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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: June 15 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

PHILADELPHIA, PA

WHEN: May 25, at 1:00 pm
WHERE: William J. Green, Jr. Federal Building, Conference Room 6306–10, 600 Arch St. Philadelphia, PA
RESERVATIONS: Federal Information Center 1–800–347–1997

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 92–139–3]

Pine Shoot Beetle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the pine shoot beetle regulations by removing restrictions on logs and lumber, with bark attached, of fir, larch, and spruce, and by relieving certain restrictions on logs and lumber of pine. At the same time, we are adding pine stumps and pine bark nuggets (including bark chips) to the list of regulated articles. Immediate action is necessary to relieve unnecessarily burdensome restrictions before the spring shipping season, while continuing to prevent the interstate spread of the pine shoot beetle.

We are also adding Ingham County, MI, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the pine shoot beetle, a highly destructive pest of pine trees, into noninfested areas of the United States.

DATES: Interim rule effective May 13, 1993. Consideration will be given only to comments received on or before July 12, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92–139–3. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on 202–690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Milton C. Holmes, Senior Operations Officer, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The pine shoot beetle is a highly destructive pest of pine trees. The pine shoot beetle can cause damage in weak and dying trees, where reproduction and immature stages of pine shoot beetle occur, and in the new growth of healthy trees. The "maturation feeding" of young beetles takes the form of boring up the center of pine shoots (usually of the current year's growth), causing stunted and distorted growth in the host trees. The pine shoot beetle is also an important vector of several diseases of pine trees. Adults can fly at least one kilometer, and the wood, nursery stock, and Christmas trees they infest are often transported long distances.

This pest damages urban trees, and can cause economic losses to the timber, Christmas tree, and nursery industries.

The regulations in 7 CFR 301.50 (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the pine shoot beetle into noninfested areas of the United States. In a document effective on January 19, 1993, and published in the **Federal Register** on January 28, 1993 (58 FR 6346–6348, Docket No. 92–139–3), we amended the regulations by adding Will County, IL, to the list of quarantined areas; by allowing all pine nursery stock to be certified for interstate movement; and by allowing cut pine Christmas trees and pine nursery stock to be moved interstate after cold treatment.

Regulated articles, listed in § 301 50–2, present a significant risk of spreading the pine shoot beetle, and may not be moved interstate from quarantined areas except in accordance with conditions specified in §§ 301.50–4 through 301.50–10.

Logs and lumber, with bark attached, of fir (*Abies* spp.), larch (*Larix* spp.), and spruce (*Picea* spp.) were originally listed as regulated articles, based on scientific data from European countries where pine shoot beetle infestations have occurred. On the basis of newly available scientific data,[1] we have determined that logs and lumber, with bark attached, of fir (*Abies* spp.), larch (*Larix* spp.), and spruce (*Picea* spp.) in the United States do not pose a threat of spreading the pine shoot beetle. Therefore, we are removing them from the list of regulated articles in § 301.50–2(a).

At the same time, we have become aware that pine bark nuggets (including bark chips) and pine stumps present a significant risk of spreading the pine shoot beetle. Therefore, we are adding pine bark nuggets and pine stumps to the list of regulated articles in § 301.50–2(a). Because fumigation with methyl bromide is an efficacious treatment for pine bark nuggets and pine stumps, § 301.50–10(a) provides that pine bark nuggets and pine stumps may be treated with methyl bromide at normal atmospheric pressure. Pine bark nuggets and pine stumps treated in accordance with the regulations will be eligible for interstate movement with a certificate, under § 301.50–5.

Certificates are issued for the interstate movement of certain regulated articles upon a finding by an inspector that, because of certain conditions (e.g., the article is free of the pine shoot beetle), there is an absence of a pest risk prior to movement. Regulated articles accompanied by a certificate may be moved interstate without further restrictions being imposed.

Specifically, § 301.50–5(a) provides that an inspector will issue a certificate for the movement of certain regulated articles if, among other things, the inspector finds that the articles are free of the pine shoot beetle, have been treated under direction of an inspector in accordance with § 301.50–10, or are greenhouse-grown and come from a premises of origin free from the pine shoot beetle. Section 301.50–5(a)(iii) provides for certification of pine seedlings less than 24 inches tall, if an inspector finds them free of the pine shoot beetle, based on visual inspection. We recently determined that a visual inspection of pine seedlings up to 36 inches high, with a bole diameter at soil

[1] For information on this scientific data, contact the individual listed under "FOR FURTHER INFORMATION CONTACT."

level of 1 inch or less, can detect the presence of the pine shoot beetle. We are therefore revising § 301.50–5(a)(iii) to provide for certification of pine seedlings up to 36 inches high, as described. We have also determined that logs, lumber, and stumps of freshly felled pine trees, with bark attached, present no risk of being infested with the pine shoot beetle during the months of July through October, which is the period after adult pine shoot beetles have emerged and before the cyclical need for these sites (used for overwintering, breeding, and larval development) returns. Because these regulated articles will not be infested when shipped from a quarantined area during the months of July through October, they present no risk of spreading the pine shoot beetle. Therefore, we are amending § 301.50–5(a) to allow logs and lumber of freshly felled pine trees, with bark attached, and the stumps of such trees to be certified for unrestricted interstate movement during this 4-month period.

