than one urine specimen, are used for all Federal employee urine specimens.

The Secretary proposes that section 2.4(1) be amended to allow, but not require, an agency to carry out pre-award inspections and evaluation of the procedural aspects of the laboratory's drug testing operation. This change allows an agency to determine whether a pre-award inspection is necessary.

The Secretary proposes adding a new section 2.4(n)(6) and amending section 2.6(b), as redesignated, by restricting the types of arrangements that can exist between the MRO and the laboratory. The Department proposes to require that the agency's MRO not be an employee, an agent of, or have any financial interest in the laboratory for which the MRO is reviewing drug testing results. Similarly, the laboratory shall not have any relationship with the MRO that may be construed as a conflict of interest. The Secretary believes that these restrictions will assist in eliminating any conflict of interest between the MRO and the laboratory that may affect

the impartiality and objectivity of the MRO in reporting testing deficiencies or errors to appropriate agency officials.

The Secretary proposes that a new Section 2.5(d)(1) be added which requires agencies to purchase only blind quality control materials that have been (a) certified by immunoassay and GC/MS, and (b) have stability data which verifies their performance over time. This proposed requirement is included because there is no current uniform criteria for the preparation, certification, and stability of urine samples provided by numerous vendors for use in agencies' blind performance testing programs. Requiring the certification data will assist in preventing the use of materials that may be unacceptable as blind quality control specimens.

In section 2.5(d)(2), the requirement to maintain a minimum of 10 percent blind samples is proposed to be reduced to 3 percent (with a maximum of 100 samples) submitted per quarter. This change could significantly reduce the costs associated with maintaining a blind sample program without affecting the ability to monitor a laboratory's performance. In addition, the 3 percent requirement coincides with that adopted by the Department of Transportation for their regulated industry programs.

The Secretary proposes to add a new section 2.6(h), as redesignated, to clarify that the Medical Review Officer must report the final results of drug tests to the agency in writing and in a manner designed to ensure confidentiality of the information. This provision is simply a clarification of existing practice. Requiring final results to be in writing assists in preventing reporting errors. The Department also believes that the Medical Review Officer must transmit drug test results in a manner designed to ensure confidentiality of the information, since this is sensitive information.

Subpart C—Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies

It is proposed that the last sentence of section 3.4 be amended to clarify that a certified laboratory must inform all clients when procedures followed for those clients do not conform to the standards specified in these Guidelines or when any action is taken which suspends or revokes the laboratory's certification. Most certified laboratories promote themselves as "NIDA certified" and many clients rely on this certification. Thus, it is essential that clients are aware of any departure from the Guidelines or problems with the laboratory's certification.

It is proposed that section 3.12(c) be added to clarify the existing authority of the Secretary to take whatever action is necessary to ensure that certified laboratories continue to satisfy all provisions of these Guidelines and to ensure the full reliability of drug testing. This includes issuing directives to any laboratory suspending the use of certain analytical procedures when necessary to protect the integrity of the testing process; ordering any laboratory to undertake corrective actions to respond to material deficiencies identified in inspections or proficiency testing; ordering any laboratory to send aliquots of urine specimens to be tested at another laboratory when necessary to ensure the accuracy of testing under these Guidelines; reviewing private sector drug testing data to the extent necessary to ensure the full reliability of drug testing for Federal agencies; and taking any other action necessary to address deficiencies in drug testing, analysis, sample collection, chain of custody, reporting of results, or any other aspect of the certification program.

The Secretary proposes that section 3.17(c) be amended to change the PT challenges for certified laboratories from 6 cycles per year to 4 cycles per year. Experience in this and other performance testing programs indicates that 4 cycles per year is sufficient to assess a laboratory's ability to forensically test and report results for PT specimens.

The Secretary proposes that section 3.19(b)(4) be amended to allow a certified laboratory to report one quantitative result differing by more than 50 percent from the target value within any 3 consecutive cycles of performance testing. This change would allow a certified laboratory to make one administrative or technical error on a performance testing sample and be given an opportunity to take corrective action to ensure that this kind of error will not reoccur.

The Secretary proposes that new sections 3.15(e) and 3.22 be added to provide that the Secretary will announce in the **Federal Register** when laboratories are certified, those whose certifications have been suspended, or those whose certifications have been revoked. These provisions coincide with existing HHS policy. The Secretary does not propose to publish in the **Federal Register** notices of proposed revocation of laboratories whose certifications have not been suspended. Unlike suspended laboratories, these laboratories do not pose an immediate threat to the public health and welfare and may continue Federal employee drug testing until such time that the revocation becomes effective. These laboratories would also have an opportunity to request internal review of the decision to revoke.

Section 3.15(e) also provides that the written notice of the suspension which is sent to the laboratory will be made available to the public upon request, as well as the reviewing official's written decision which upholds or denies the suspension or proposed revocation under the procedures of subpart D.

The Secretary proposes to revise section 3.16 to clarify how a laboratory who has had its certification revoked may seek recertification. The Department proposes to revise that section to provide that, unless otherwise provided by the Secretary in the notice of suspension or proposed revocation under section 3.13(a) or the reviewing official's decision under section 4.9(e) or 4.14(a), a laboratory which has had its certification revoked and seeks to be recertified must meet the criteria of section 3.12(b), as well as all other requirements of the Guidelines, including the successful participation in three cycles of performance testing (sections 3.17(b) and 3.19(a)) and a laboratory inspection (sections 3.2(b) and 3.20). Once recertified, the laboratory must undergo a second inspection within three months, after which biannual inspections will be required to maintain certification (section 3.2(b)), as well as participation in the quarterly performance testing program (sections 3.2(b) and 3.17(c)).

The Secretary proposes to revise section 3.20 to clarify that inspectors are to perform inspections consistent with the guidance provided by the Secretary. This revision also clarifies that laboratories are required to follow good forensic laboratory practice in all aspects of their drug testing operations and are required to be in compliance with these Guidelines. It is the laboratory's responsibility to correct all deficiencies identified during the inspection and to have the knowledge, skill, and expertise to correct deficiencies consistent with good forensic laboratory practice.

Subpart D—Procedures for Review of Suspension or Proposed Revocation of a Certified Laboratory

The Secretary proposes to add a new subpart F which sets forth more detailed procedures for the review of an immediate suspension or proposed revocation of a certified laboratory that is provided for in section 3.15(b). In general, these procedures describe how laboratories may request an informal review of the immediate suspension and the proposed revocation and how the review will generally be conducted. The

presiding official will review documents and briefs that are submitted and may provide for a hearing at which time each party may present witnesses as agreed upon in a prehearing conference and may question the opposing party's witnesses.

More specifically, the procedures provide that a laboratory has 30 days from the written notice of suspension or proposed revocation or 3 days from notification for an expedited review of the suspension to request a review. The National Laboratory Certification Program (currently located in the Division of Applied Research at the National Institute on Drug Abuse) bears the burden of proving by a preponderance of the evidence that its decision to suspend or propose revocation is appropriate. If the reviewing official upholds the suspension and proposed revocation, the revocation will become effective immediately and, if the suspension and proposed revocation are denied, the suspension will be lifted immediately.