Further, we recently discovered a pine shoot beetle infestation in Ingham County, MI. The regulations in § 301.50–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the pine shoot beetle has been found by an inspector, or in which the Administrator has reason to believe the pine shoot beetle is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the pine shoot beetle has been found. In accordance with these criteria, we are designating Ingham County, MI, as a quarantined area, and adding it to the list of quarantined areas in § 301.50–3(c).

Finally, we are correcting a typographical error and making one technical correction. In § 301 50–10(b), we are correcting the temperature specified in degrees Celsius. The cold treatment occurs at −5 °F, which is −20.6 °C, not −23 °C, as previously specified. The regulations now read "−20.6 °C (−5 °F)".

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the pine shoot beetle from spreading to noninfested areas of the United States, and to remove unnecessary restrictions on nursery owners before the spring shipping season.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Hardwood harvests dominate the timber industry in the quarantined areas. Commercial timber companies in these areas do not harvest spruce and fir trees, and the standing inventory of commercial larch is currently 1,408 board feet.

The quarantined areas are deficit producers of logs, lumber, and wood products. This means that more pine logs, lumber, and wood products are shipped into these areas than are harvested or produced for interstate movement. For this reason, we consider it unlikely that small entities in the quarantined areas ship significant amounts of pine stumps or pine bark nuggets (exact figures are unavailable). Both for this reason, and because commercial timber companies in the quarantined areas harvest no spruce and fir, and minimal larch, removing spruce, fir, and larch logs and lumber, with bark attached, from the list of regulated articles is expected to have the same negligible effect on affected small entities as is listing pine stumps and pine bark nuggets as regulated articles. Similarly, we expect that allowing certification of pine logs and lumber, with bark attached, if felled and shipped during the period of July through October, will have an insignificant effect on affected small entities.

Allowing certification by visual inspection of pine seedlings up to 36 inches high, with a bole diameter no greater than 1 inch at soil level, will relieve a regulatory burden on the 516 small landscape nurseries within the areas quarantined because of the pine shoot beetle. Producers will no longer be required to cold-treat these pine seedlings before interstate shipment. Between 187,000 and 243,750 pine seedlings between 24 and 36 inches in height are shipped interstate from the quarantined areas annually. Cold-treating seedlings costs about $1.15 per plant. Therefore, this change will reduce producer costs by between $215,625 and $280,315 annually.

Most of the 25 small nurseries in Ingham County, MI, specialize in production of deciduous landscape products. According to local extension agents, Ingham County nurseries probably ship interstate about 500 dug pine Christmas trees and pine nursery stock products annually. APHIS estimates that cold treatments for these regulated articles could cost producers between $3.10 and $12.50 per plant (per-unit treatment costs vary due to tree size and treatment facility capacity). Therefore, this rule's restriction on the interstate movement of regulated articles from Ingham County could increase annual production costs for affected nurseries by between $1,550 and $6,240 cumulatively, or between $62 and $250 each. The seven small Christmas tree farms in Ingham County depend on the local choose-and-cut market for most of their annual Christmas tree sales. Less than 5 percent of the county's pine Christmas trees are sold through the wholesale market, few, if any, are shipped interstate. We, therefore, expect this rule to have a negligible effect on Ingham County cut Christmas tree producers.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires

intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this interim rule will be submitted for approval to the Office of Management and Budget.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.50–2, paragraph (a), is revised to read as follows:

§ 301.50–2 Regulated articles.

* * * * *

(a) Pine products (*Pinus* spp.), as follows: Christmas trees; logs with bark attached; lumber with bark attached; bark nuggets (including bark chips); nursery stock; and stumps.

* * * * *

3. In § 301.50–3, paragraph (c), under Michigan, a new county is added, in alphabetical order, to read as follows:

§ 301.50–3 Quarantined areas.

* * * * *

(c) * * *

Michigan

* * * * *

Ingham County. The entire county

* * * * *

§ 301.50–4 [Amended]

4. In § 301.50–4, paragraph (b)(1)(ii) is amended by removing the word "bettle" and adding the word "beetle" in its place.

§ 301.50–5 [Amended]

5. Section 301.50–5 is amended as follows:

a. In paragraph (a)(1)(iii), the phrase "less than 24 inches tall," is removed and the phrase "no greater than 36 inches high with a bole diameter at soil level of 1 inch or less," is added in its place.

b. In paragraph (a)(1)(iv), the last word "and" is removed and the word "or" is added in its place.

c. In paragraph (a)(2)(ii), the last word "and" is removed and the word "or" is added in its place.

d. New paragraphs (a)(1)(v) and (a)(2)(iii) are added to read as set forth below.

§ 301.50–5 Issuance and cancellation of certificates and limited permits.

* * * * *

(a) * * *

(1) * * *

(v) If the regulated article is a pine log with bark attached or pine lumber with bark attached or a pine stump, that its source tree has been felled during the period of July through October; and

(2) * * *

(iii) The pine log with bark attached, pine lumber with bark attached, or pine stump, from a tree felled during the period of July through October, will be shipped interstate from the quarantined area during the period of July through October; and

* * * * *

6. In § 301.50–10, paragraph (b) is amended by removing "-23" and adding "-20.6" in its place, and paragraph (a) is revised to read as follows:

§ 301.50–10 Treatments.

(a) Fumigation is authorized for use on pine logs with bark attached, pine lumber with bark attached, pine bark nuggets (including bark chips), pine stumps, and pine Christmas trees, as follows: Logs, lumber, stumps, and trees may be treated with methyl bromide at normal atmospheric pressure with 48 g/m^3 (3 lb/1000 ft^3) for 16 hours at 21 °C (70 °F) or above, or 80 g/m^3 (5 lb/1000 ft^3) for 16 hours at 4.5 - 20.5 °C (40 - 69 °F.).

* * * * *

Done in Washington, DC, this 7th day of May, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–11403 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–34–P

7 CFR Part 301

[Docket 92–033–3]

Mexican Fruit Fly; Removal From the Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Mexican fruit fly regulations by removing the quarantined area in Los Angeles County, CA, from the list of areas regulated because of the Mexican fruit fly, and by removing California from the list of States quarantined because of the Mexican fruit fly. We have determined that the Mexican fruit fly has been eradicated from California, and that restrictions are no longer necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. The interim rule relieved unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective December 30, 1992, and published in the **Federal Register** on January 5, 1993 (58 FR 217–219, Docket No. 92–033–2), we amended the regulations in 7 CFR part 301 by removing Los Angeles County, CA, from the list of areas in § 301.64–3(c) regulated because of the Mexican fruit fly, and by removing California from the list of States in § 301.64–3 quarantined because of the Mexican fruit fly.

Comments on the interim rule were required to be received on or before March 8, 1993. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12291 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the amendments to subpart "Mexican Fruit Fly," in 7 CFR part 301, that were published at 58 FR 217–219 on January 5, 1993.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 7th day of May 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–11407 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV–92–072FR]

California Kiwifruit; Establishment of Mail Balloting Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule without change in interim final rule which established mail balloting procedures for membership on the Kiwifruit Administrative Committee (committee). The California kiwifruit marketing order was amended to authorize the industry to nominate persons to serve on the committee through mail balloting. This action was recommended by the committee, the administrative agency which works with the Department in administering the marketing order program for kiwifruit grown in California. This action is intended to increase industry wide participation of growers in the selection process by authorizing mail balloting.

EFFECTIVE DATE: This final rule becomes effective on June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Mark A. Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96458, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 920 [7 CFR part 920], as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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

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

It is estimated that 65 handlers of California kiwifruit will be subject to regulation under the order during the current season, and there are approximately 600 kiwifruit producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms, which include kiwifruit handlers, are defined as those whose annual receipts are less than $3,500,000. A majority of the kiwifruit handlers and producers may be classified as small entities.

The interim final rule amending § 920.122 (7 CFR 920.122) was published in the Federal Register on December 30, 1992, with a 30-day comment period ending January 29, 1993. No comments were received.

This final rule finalizes an interim final rule which established mail balloting procedures for membership on the committee. The order was recently amended and changes became effective February 12, 1992 (57 FR 1217). The amendment changed provisions of the marketing order concerning the overall administration of the committee, including revising committee tenure requirements, adding authorization to change the terms of office, adding authorization for committee nominations to be conducted by mail, and adding authorization for late payment charges on delinquent handler assessments. The amendments are expected to improve the administration and operation of the program in order to benefit all kiwifruit growers and handlers.

At a meeting held April 7, 1992, the committee recommended changes in the nomination procedures. Specifically, the committee recommended procedures to conduct committee nominations by mail to increase grower participation in the nomination process. This change is intended to reduce the administrative costs associated with conducting committee nomination meetings, and reduce costs incurred by individual growers in travelling to and attending the meetings. Establishment of mail balloting procedures is expected to have a positive impact on both large and small kiwifruit growers and handlers.

Currently, the committee is composed of 12 members, each of whom have an alternate. The Committee consists of the following: one public member, one member from each of the eight grower districts, and three additional members from the three grower districts with the highest production.

Section 920.22 of the order provides for nominations of members to the committee by procedures conducted by the committee. Under this section, nominations for grower members may

be conducted at grower meetings held in each of the order's eight geographic districts. These meetings must be held prior to July 15 of each year with new terms of office beginning on August 1 of each year. This section also authorizes the committee to recommend to the Secretary procedures for conducting nominations by mail. The interim final rule established procedures to allow the committee to conduct committee nominations using mail ballots.