The procedures also provide for an abeyance agreement. That is, the parties may agree, upon mutually acceptable conditions, to hold the informal review procedures in abeyance for a reasonable time while the laboratory attempts to regain compliance with the Mandatory Guidelines. For example, if a laboratory receives notice of an immediate suspension and a proposed revocation and prefers to remedy the deficiencies rather than proceed immediately with an informal review, the parties involved may agree, upon mutually acceptable conditions, to extend the time periods for requesting review of the suspension or proposed revocation. If the dispute has been resolved, the request for review will be dismissed.

It is the Department's view that these procedures will provide a timely and fair review of suspensions or proposed revocations.

Several sections have been redesignated and other minor proposed changes have been made for grammatical and procedural clarification. All changes are presented below in a section-by-section format.

Information Collection Requirements

Any comments related to the Paperwork Reduction Act of 1980 may be sent to Allison Eydt: HHS Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Information collection and recordkeeping requirements which would be imposed on laboratories engaged in urine drug testing for Federal agencies concern quality assurance and quality control; security and chain of custody; documentation; reports; performance testing; and inspections as set out in sections 3.7, 3.8, 3.10, 3.11, 3.17, and 3.20. To facilitate ease of use and uniform reporting, a chain of custody form has been developed as referenced in sections 2.2(c) and 2.2(f).

The information collection and recordkeeping requirements contained in these Guidelines have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980.

Dated: July 7, 1992.

James O. Mason,

Assistant Secretary for Health.

Dated: August 25, 1992.

Louis W. Sullivan,

Secretary.

Accordingly, the following amendments are proposed to the Mandatory Guidelines for Federal Workplace Drug Testing Programs published on April 11, 1988 (53 FR 11979):

PROPOSED AMENDMENTS TO THE MANDATORY GUIDELINES FOR FEDERAL WORKPLACE DRUG TESTING PROGRAMS

The Table of Contents with all proposed changes included will be revised to read as follows:

Subpart A

1. Section 1.1(b) is deleted; sections 1.1(c–f) are redesignated sections 1.1(b–e), respectively.

2. Section 1.1(b) as redesignated is amended by deleting "Except as provided in 2.6."

3. Section 1.2 is amended by adding the following new definitions in alphabetical sequence:

Calibrator A sample used to prepare a calibration curve or cutoff of the assay.

Certifying Scientist An individual with at least a bachelor's degree in the chemical or biological sciences or medical technology or equivalent who reviews all pertinent data and quality control results. The individual shall have training and experience in the theory and practice of all methods and procedures used in the laboratory, including a thorough understanding of quality control practices and procedures relevant to the results that the individual certifies. Relevant training and experience shall also include the review, interpretation, and reporting of test results; maintenance of chain of custody; and proper remedial action to be taken in response to test systems being out of control limits or detecting aberrant test or quality control results.

Control A sample used to check the accuracy of a calibration.

Laboratory Chain of Custody Form The form(s) used by the testing laboratory to document the security of the specimen and all aliquots of the specimens during testing and storage by the laboratory. The form, which may account for an entire laboratory test batch, shall include the names and signatures of all individuals who accessed the specimens or aliquots and the date and purpose of the access.

Specimen Chain of Custody Form A form used to document the security of the specimen from time of collection until receipt by the laboratory. This form, at a minimum, shall include specimen identifying information, date and location of collection, name and signature of collector, name of testing laboratory, and the names and signatures of all individuals who had custody of the specimen from time of collection until the specimen was prepared for shipment to the laboratory.

Standard A reference material or solution used to prepare a calibrator or control.

4. Section 1.2, definition of Chain of Custody, second sentence, is amended to read as follows:

These procedures shall require that an OMB approved specimen chain of custody form be used from the time of collection to receipt by the laboratory and that upon receipt by the laboratory an appropriate laboratory chain of custody form(s) account for the sample or sample aliquots within the laboratory.

5. Section 1.2, definition of Initial Test, is amended to read as follows:

An immunoassay test to eliminate "negative" urine specimens from further consideration and to identify the class of drugs that requires confirmation.

6. Section 1.2 is amended by deleting the definition of Permanent Record Book.

Subpart B

1. In all sections where the term ml is used for milliliters), it is replaced with the term mL.

2. Section 2.1(c) is amended as follows:

Urine specimens collected pursuant to Executive Order 12564, Public Law 100–71, and these Guidelines shall be used only to test for those drugs included in agency drug-free workplace plans and may not be used to conduct any other analysis or test unless otherwise authorized by law except if additional testing is required to determine the validity of the specimen. Urine that tests negative by initial or confirmatory testing may, however, be pooled for use in the laboratory's internal quality control program.

3. Sections 2.2 and 2.4 are amended by substituting the terms "in the record book" or "in the permanent record book," wherever they appear, with "on the specimen chain of custody form."

4. Section 2.2(f)(9) is amended by deleting "collection site" in the second sentence.

5. Section 2.2(f)(10) is amended by replacing 60 milliliters with 30 milliliters (mL), deleting the second and the third sentence, and changing "(a glass of water)" in the fourth sentence to read "(e.g., an 8 oz glass of water every 30 min)."

6. Section 2.2(f)(13) is amended by changing "32.5°–37.7°C/90.5–99.8°F" to read "32°C/90°–100°F."

7. Section 2.2(f)(13) is amended by changing the phrase "direct observation of a same gender collection site person" to read "direct observation by a person of the same gender."

8. Section 2.2(f)(16) is amended in its entirety to read as follows:

When there is any reason to believe that a particular individual may have altered or substituted the specimen to be provided, another specimen shall be obtained as soon as possible under the direct observation of a person of the same gender and both specimens shall be forwarded to the laboratory for testing.

9. Section 2.2(f)(17) is amended by revising the second sentence to read as follows:

If the specimen is transferred to a second bottle, the collection site person shall request the individual to observe the transfer of the specimen and the placement of the tamper-evident seal/tape on the bottle. The tamper-evident seal may be in the form of evidence tape, a self-sealing bottle cap with both a tamper-evident seal and unique coding, cap and bottle systems that can only be sealed one time, or any other system that ensures any tampering with the specimen will be evident to laboratory personnel during the accessioning process.

10. Section 2.2(f)(21) is amended by deleting the second sentence.

11. Section 2.2(f)(23) is amended in its entirety to read as follows:

Based on a reason to believe that the individual may alter or substitute the specimen to be provided, a higher level supervisor shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct observation. The person directly observing the specimen collection shall be of the same gender.

12. Section 2.2(h), Transportation to Laboratory, is redesignated as § 2.2(i) and is amended by substituting the term "chain of custody documentation" with the term "specimen chain of custody form."

13. A new section 2.2(h) is added as follows:

Split Specimens. The employer may, but is not required to, use a split sample method of collection. If the urine specimen is split into two containers (hereinafter referred to as Bottle A and Bottle B), the following procedure shall be used:

(1) The individual shall urinate into a collection container. The collection site person, in the presence of the individual, after determining specimen temperature, pours the urine into two specimen containers labelled Bottle A and Bottle B.

(2) The first specimen bottle (Bottle A) is to be used for the drug test, and 30 mL of urine shall be poured into it. If there is no additional urine available for the second specimen bottle (Bottle B), the first specimen bottle (Bottle A) shall nevertheless be processed for testing.