To implement mail balloting, the committee recommended the following procedures. Each year that nominations are to be made for particular districts, the committee will request nominations by mail from all kiwifruit growers in the districts involved, by a date to be specified by the committee. Nomination forms shall provide for names of nominees, as well as the nominating grower's name, address, telephone number, and signature. Candidates and growers may provide appropriate voluntary information on their candidates' qualifications to serve. Such information might include a background statement or resume. This information may be presented in the ballots submitted to growers.

After receiving nominations from growers, the committee and the Department, will evaluate the qualifications of nominees. If any nominees do not qualify, they will be so notified in writing. Submitted qualifying names will be listed on the ballot. Mail ballots will be sent to all growers by a date to be specified by the committee. Each grower should complete and mail in one ballot for the one district. If the grower produces in more than one district, the grower should vote in the one district for which the grower wishes to be represented. In addition, growers may nominate qualified individuals from the district involved other than those appearing on the ballot, by writing in such candidates' names on the mail ballots. Returned ballots will need to be postmarked by a date specified by the committee. The Department will tally the results. Candidates who receive the highest number of votes for each position will be presented to the Secretary for selection. If the vote is tied, another mail ballot will be sent to the affected districts, listing only candidates receiving the tie votes.

The above-described procedures will be utilized until the committee recommends to the Secretary additions to or modifications of these nomination procedures or the Department finds, through other sources, that such modifications are necessary.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. Chapter 35], the information collection provisions that are included in this final rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0149. It has been estimated that it will take an average of 20 minutes for each of the approximately 180 growers of kiwifruit expected to participate in the voluntary mail balloting process.

Based on the above information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities and that the action set forth herein will benefit producers and handlers of California kiwifruit.

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

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR Part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

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

2. For the reasons set forth in the preamble, the interim final rule amending 7 CFR part 920, which was published in the **Federal Register** (57 FR 62158, December 30, 1992) is adopted as a final rule without change.

Dated: May 7, 1993.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–11388 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 920

[Docket No. FV–92–100FR]

Kiwifruit Grown in California; Final Rule To Modify Administrative Rules Pertaining to Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies requirements pertaining to delinquent assessments by revising the time period specified for timely payment and adding a late payment charge on delinquent assessments owed by handlers under Marketing Order No. 920 covering kiwifruit grown in California. This action will contribute to the efficient operation of the program by ensuring that adequate funds are available to cover budgeted expenses incurred under the marketing order, and will promote more equitable treatment of kiwifruit handlers.

EFFECTIVE DATE: May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Mark A. Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 720–3923; or Robert Curry, California Marketing Field Office, Marketing Order Administration/Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, CA 93721; telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement and Order No. 920 [7 CFR part 920], both as amended, regulating the handling of kiwifruit grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, kiwifruit are subject to assessments. An assessment rate established under the marketing order is intended to be applicable to all assessable kiwifruit handled during a fiscal period. This final rule will modify requirements pertaining to delinquent assessments by revising the time period specified for timely payment and adding a late payment charge on delinquent assessments owed by handlers. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection

with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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

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

There are approximately 65 handlers of California kiwifruit subject to regulation under the marketing order and approximately 600 kiwifruit producers in the production area. The Small Business Administration [13 CFR 121.601] has defined small agricultural producers as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, met on July 22, 1992, and unanimously recommended modifying the administrative rules in effect under the order pertaining to delinquent handler assessments. The modification revises the time period specified for timely payment of assessments and adds a late payment charge for delinquent assessments owed by handlers.

Under section 920.41 of the marketing order, each person who first handles kiwifruit is required to pay a prorata share of the cost of administering the program. This cost is in the form of a uniform assessment rate applied to each handler's shipments.

Section 920.41 also provides that if a handler does not pay an assessment within the time prescribed by the committee, the assessment may be subject to an interest or late payment charge, or both. The authority to establish late payment charges was recently added to the order and became effective on February 12, 1992.

Section 920.112 of the rules and regulations in effect under the order specifies that delinquent assessments be subject to an interest of 1½ percent per month. Assessments are considered to be late 60 days after the date of the invoice sent to the handler by the committee. This rule will revise the deadline for assessment payments to recognize different billing procedures that are based upon the two methods in which handlers may choose to have their kiwifruit inspected.

Kiwifruit grown in California is harvested in late September or early October. The fruit is packed shortly after harvest and much of it is placed into storage until shipment. The primary shipping season extends through the following May, although some fruit is marketed during the summer months.

Whenever quality or size requirements are in effect for California kiwifruit, handlers are required to have their fruit inspected and certified as meeting those requirements. Handlers have a choice of two different inspection methods, referred to as "in-line" and "block" inspection. With in-line inspection, Kiwifruit is inspected during the packing process, prior to storage. With block inspection, the kiwifruit is inspected after it has been packed. Block inspections are typically performed just prior to shipment.

The committee bills handlers for assessments on a monthly basis, with invoices typically prepared the last day of each month. For fruit that is inspected in-line, the billing period runs from the first to the last of the month, and invoices are mailed at the end of the succeeding month. For block-inspected fruit, the billing period runs from the 16th of one month through the 15th of the next month; invoices are prepared at the end of the following month. Thus, under current procedures, the time lapse from the end of the billing period through the date of invoice is about 30 days for handlers utilizing in-line inspection and about 45 days for handlers choosing block inspection.

As previously indicated, assessment payments are currently deemed to be delinquent if they are not received within 60 days of the invoice date. Because invoices are prepared at the end of each month, handlers utilizing in-line inspections have 90 days after the end of the billing period in which to pay assessments before they are deemed delinquent. This time is extended to about 105 days for handlers choosing block inspections.

This action revises § 920.112 to provide that assessments due on in-line inspected kiwifruit be considered late if not received within 60 days of invoice, and those due on block-inspected kiwifruit be deemed late if not received within 45 days of invoice. This change will equalize the time between the end of the billing period and the deadline for receipt of assessments and should therefore promote more uniform treatment of handlers.

This rule also establishes a 10 percent late charge on assessments that are received 30 days or more after they are due. The 10 percent charge will apply only to the late assessment and not to accrue interest, and will not be compounded.

The timely payment of assessments is important to the efficient functioning of the marketing order program. The committee incurs expenses on a continuous basis and must be assured of a positive cash flow in order to meet its financial obligations. The establishment of a late payment charge, in addition to the current interest charge, will provide additional incentive for handlers to remit their assessments in a timely manner. This action should therefore contribute to the efficient operation of the program.

A proposed rule was published in the December 1, 1992, **Federal Register** [57 FR 56864] and afforded interested persons until December 31, 1992, to submit written comments.

One comment was received in opposition to the proposed rule from Mr. Richard J. Pescosolido. According to Mr. Pescosolido, there is no evidence of any existing problem in the billing and collecting of assessments, and that the proposed rule is a minor change that does not warrant government interference.

When the order was amended on February 12, 1992, adding authority for late payment charges, evidence was presented at the amendment hearing that there was an increasing problem with handler assessments being overdue and that interest charges were not correcting the problem. Overdue assessments as a percentage of total assessments billed had increased from 0.5 percent in fiscal year 1986 to 3.6 percent in fiscal year 1989. The committee as prescribing interest charges during this time, but handlers would often choose to incur interest charges in lieu of securing bank financing. The additional late payment

charges implemented by this rule will further encourage timely payments, which in turn will result in the more efficient operation of the program.

Further, this rule changes the current provisions that give handlers 15 days more to pay assessments from the end of the billing period if kiwifruit was block inspected instead of in-line inspected. Accordingly, this change would make the filling of handlers more equitable.

Mr. Pescosolido also argues that the 60 days allotted for assessments to become due is currently too short and that further reducing the time to 45 days would cause economic hardship for handlers. He states that on average handlers do not receive their money for fruit sold in less than 60 days. However, this final rule will make assessment due 90 days after the end of the billing period for both in-line and block inspection. For the first 30 days that the assessment payments are delinquent, only interest charges will be charged. Only after the assessment payment is delinquent for 30 days or more, or 120 days or more after the end of billing period, will a late payment be charged. The 60-day and 45-day periods mentioned by Mr. Pescosolido refer to the periods measured from the invoice date for in-line inspection and for block inspection, respectively. Thus, all handlers should have a reasonable amount of time in which to pay assessments without incurring the late payment charges that this rule establishes.

After thoroughly analyzing the comment received, the Department has concluded that this final rule is appropriate.

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

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** [5 U.S.C. 553] because the shipping season has started and therefore this rule should be implemented as soon as possible. Further, handlers are aware of this rule, which was recommended by the committee at a public meeting.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR Part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

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

2. Section 920.112 is revised to read as follows:

§ 920.112 Late payments.

Pursuant to § 920.41(a), interest will be charged at a 1.5 percent monthly simple interest rate. Assessments for kiwifruit inspected in-line shall be deemed late if not received within 60 days of invoice. Assessments for block-inspected kiwifurit shall be deemed late if not received within 45 days of invoice. A 10 percent late charge will be assessed when payment becomes 30 days late. Interest and late payment charges shall be applied only to the overdue assessment.

Dated: May 7, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–11385 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 932

[Docket No. FV92–932–2FR]

Olives Grown in California; Final Rule to Reallocate Handler Membership on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reallocates handler membership on the California Olive Committee (COC), the agency responsible for local administration of the California olive marketing order. This action will provide for more equitable representation between cooperative and independent olive handlers. This final rule reduces the number of cooperative handler members from four to two and provides independent handlers with those positions, thus, increasing independent handler membership to six positions. This action was unanimously recommended by the COC.

EFFECTIVE DATE: May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901; or Caroline Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456; telephone (202) 720–8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principle place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 5 handlers of olives regulated under this marketing order, and approximately 1,350 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms as those whose annual receipts are less than $3,500,000. A majority of the olive producers and none of the olive handlers may be classified as small entities.

A proposed rule concerning this action was issued on February 9, 1993, and published in the **Federal Register** (58 FR 8558, February 16, 1993), with a 15-day comment period ending March 3, 1993. No comments were received.