(3) Up to 30 mL of the remainder of the urine shall be poured into the second specimen bottle (Bottle B).

(4) All requirements of this part shall be followed with respect to Bottle A and Bottle B, including the requirements that a copy of the chain of custody form accompany each bottle processed under split sample procedures.

(5) Any specimen collected under split sample procedures must be stored in a secured, refrigerated environment and an appropriate entry made on the specimen chain of custody form.

(6) If the test of the first specimen bottle (Bottle A) is positive, the individual may request that the MRO direct that the second specimen bottle (Bottle B) be tested in a different HHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the first specimen bottle (Bottle A). The MRO shall honor such a request if it is made within 72 hours of the individual's having received notice that he or she tested positive. The result of this test is transmitted to the MRO without regard to the cutoff levels used to test the first specimen bottle (Bottle A).

(7) Any action taken by a Federal agency as a result of a positive drug test (e.g., removal from performing a safety-sensitive function) may proceed pending the result of the test on the second specimen bottle (Bottle B).

(8) If the result of the test on the second specimen bottle (Bottle B) is negative, the MRO shall void the test result for Bottle A. Any action taken under paragraph (7) shall be reversed and the individual shall re-enter the group subject to random testing as if the test had not been conducted.

14. Section 2.3(a) is amended by substituting the term "responsible person" for the term "qualified individual."

15. Sections 2.3(b) and 2.4(g) are amended by substituting the term "certifying scientist(s)" for the terms "qualified individual(s)" and "responsible individual" and by deleting the last sentence in § 2.3(b).

16. Section 2.4(a)(1), last sentence, is amended to read as follows:

The laboratory shall maintain a record that documents the dates, time of entry and exit, and purpose of entry of authorized visitors, maintenance, and service personnel accessing secured areas.

17. Section 2.4(b)(2), second sentence, is amended to read:

Aliquots and laboratory chain of custody forms shall be used by laboratory personnel for conducting initial and confirmatory tests while the original specimen and specimen chain of custody form remain in secure storage.

18. Section 2.4(d), third sentence, is amended to read as follows:

When conducting either initial or confirmatory tests, every batch shall contain an appropriate number of standards and controls (see section 2.5 (b) and (c)).

19. Section 2.4(e)(1), the initial test level for marijuana metabolites appearing in the table, is amended by changing the value of "100" to "50."

20. Section 2.4(e)(2), second sentence, is amended to read:

The agency requesting the authorization to include other drugs shall submit to the Secretary in writing the agency's proposed initial test methods, testing levels, and performance test program.

21. Section 2.4(e)(3) is added to read as follows:

Specimens that test negative on all initial immunoassay tests will be reported negative. No further testing of these negative specimens is permitted and the samples shall either be discarded or pooled for use in the laboratory's internal quality control program.

22. Section 2.4(e)(4) is added to read as follows:

Multiple screening tests (also known as rescreening) for the same drug or drug class may be performed provided that all tests meet all Guideline cutoffs and quality control requirements (see section 2.5(b)). For example, a test is performed by immunoassay technique "A" for all drugs using the HHS cutoff levels, but presumptive positive amphetamines are forwarded for immunoassay technique "B" to eliminate any possible presumptive positives due to structural analogues. All tests must include all the appropriate quality control samples and use the HHS cutoffs.

23. Section 2.4(f)(1), first sentence, is amended by deleting the word "techniques" and the phrase "for each drug" and by adding after the word "confirmed" the phrase "for the class(es) of drugs screened positive on the initial screen." The third sentence is amended by replacing the phrase "greater than highest standard curve value" with "exceeds the linear range of the test." The table is amended by deleting the two asterisks on the morphine and codeine lines. A new superscript 3 is added to the methamphetamine line of the table with a new footnote to read "Specimen must also contain amphetamine at a concentration ≥200 ng/mL."

24. Section 2.4(f)(2), the second sentence, is amended to read as follows:

The agency requesting the authorization to include other drugs shall submit to the Secretary in writing the agency's proposed confirmatory test methods, testing levels, and proposed performance test program.

25. Section 2.4(f)(3) is added as follows:

Specimens that test negative on confirmatory tests shall be reported negative. No further testing of these specimens is permitted and the samples shall either be discarded or pooled for use in the laboratory's internal quality control program.

26. In section 2.4(g)(1), the last sentence is deleted.

27. In section 2.4(g)(2), two new sentences are added to read:

For amphetamines, to report a specimen positive for methamphetamine only, the specimen must also contain amphetamine at a concentration equal to or greater than 200 ng/mL by the confirmatory test. If this criterion is not met, the specimen must be reported as negative for methamphetamine.

28. Section 2.4(g)(5) is amended by replacing the phrase "individual responsible for day to day management of the drug testing laboratory or the individual responsible for testing to the validity of the test reports" with "certifying scientist."

29. Section 2.4(i) is amended by revising the title to read as follows:

Retesting of a Specimen (i.e., the reanalysis by gas chromatography/mass spectrometry of a specimen previously reported positive or the testing of Bottle B of a split specimen collection).

30. Section 2.4(l) is amended by replacing the word "shall" in the last sentence with the word "may."

31. In section 2.4(n)(2), the title and first sentence are amended as follows:

Calibrators and Controls. Laboratory calibrators and controls shall be prepared with pure drug standards which are properly labeled as to content and concentration.

32. A new section 2.4(n)(6) is added to read as follows:

(6) Restrictions. The laboratory shall not enter into any relationship with an agency's Medical Review Officer that may be construed as a potential conflict of interest or derive any financial benefit by having an agency use a specific Medical Review Officer.

33. Section 2.5(a) is amended by revising the first sentence as follows:

Drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process including but not limited to specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, certification of calibrators and controls, and validation of analytical procedures.

34. Section 2.5(b) is amended to read as follows:

Each analytical run of specimens to be screened shall include:

(1) Negative specimens certified to contain no drug;

(2) Positive controls fortified with known reference materials;

(3) Positive controls with the drug or metabolite at or near the threshold (cutoff);

(4) A sufficient number of calibrators to ensure and document the linearity of the assay method over time in the concentration area of the cutoff. After acceptable values are obtained for the known calibrators, those values will be used to calculate sample data;

(5) A minimum of 20 percent of all test samples shall be quality control specimens; and

(6) One percent of each run, with a minimum of at least one sample, shall be the laboratory's blind quality control samples to appear as normal samples to the laboratory analysts.

Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen shall be documented.

35. Section 2.5(d)(1), first sentence, is redesignated as section 1.1(f).

36. Section 2.5(d)(1), second sentence, is redesignated a new section 3.19(e) and the title "Other Performance Testing" is added prior to that sentence.

37. A new section 2.5(d)(1) is added to read as follows:

(1) Agencies shall only purchase blind quality control materials that have been certified by immunoassay and GC/MS and have stability data which verifies their performance over time.

38. Section 2.5(d)(2) is amended to read as follows:

During the initial 90-day period of any new drug testing program, each agency shall submit blind performance test specimens to each laboratory it contracts with in the amount of at least 50 percent of the total number of samples submitted (up to a maximum of 500 samples) and thereafter a minimum of 3 percent of all samples (to a maximum of 100) submitted per quarter.