Pursuant to § 932.25 of the order, the California Olive Committee (COC) consists of 16 members. Each member has an alternate. Eight of the members are growers and eight are handlers. Section 932.25 further provides that the eight handler representatives be further allocated so that four members represent cooperative marketing organizations, hereinafter referred to as cooperative handlers, and four members represent marketing organizations which are not cooperative marketing organizations, hereinafter referred to as independent handlers. The order also provides that, under certain circumstances, cooperative and independent handler membership will be allocated based on the total volume of olives handled during the crop year in which nominations are made and in the preceding crop year. Under this provision, the cooperative or independent handler group that handled 65 percent or more of the total volume is entitled to five representatives on the COC. The handler group that handled 35 percent or less of the total volume is entitled to three representatives on the COC.

Section 932.25 contains authority for the COC, with the Secretary's approval, to reallocate membership as necessary to assure equitable representation on the COC. Recent changes in the olive industry have resulted in one of the only two cooperative handlers in the industry going out of business. As a result, five olive handlers remain: Four independent handlers and one cooperative handler. The COC therefore unanimously recommended that handler representation be reallocated to provide independent and cooperative handlers with six members and two members, respectively.

The olive industry and the COC have historically demonstrated a policy of maintaining equitable representation among handlers. Until 1968, the administrative rules and regulations in effect under the order limited each handler organization to only one member position on the COC. During the years that followed, the number of handlers in the industry declined while the number of member positions on the committee remained the same. Therefore, the administrative rules and regulations were changed in 1974 to specify that no more than two nominees for COC member positions may be affiliated with the same handler.

This final rule allocates two members to the remaining cooperative handler and six members to the independent handler group. This change will be in a new § 932.159, added to the order's administrative rules and regulations.

This action is intended to provide for more equitable handler representation on the COC. This action will not impose any additional costs on producers or handlers.

Based on the available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities, and the action will benefit both producers and handlers of California olives.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that this action will tend to effectuate the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Committee nominations are required to be held this year for terms of office on the COC beginning on June 1, 1993, and therefore this needs to be in effect as soon as possible; (2) handlers are aware of this action which was unanimously recommended by the COC at a public meeting; and (3) the proposed rule provided a 15-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–74.

2. A new § 932.159 is added to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 932.159 Reallocation of handler membership.

Pursuant to § 932.25, handler representation on the committee is reallocated to provide that two members shall represent cooperative marketing organizations and six members shall represent handlers who are not cooperative marketing organizations.

Dated: May 7, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–11386 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 985

[FV–92–985–1FR]

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1993–94 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 1993–94 marketing year. This action is taken in order to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the spearmint oil market. This action was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the order.

EFFECTIVE DATES: June 1, 1993, through May 31, 1994.

FOR FURTHER INFORMATION CONTACT: Christian Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in

the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, saleable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This final rule will establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 1993–94 marketing year, which begins on June 1, 1993. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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

The Far West spearmint oil industry is characterized by primarily small producers whose farming operations generally involve more than one commodity and whose income from farming operations is not exclusively dependent on the production of spearmint oil. The production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered under the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order normally accounts for more than 75 percent of U.S. production of spearmint oil annually.

The Committee reports that there are approximately 9 handlers and 253 producers of spearmint oil under the marketing order for spearmint oil produced in the Far West. Of the 253 producers, 160 producers hold "Class I" (Scotch) oil allotment base, and 136 producers hold "Class III" (Native) oil allotment base.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Far West spearmint oil producers and handlers may be classified as small entities.

The salable quantities and allotment percentages were recommended by the Committee at its October 15, 1992, meeting. The Committee recommended the salable quantities and allotment percentages for Scotch in a vote of 6 in favor, and 2 opposed, and for Native in a vote of 7 in favor, and 1 opposed.

The final rule establishes salable quantities of 716,164 pounds and 714,665 pounds, respectively, for Scotch and Native spearmint oils produced in the Far West and an allotment percentage of 41 percent for Scotch and 37 percent for Native spearmint oils produced in the Far West. This action limits the amount of spearmint oil that may be purchased from or handled for producers by handlers, during the 1993–94 marketing year, which begins on June 1, 1993. Salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980.

The amounts recommended for sale reflect a decrease in trade demand for both Scotch and Native spearmint oil over the past year.

The final salable quantities are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market needs which may develop for spearmint oil can be satisfied by an increase in the salable quantity which producers can fill with reserve stocks. The estimated reserve pools for Class I and Class III spearmint oil stand at 500,000 pounds and 900,000 pounds, respectively. Both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 1993–94 season may transfer such excess spearmint oil to a producer with spearmint oil production less than his or her annual allotment.

This final regulation is similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this action are expected to be offset by the benefits derived from improved returns.

The final salable quantity and allotment percentage for each class of spearmint oil for the 1993–94 marketing year, which begins on June 1, 1993, are based upon recommendations of the Committee and the following data and estimates: (1) "Class I" (Scotch) Spearmint Oil

(A) Estimated carryin on June 1, 1993—280,691 pounds.