39. Section 2.5(d)(4), the second sentence, is revised to read as follows:

A record shall be made of the Secretary's investigative findings and the corrective action taken by the laboratory, and that record shall be dated and signed by the individuals responsible for the day-to-day management and operation of the drug testing laboratory.

40. Section 2.5(d)(6), third sentence, is amended as follows:

This retesting shall be documented by a statement signed by the Responsible Person.

41. Section 2.6 on Interim Certification is deleted and sections 2.7 through 2.9 are redesignated as sections 2.6 through 2.8.

42. A new section 2.6(h) as redesignated is added to read as follows:

Reporting Final Results. The Medical Review Officer shall report the final results of the drug tests in writing and in a manner designed to ensure confidentiality of the information.

43. Section 2.6(b) as redesignated is amended by replacing the first sentence with the following sentences:

The Medical Review Officer shall be a licensed physician with knowledge of substance abuse disorders. The Medical Review Officer may be an employee of the agency or a contractor for the agency; however, the Medical Review Officer shall not be an employee or agent of or have any financial interest in the laboratory for which the Medical Review Officer is reviewing drug testing results. Additionally, the Medical Review Officer shall not derive any financial benefit by having an agency use a specific drug testing laboratory or have any relationship with the laboratory that may be construed as a potential conflict of interest.

44. The last sentence of section 2.6(d) as redesignated is amended to read as follows:

This requirement does not apply if the agency's GC/MS confirmation testing for opiates confirms the presence of 6-monoacetylmorphine since the presence of this metabolite is proof of heroin use.

45. Section 2.6(e) as redesignated is amended to read as follows:

Should any question arise as to the accuracy or validity of a positive test result, only the Medical Review Officer is authorized to order a reanalysis of the original sample or the analysis of Bottle B from a split specimen collection. Such retests are authorized only at laboratories certified under these Guidelines.

46. Section 2.6(f) as redesignated is amended to read as follows:

If the Medical Review Officer determines that there is a legitimate medical explanation for the positive test result, he or she shall take no further action and report the test result as negative.

Subpart C

1. In section 3.2(b), the fifth sentence is amended to read as follows:

Maintenance of certification requires participation in a quarterly performance testing program plus periodic, on-site inspections.

2. In section 3.4, the last sentence is corrected to read as follows:

Certified laboratories must clearly inform all clients when procedures followed for those clients do not conform to the standards specified in these Guidelines or when the laboratory undergoes a full or partial suspension or revocation.

3. A new section 3.12(c) is added to read as follows:

(c) Corrective Action by Certified Laboratories. A laboratory must meet all the pertinent provisions of these Guidelines in order to qualify for and maintain certification. The Secretary has broad discretion to take appropriate action to ensure the full reliability and accuracy of drug testing and reporting and to resolve problems related to drug testing and to enforce all standards set forth in these Guidelines. The Secretary shall have the authority to issue directives to any laboratory suspending the use of certain analytical procedures when necessary to protect the integrity of the testing process; order any laboratory to undertake corrective actions to respond to material deficiencies identified in inspections or proficiency testing; order any laboratory to send aliquots of urine specimens to be tested at another laboratory when necessary to ensure the accuracy of testing under these Guidelines; review private sector drug testing data to the extent necessary to ensure the full reliability of drug testing for Federal agencies; and take any other action necessary to address deficiencies in drug testing, analysis, sample collection, chain of custody, reporting of results, or any other aspect of the certification program.

4. Section 3.15, the title is changed from "Notice; Opportunity for Review" to read "Notice."

5. Section 3.15(a) is revised as follows:

(a) Written Notice. When a laboratory is suspended or the Secretary seeks to revoke certification, the Secretary shall immediately serve the laboratory with written notice of the suspension or proposed revocation by facsimile mail, personal service, or registered or certified mail, return receipt requested. This notice shall state the following:

(1) The reasons for the suspension or proposed revocation;

(2) The terms of the suspension or proposed revocation; and

(3) The period of suspension or proposed revocation.

6. In section 3.15(b), the second, third, and fourth sentences are deleted and the following added after the first sentence:

Subpart D contains detailed procedures to be followed for an informal review of the suspension or proposed revocation.

7. Section 3.15(e) is added to read as follows:

Public Notice. The Secretary shall publish in the **Federal Register** the name, address, and telephone number of any laboratory that has its certification suspended or revoked under section 3.13 or section 3.14, respectively, and the name of any laboratory which has its suspension lifted. The Secretary shall provide to any member of the public upon request the written notice provided to a laboratory that has its certification suspended or revoked, as well as the reviewing official's written decision which upholds or denies the suspension or proposed revocation under the procedures of subpart D.

8. Section 3.16, second sentence, is changed to read as follows:

Unless otherwise provided by the Secretary in the notice of suspension or proposed revocation under section 3.13(a) or the reviewing official's decision under section 4.9(e) or 4.14(a), a laboratory which has had its certification revoked and seeks to be recertified shall apply for recertification in accordance with this section. In order to be recertified, the laboratory shall meet the criteria of section 3.12(b), as well as all other requirements of these Guidelines, including the successful participation in three cycles of performance testing (sections 3.17(b) and 3.19(a)) and a laboratory inspection (sections 3.2(b) and 3.20). Once recertified, the laboratory must undergo

a second inspection within three months, after which biannual inspections will be required to maintain certification (section 3.2(b)), as well as participation in the quarterly performance testing program (sections 3.1(b) and 3.17(c)).

9. Sections 3.17 and 3.19 are amended by substituting "PT" as an abbreviation for performance testing, wherever that term appears.

10. Section 3.17(b) is amended by deleting the last sentence.

11. Section 3.17(c) is revised to read as follows:

(c) Four Challenges Per Year. After certification, laboratories shall be challenged with at least 10 PT specimens on a quarterly cycle.

12. The first sentence in § 3.18(b) is amended to read as follows:

PT specimens (as differentiated from blind quality control samples) shall be spiked with the drug classes and their metabolites that are required for certification (marijuana, cocaine, opiates, amphetamines, and phencyclidine) with concentration levels set by, but not limited to, one of the following schema: (1) At least 20 percent above the cutoff limit for the initial test; (2) near the cutoff limit as a directed specimen for confirmatory testing; and, (3) below the cutoff limit to assess the performance of analytical procedures at low concentrations.

13. The second sentence of section 3.18(b) is amended by adding "(directed specimens)" to the end of the sentence.

14. Section 3.18(b) is amended by including the following additional sentence at the end of the section:

Finally, PT specimens may be constituted with interfering substances.

15. Section 3.19(a)(2) is amended by deleting the phrase "for each shipment" in the first sentence. The second sentence of section 3.19(a)(2) is amended by changing the phrase "over the three cycles" to read "over the three consecutive PT cycles."

16. The first sentence of section 3.19(a)(3) is amended to read as follows:

An applicant laboratory shall obtain quantitative values for at least 80 percent of the total drug challenges which are ±20 percent or ±2 standard deviations (whichever range is larger) of the calculated reference group mean.

17. In section 3.19(b)(2) is amended to read as follows:

In order to remain certified, laboratories must successfully complete four cycles of performance testing per year. Failure of a certified laboratory to maintain a grade of 90 percent over the span of three consecutive PT cycles, i.e., to identify 90 percent of the total drug challenges and to confirm correctly 90 percent of the total drug challenges, may result in suspension or revocation of certification.

18. Section 3.19(b)(3) is amended to read as follows:

Quantitative values obtained by a certified laboratory for at least 80 percent of the total drug challenges must be ±20 percent or ±2 standard deviations (whichever range is larger) of the appropriate reference or peer group mean as measured over three consecutive PT cycles.

19. Section 3.19(b)(4) is amended to read as follows:

After achieving certification a laboratory is permitted one quantitative result differing by more than 50 percent from the target value within three consecutive cycles of PT. More than one error of this type within three consecutive PT cycles may result in a suspension or proposed revocation.

20. Section 3.19(b)(6), the first sentence, is amended to read as follows:

If a certified laboratory fails to maintain a grade of 90 percent over the span of three consecutive PT cycles after initial certification as required by paragraph (b)(2) of this section or if it fails to successfully quantitate results as required by paragraphs (b)(3), (b)(4), or (b)(5) of this section, the laboratory shall be immediately informed that its performance fell under the 90 percent level or that it failed to quantitate successfully test results and how it failed to quantitate successfully.

21. Section 3.20 is amended by adding the title "(a) Frequency" before the first sentence.

22. Section 3.20, the second and third sentences are replaced with the following:

(b) Inspectors. The Secretary shall establish criteria for the selection of inspectors to ensure high quality, unbiased, and thorough inspections. The inspectors shall perform inspections consistent with the guidance provided by the Secretary. Inspectors shall document the overall quality of the laboratory's drug testing operation.

(c) Inspection Performance. The laboratory's operation shall be consistent with good forensic laboratory practice and shall be in compliance with these Guidelines. It is the laboratory's responsibility to correct all deficiencies identified during the inspection and to have the knowledge, skill, and expertise to correct deficiencies consistent with good forensic laboratory practice. Consistent with sections 3.13 and 3.14, deficiencies identified at inspections may be the basis for suspending or revoking a laboratory's certification.

23. Section 3.22 is added to read as follows:

Listing of Certified Laboratories

A **Federal Register** listing of laboratories certified by HHS will be updated and published periodically. Laboratories which are in the applicant stage of HHS certification are *not* to be considered as meeting the minimum requirements in these Guidelines. A laboratory is not certified until HHS has sent the laboratory an HHS letter of certification.

Subpart D

1. A new subpart D describing procedures for review of suspension or proposed revocation is added to read as follows:

Subpart D—Procedures for Review of Suspension or Proposed Revocation of a Certified Laboratory

Section 4.1 Applicability.

These procedures apply when:

(a) The Secretary has notified a laboratory in writing that its certification to perform urine drug testing under these Mandatory Guidelines for Federal Workplace Drug Testing Programs has been suspended or that the Secretary proposes to revoke such certification.

(b) The laboratory has, within 30 days of the date of such notification or within 3 days of the date of such notification when seeking an expedited review of a suspension, requested in writing an opportunity for an informal review of the suspension or proposed revocation.

Section 4.2 Definitions.

Appellant Means the laboratory which has been notified of its suspension or proposed revocation of its certification to perform urine drug testing and has requested an informal review thereof.

Respondent Means the person or persons designated by the Secretary in implementing these Guidelines (currently the National Laboratory Certification Program is located in the Division of Workplace Programs, Substance Abuse and Mental Health Services Administration).

Reviewing Official Means the person or persons designated by the Secretary who will review the suspension or proposed revocation. The reviewing official may be assisted by one or more employees or consultants in assessing and weighing the scientific and technical evidence and other information submitted by the appellant and respondent on the reasons for the suspension and proposed revocation.

Section 4.3 Limitation of Issues Subject to Review.

The scope of review shall be limited to the facts relevant to any suspension or proposed revocation, the necessary interpretations of those facts, the Mandatory Guidelines for Federal Workplace Drug Testing Programs, and other relevant law. The legal validity of the Mandatory Guidelines shall not be subject to review under these procedures.

Section 4.4 Specifying Who Represents the Parties.

The appellant's request for review shall specify the name, address, and phone number of the appellant's representative. In its first written submission to the reviewing official, the respondent shall specify the name, address, and phone number of the respondent's representative.

Section 4.5 The Request for Informal Review and the Reviewing Official's Response.

(a) Within 30 days of the date of the notice of the suspension or proposed revocation, the appellant must submit a written request to the reviewing official seeking review, unless some other time period is agreed to by the parties. A copy must also be sent to the respondent. The request for review must include a copy of the notice of suspension or proposed revocation, a brief statement of why the decision to suspend or propose revocation is wrong, and the appellant's request for an oral presentation, if desired.

(b) Within 5 days after receiving the request for review, the reviewing official will send an acknowledgment and advise the appellant of the next steps. The reviewing official will also send a copy of the acknowledgment to the respondent.

Section 4.6 Abeyance Agreement.

Upon mutual agreement of the parties to hold these procedures in abeyance, the reviewing official will stay these procedures for a reasonable time while the laboratory attempts to regain compliance with the Mandatory Guidelines for Federal Workplace Drug Testing Programs or the parties otherwise attempt to settle the dispute. As part of an abeyance agreement, the parties can agree to extend the time period for requesting review of the suspension or proposed revocation. If abeyance begins after a request for review has been filed, the appellant shall notify the reviewing official at the end of the abeyance period advising whether the dispute has been resolved. If the dispute has been resolved, the request for review will be dismissed. If the dispute has not been resolved, the review procedures will begin at the point at which they were interrupted by the abeyance agreement with such modifications to the procedures as the reviewing official deems appropriate.

Section 4.7 Preparation of the Review File and Written Argument.

The appellant and the respondent each participate in developing the file for the reviewing official and in submitting written arguments. The procedures for development of the review file and submission of written argument are:

(a) *Appellant's Documents and Brief.* Within 15 days after receiving the acknowledgment of the request for review, the appellant shall submit to the reviewing official the following (with a copy to the respondent):

(1) A review file containing the documents supporting appellant's argument, tabbed and organized chronologically, and accompanied by an index identifying each document. Only essential documents should be submitted to the reviewing official.

(2) A written statement not to exceed 20 double-spaced pages, explaining why respondent's decision to suspend or propose revocation of appellant's certification is wrong (appellant's brief).

(b) *Respondent's Documents and Brief.* Within 15 days after receiving a copy of the acknowledgment of the request for review, the respondent shall submit to the reviewing official the following (with a copy to the appellant):

(1) A review file containing documents supporting respondent's decision to suspend or revoke appellant's certification to perform urine drug testing, tabbed and organized chronologically, and accompanied by an index identifying each document. Only essential documents should be submitted to the reviewing official.

(2) A written statement, not exceeding 20 double-spaced pages in length, explaining the basis for suspension or proposed revocation (respondent's brief).

(c) *Reply Briefs.* Within 5 days after receiving the opposing party's submission, or 20 days after receiving acknowledgment of the request for review, whichever is later, each party may submit a short reply not to exceed 10 double-spaced pages.

(d) *Cooperative Efforts.* Whenever feasible, the parties should attempt to develop a joint review file.