(B) Estimated trade demand (domestic and export) for the 1993–94 marketing year—800,000 pounds.

(C) Recommended desirable carryout on May 31, 1993—0 pounds.

(D) Salable quantity required from 1993 regulated production—519,309 pounds.

(E) Total allotment bases for Scotch oil for the 1993–94 marketing year—1,746,742 pounds.

(F) Computed allotment percentage—29.73 percent.

(G) Recommended allotment percentage—41 percent.

(H) The Committee's recommended salable quantity—716,164 pounds.

(2) "Class III" (Native) Spearmint Oil

(A) Estimated carryin on June 1, 1993—225,127 pounds.

(B) Estimated trade demand (domestic and export) for the 1993–94 marketing year—850,000 pounds.

(C) Recommended desirable carryout on May 31, 1993—0 pounds.

(D) Salable quantity required from 1993 production—624,873 pounds.

(E) Total allotment bases for Native oil—1,931,528 pounds.

(F) Computed allotment percentage—32.35 percent.

(G) Recommended allotment percentage—37 percent.

(H) The Committee's recommended salable quantity—714,665 pounds.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle

on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The establishment of these salable quantities and allotment percentages will allow for anticipated market needs based on historical sales, changes and trends in production and demand, and information available to the Committee. Adoption of this final rule will provide spearmint oil producers with information on the amount of oil which should be produced for next season.

Notice of the proposal to establish the salable quantity and allotment percentage for each class of oil for the 1993–94 season was published in the December 7, 1992, issue of the **Federal Register** (57 FR 57695). Comments on the proposed rule were solicited from interested persons until January 6, 1993. No comments were received. The salable quantities and allotment percentages established by this final rule are identical to those contained in the proposed rule.

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

After consideration of all relevant matter presented, including the Committee's recommendations and other available information, it is found that the regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, and Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

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

2. A new § 985.212 is added to read as follows:

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

§ 985.212 Salable quantities and allotment percentages—1993–94 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins on June 1, 1993, shall be as follows:

(a) "Class 1" (Scotch) oil—a salable quantity of 716,164 pounds and an allotment percentage of 41 percent.

(b) "Class 3" (Native) oil—a salable quantity of 714,665 pounds and an allotment percentage of 37 percent.

Dated: May 7, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–11387 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 93–007–1]

Validated Brucellosis-Free States; New Jersey

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by adding New Jersey to the list of validated brucellosis-free States. We have determined that New Jersey meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on the interstate movement of breeding swine from New Jersey.

DATES: Interim rule effective May 13, 1993. Consideration will be given only to comments received on or before July 12, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–007–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Delorias M. Lenard, Senior Staff Veterinarian, Swine Health Staff, VS, APHIS, USDA, room 736, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7767.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*. The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) prescribe conditions for the interstate movement of cattle, bison, and swine.

Under the swine brucellosis regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirement for swine are based upon the disease status of the individual animal, or the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated brucellosis-free States, to include New Jersey. Validated brucellosis-free status is based on a State having:

(1) The necessary authorities for classification as a validated brucellosis-free State for swine;

(2) No known focus of swine brucellosis at the time of validation, and completion of one of several methods of surveillance; or no diagnosed case of swine brucellosis in the 12-month period preceding the classification, and a statistical analysis of the combined results of the Market Swine Testing program and other tests that indicate the testing is equivalent to either complete herd testing or slaughter surveillance during a 1- or 2-year period chosen by the State; and

(3) Certification by the appropriate animal health official, the Veterinarian in Charge, and the Administrator. A State may qualify as a validated brucellosis-free State regardless of the brucellosis status of feral swine in the State, if the feral swine are not in physical contact with domestic swine.

Breeding swine originating from a validated brucellosis-free State or herd may be moved interstate without having been tested with an official test for brucellosis within 30 days prior to interstate movement, which would otherwise be required.

After reviewing its brucellosis program records, we have concluded that New Jersey meets the criteria for classification as a validated brucellosis-free State. Therefore, we are adding New Jersey to the list of States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from New Jersey.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause to

publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of swine from New Jersey.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Swine herd owners in New Jersey will affected by this action, which allows breeding swine to be moved interstate from New Jersey without being tested for brucellosis. The official test required for brucellosis costs about $5 per animal. In 1992, approximately 241 swine were moved interstate from New Jersey. Assuming that all the swine moved interstate and breeding stock, we estimate that removing the testing requirement will result in a potential annual savings of $1,205 for swine herd owners in New Jersey.

Producers marketing breeding swine in New Jersey are all essentially small businesses, based on the definition of annual gross receipts of less than $500,000. However, this rule will impose no additional costs on any entities, large or small. It simply allows breeding swine to be moved interstate from New Jersey without being tested for brucellosis.