(e) *Excessive Documentation.* The reviewing official may take any appropriate step to reduce excessive documentation, including the return of or refusal to consider documentation found to be irrelevant, redundant, or unnecessary.

Section 4.8 Opportunity for Oral Presentation.

(a) *Electing Oral Presentation.* If an opportunity for an oral presentation is desired, the appellant shall request it at the time it submits its written request for review to the reviewing official. The reviewing official will grant the request if the official determines that the decision-making process will be substantially aided by oral presentations and arguments. The reviewing official may also provide for an oral presentation at the official's own initiative or at the request of the respondent.

(b) *Presiding Official.* The reviewing official or designee will be the presiding official responsible for conducting the oral presentation.

(c) *Preliminary Conference.* The presiding official may hold a prehearing conference (usually a telephone conference call) to consider any of the following: Simplifying and clarifying issues; stipulations and admissions; limitations on evidence and witnesses that will be presented at the hearing; time allotted for each witness and the hearing altogether; scheduling the hearing; and any other matter that will assist in the review process. Normally, this conference will be conducted informally and off the record; however, the presiding official may, at his or her discretion, produce a written document summarizing the conference or transcribe the conference, either of which will be made a part of the record.

(d) *Time and Place of Oral Presentation.* The presiding official will attempt to schedule the oral presentation within 30 days of the date appellant's request for review is received or within 10 days of submission of the last reply brief, whichever is later. The oral presentation will be held at a time and place determined by the presiding official following consultation with the parties.

(e) *Conduct of the Oral Presentation.*

(1) *General.* The presiding official is responsible for conducting the oral presentation. The presiding official may be assisted by one or more employees or consultants in conducting the oral presentation and reviewing the evidence. While the oral presentation will be kept as informal as possible, the presiding official may take all necessary steps to ensure an orderly proceeding.

(2) *Burden of Proof/Standard of Proof.* In all cases, the respondent bears the burden of proving by a preponderance of the evidence that its decision to

suspend or propose revocation is appropriate. The appellant, however, has a responsibility to respond to the respondent's allegations with evidence and argument to show that the respondent is wrong.

(3) *Admission of Evidence.* The rules of evidence do not apply and the presiding official will generally admit all testimonial evidence unless it is clearly irrelevant, immaterial, or unduly repetitious. Each party may make an opening and closing statement, may present witnesses as agreed upon in the prehearing conference or otherwise, and may question the opposing party's witnesses. Since the parties have ample opportunity to prepare the review file, a party may introduce additional documentation during the oral presentation only with the permission of the presiding official. The presiding official may question witnesses directly and take such other steps necessary to ensure an effective and efficient consideration of the evidence, including setting time limitations on direct and cross-examinations.

(4) *Motions.* The presiding official may rule on motions including, for example, motions to exclude or strike redundant or immaterial evidence, motions to dismiss the case for insufficient evidence or motions for summary judgment. Except for those made during the hearing, all motions and opposition to motions, including argument, must be in writing and be no more than 10 double-spaced pages in length. The presiding official will set a reasonable time for the party opposing the motion to reply.

(5) *Transcripts.* The presiding official shall have the oral presentation transcribed and the transcript shall be made a part of the record. Either party may request a copy of the transcript and the requesting party shall be responsible for paying for its copy of the transcript.

(f) *Obstruction of Justice or Making of False Statements.* Obstruction of justice or the making of false statements by a witness or any other person may be the basis for a criminal prosecution under 18 U.S.C. 1505 or 1001.

(g) *Post-hearing Procedures.* At his or her discretion, the presiding official may require or permit the parties to submit post-hearing briefs or proposed findings and conclusions. Each party may submit comments on any major prejudicial errors in the transcript.

Section 4.9 Expedited Procedures for Review of Immediate Suspension.

(a) *Applicability.* When the Secretary notifies a laboratory in writing that its certification to perform urine drug testing has been immediately suspended, the appellant may request an expedited review of the suspension and any proposed revocation. The appellant must submit this request in writing to the reviewing official within 3 days of the date the laboratory received notice of the suspension. The request for review must include a copy of the suspension and any proposed revocation, a brief statement of why the decision to suspend and propose revocation is wrong, and the appellant's request for an oral presentation, if desired. A copy of the request for review must also be sent to the respondent.

(b) *Reviewing Official's Response.* As soon as practicable after the request for review is received, the reviewing official will send an acknowledgment with a copy to the respondent.

(c) *Review File and Briefs.* Within 7 days of the date the request for review is received, but no later than 2 days before an oral presentation, each party shall submit to the reviewing official the following: (1) A review file containing essential documents relevant to the review, tabbed, indexed, and organized chronologically, and (2) a written statement, not to exceed 20 double-spaced pages, explaining the party's position concerning the suspension and any proposed revocation. No reply brief is permitted.

(d) *Oral Presentation.* If an oral presentation is requested by the appellant or otherwise granted by the reviewing official, the presiding official will attempt to schedule the oral presentation within 7–10 days of the date of appellant's request for review at a time and place determined by the presiding official following consultation with the parties. The presiding official may hold a pre-hearing conference in accordance with section 4.8(c) and will conduct the oral presentation in accordance with the procedures of section 4.8 (e), (f), and (g).

(e) *Written Decision.* The reviewing official shall issue a written decision upholding or denying the suspension or proposed revocation and will attempt to issue the decision within 7–10 days of the date of the oral presentation or within 3 days of the date on which the transcript is received or the date of the last submission by either party, whichever is later. All other provisions set forth in section 4.14 will apply.

(f) *Transmission of Written Communications.* Because of the importance of timeliness for these expedited procedures, all written communications between the parties and between either party and the reviewing official shall be by facsimile or overnight mail.

Section 4.10 Ex parte Communications.

Except for routine administrative and procedural matters, a party shall not communicate with the reviewing or presiding official without notice to the other party.

Section 4.11 Transmission of Written Communications by Reviewing Official and Calculation of Deadlines.

(a) Because of the importance of a timely review, the reviewing official should normally transmit written communications to either party by facsimile or overnight mail in which case the date of transmission or day following mailing will be considered the date of receipt. In the case of communications sent by regular mail, the date of receipt will be considered 3 days after the date of mailing.

(b) In counting days, include Saturdays, Sundays, and holidays. However, if a due date falls on a Saturday, Sunday, or Federal holiday, then the due date is the next Federal working day.

Section 4.12 Authority and Responsibilities of Reviewing Official.

In addition to any other authority specified in these procedures, the reviewing official and the presiding official, with respect to those authorities involving the oral presentation, shall have the authority to issue orders; examine witnesses; take all steps necessary for the conduct of an orderly hearing; rule on requests and motions; grant extensions of time for good reasons; dismiss for failure to meet deadlines or other requirements; order the parties to submit relevant information or witnesses; remand a case for further action by the respondent; waive or modify these procedures in a specific case, usually with notice to the parties; reconsider a decision of the reviewing official where a party promptly alleges a clear error of fact or law; and to take any other action necessary to resolve disputes in accordance with the objectives of these procedures.

Section 4.13 Administrative Record.

The administrative record of review consists of the review file; other submissions by the parties; transcripts or other records of any meetings, conference calls, or oral presentation; evidence submitted at the oral presentation; and orders and other documents issued by the reviewing and presiding officials.

Section 4.14 Written Decision.

(a) *Issuance of Decision.* The reviewing official shall issue a written decision upholding or denying the suspension or proposed revocation. The decision will set forth the reasons for the decision and describe the basis therefor in the record. Furthermore, the reviewing official may remand the matter to the respondent for such further action as the reviewing official deems appropriate.

(b) *Date of Decision.* The reviewing official will attempt to issue his or her decision within 15 days of the date of the oral presentation, the date on which the transcript is received, or the date of the last submission by either party, whichever is later. If there is no oral presentation, the decision will normally be issued within 15 days of the date of receipt of the last reply brief. Once issued, the reviewing official will immediately communicate the decision to each party.

(c) *Public Notice.* If the suspension and proposed revocation are upheld, the revocation will become effective immediately and the public will be notified by publication of a notice in the **Federal Register**. If the suspension and proposed revocation are denied, the revocation will not take effect and the suspension will be lifted immediately. Public notice will be given by publication in the **Federal Register.**

Section 4.15 Court Review of Final Administrative Action; Exhaustion of Administrative Remedies.

Before any legal action is filed in court challenging the suspension or proposed revocation, respondent shall exhaust administrative remedies provided under this subpart, unless otherwise provided by Federal law. The reviewing official's decision, under section 4.9(e) or 4.14(a), constitutes final agency action and is ripe for judicial review as of the date of the decision.

[FR Doc. 93–1575 Filed 1–22–93; 8:45 am]

BILLING CODE 4160–20–M

federal register

Monday
January 25, 1993

Part IV

Office of Management and Budget

Regulatory Review: Notice

OFFICE OF MANAGEMENT AND BUDGET

Regulatory Review

AGENCY: Office of Management and Budget.

ACTION: Request to Agencies.

SUMMARY: On January 22, 1993, the Office of Management and Budget issued a memorandum to regulatory agencies requesting that President Clinton's appointees have an opportunity to review and approve new regulations.

FOR FURTHER INFORMATION CONTACT: James B. MacRae, Jr., Acting Administrator and Deputy Administrator, Office of Information and Regulatory Affairs, (202) 395–5897.

SUPPLEMENTARY INFORMATION: The Director of the Office of Management and Budget issued the following memorandum, requesting the agencies to take certain actions with respect to regulatory activities. This memorandum is printed below in its entirety.

John B. Arthur,

Assistant Director for Administration.

Memorandum For the Heads and Acting Heads of Agencies Described in Section 1(d) of Executive Order 12291

From: Leon E. Panetta, Director.

Subject: Regulatory Review.

It is important that President Clinton's appointees have an opportunity to review and approve new regulations. Therefore, at the direction of the President, I am requesting that you please implement the following, effective immediately:

1. Subject to such exceptions as the Director of the Office of Management and Budget (the "Director") may determine for emergency situations or otherwise, no proposed or final regulation should be sent to the **Federal Register** for publication until it has been approved by an agency head or the delegee of an agency head who, in either case, is a person appointed by President Clinton and confirmed by the Senate.

2. You are requested to withdraw from the **Federal Register** for approval in accordance with paragraph 1, all regulations that have not yet been published in the **Federal Register** and that may be withdrawn under existing procedures of the Office of the **Federal Register.**

3. The requirements set out above do not apply to regulations that must be issued immediately because of a statutory or judicial deadline. Please notify the Director promptly of any such regulations.

4. If there are other regulations that you believe should not be subject to these requirements, please notify the Director immediately in the case of any regulations that have been submitted to the **Federal Register** and in a timely manner for any other regulations so that the Director may consider whether an exception to the requirements set out above may be appropriate.

5. Pending completion of a review, existing Executive Orders on regulatory management will continue to apply.

6. The term "regulation" in this memorandum has the meaning set forth in section 1(a) of Executive Order 12291, except that it includes regulations related to agency organization, management, or personnel.

This memorandum shall be published in the **Federal Register.**

[FR Doc. 93–1969 Filed 1–22–93; 12:05 pm]

BILLING CODE 3110–01–M

Reader Aids

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

S.J. Res. 1/P.L. 103-2
To ensure that the compensation and other emoluments attached to the office of Secretary of the Treasury are those which were in effect on January 1, 1989. (Jan. 19, 1993; 107 Stat. 4; 2 pages)

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ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board Service for Public Law Numbers is available on 202–275–1538 or 275–0920.

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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[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.

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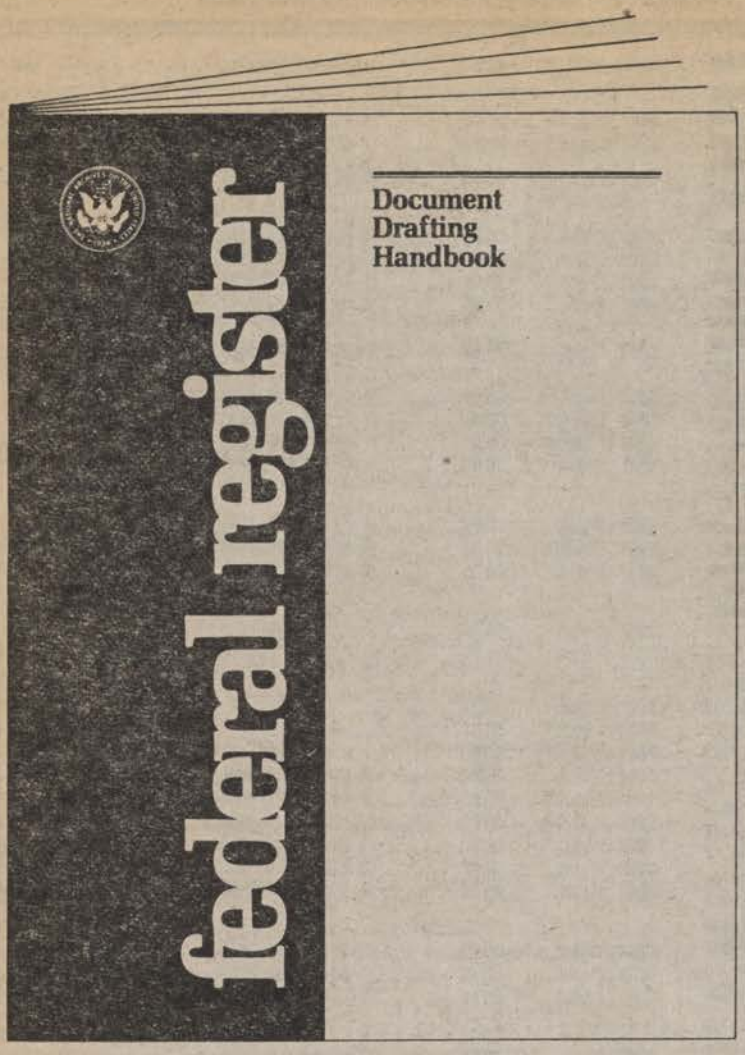

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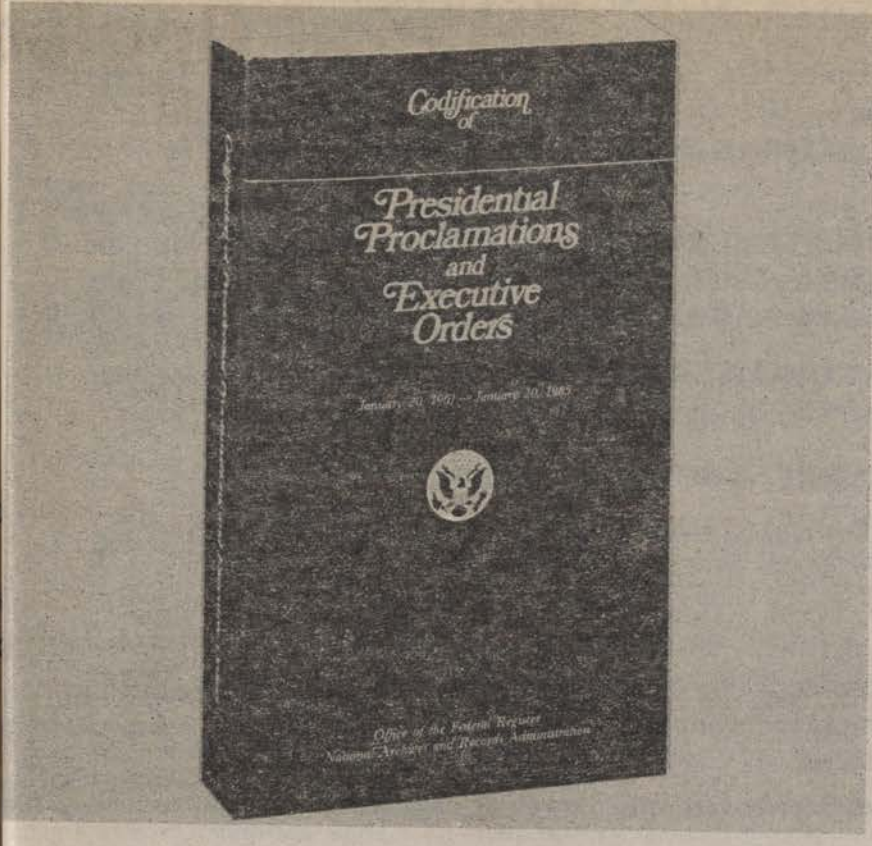

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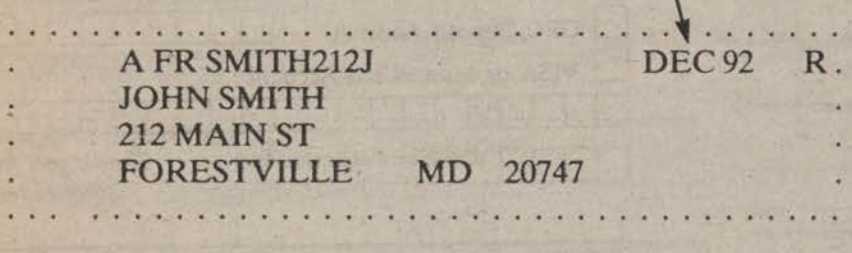

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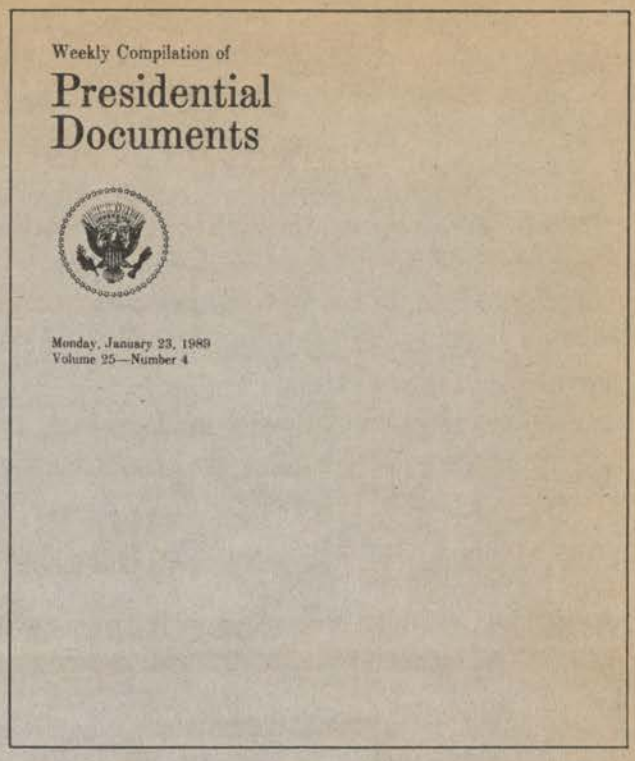

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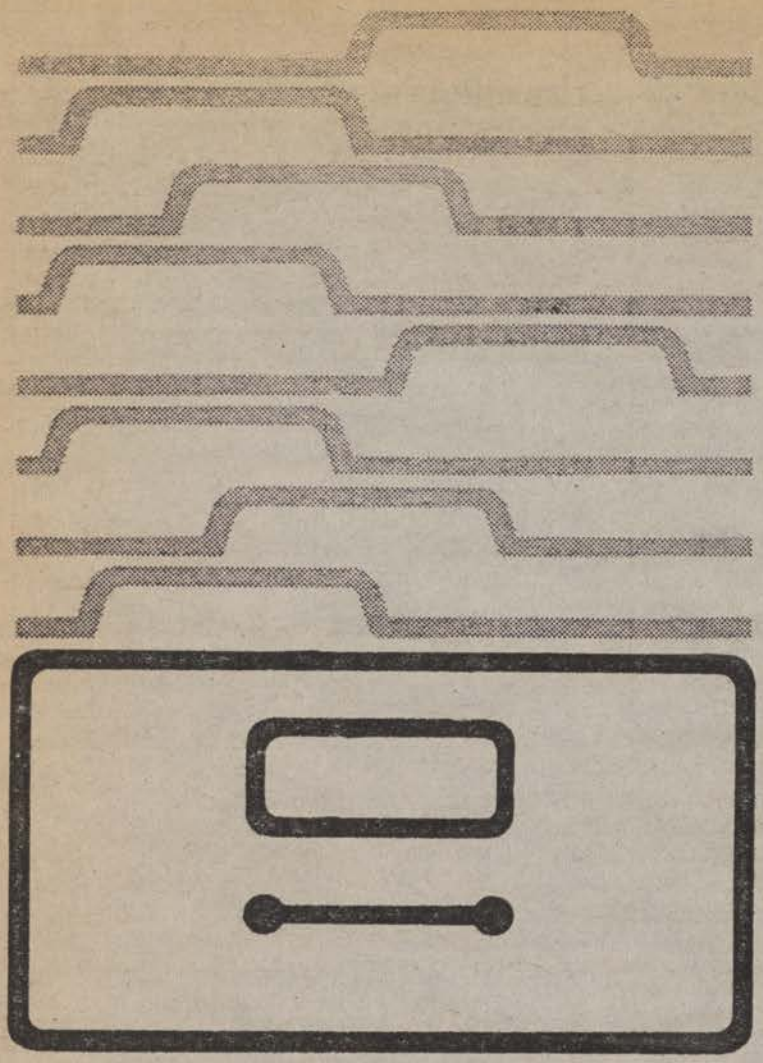

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