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

Executive Order 12372

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

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

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

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

§ 78.43 [Amended]

2. Section 78.43 is amended by adding "New Jersey," immediately after "New Hampshire,".

Done in Washington, DC, this 7th day of May 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–11406 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–34–M

9 CFR Part 94

[Docket No. 92–154–2]

Change In Disease Status of The Netherlands Because of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are declaring The Netherlands free of rinderpest and foot-and-mouth disease. There have been no outbreaks of foot-and-mouth disease in The Netherlands since 1984, and we have determined that rinderpest has not existed there since 1870. We are also adding The Netherlands to a list of countries that, although declared free of rinderpest and foot-and-mouth disease, are subject to special restrictions on the importation of their meat and other animal products into the United States. This revision relieves certain prohibitions and restrictions on the importation into the United States, from The Netherlands, of ruminants and fresh, chilled, and frozen meat from ruminants.

The Netherlands is not declared to be free of hog cholera and swine vesicular disease. Therefore, the importation from The Netherlands of swine and fresh, chilled, and frozen meat from swine will continue to be restricted because of these diseases.

We are also adding The Netherlands and Poland to the list of countries whose importation into the United States of llamas and alpacas is restricted.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Chief Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 753, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including rinderpest, foot-and-mouth disease, bovine spongiform encephalopathy, African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot-and-mouth disease exists in all countries of

the world except those listed in § 94.1(a)(2), which are declared to be free of these diseases.

On January 5, 1993, we published in the **Federal Register** (58 FR 264–266, Docket No. 92–154–1) a proposal to amend the regulations by adding The Netherlands to the list of countries declared to be free of rinderpest and foot-and-mouth disease.

We also proposed to add The Netherlands to the list in § 94.11(a) of countries declared free of rinderpest and foot-and-mouth disease that are subject to special restrictions on the importation of their meat and other animal products into the United States. The special restrictions placed on meat and meat products of ruminants and swine in § 94.11 generally require that the meat be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by an additional certificate, issued by an animal health official of the national government of the country declared free of the disease, assuring that the meat and meat products have not been commingled with or exposed to meat or other meat products originating in, imported from, or transported through a country infected with rinderpest or foot-and-mouth disease, and are otherwise handled in accordance with the requirements of § 94.11.

Additionally, we proposed to add The Netherlands to the list in § 94.1(d)(1) of countries in which rinderpest or foot-and-mouth disease has been known to exist and that are declared free of rinderpest and foot-and-mouth disease on or after September 28, 1990. The importation or entry of llamas and alpacas into the United States from countries on this list is restricted, unless in accordance with 9 CFR 92.435.

Miscellaneous

Finally, we proposed to add Poland to the list in § 94.1(d)(1). We declared Poland free of rinderpest and foot-and-mouth disease in a final rule published in the **Federal Register** on April 24, 1992 (57 FR 15002–15004, Docket No. 91–200). However, in that document, we neglected to add Poland to the list in § 94.1(d)(1). We proposed to add Poland to the list in order to correct our oversight.

We solicited comments concerning our proposal for a 60-day comment period ending March 8, 1993. We received one comment, from a livestock association, in favor of the proposal. Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12291 and Regulatory Flexibility Act

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

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This rule adds The Netherlands to the list in part 94 of countries declared to be free of rinderpest and foot-and-mouth disease. This action relieves restrictions imposed on the importation of live ruminants and fresh, chilled, and frozen meat of ruminants from The Netherlands into the United States. This action does not relieve restrictions on the importation of live swine and fresh, chilled, and frozen meat of swine because The Netherlands is still considered to be affected with hog cholera and swine vesicular disease.

Based on available information, the Department does not anticipate a major increase in exports of fresh, chilled, or frozen meat of ruminants from The Netherlands into the United States as a result of this rule. In 1990, total meat production in the United States (excluding pork) was just over 10.6 million metric tons. In comparison, in 1990, total meat production (excluding pork) in The Netherlands was only 554,000 metric tons, which amounts to about 5 percent of U.S. production. Since The Netherlands' cattle industry is relatively small, it is unlikely that The Netherlands will export a significant portion of its meat production exclusively to the United States. Therefore, any effect on domestic prices or supplies will be insignificant. Increases in imports of live ruminants from The Netherlands are also unlikely because of high transportation costs.

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been submitted and approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0015.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

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

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

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

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding "The Netherlands," immediately after "Mexico,".

3. In § 94.1, paragraph (d)(1) is amended by adding ", The Netherlands, and Poland" immediately after "Chile"

§ 94.11 [Amended]

4. In § 94.11, the first sentence in paragraph (a) is amended by adding "The Netherlands," immediately after "Japan,".

Done in Washington, DC, this 7th day of May 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–11404 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 97

[Docket No. 93–015–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services (VS) by removing and adding commuted traveltime allowances for travel between various locations in North Dakota and Tennessee. Commuted traveltime allowances are the period of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by VS employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime between these locations.

EFFECTIVE DATE: May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Louise R. Lothery, Director, Resource Management Support, VS, APHIS, USDA, room 739, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal byproducts, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of VS on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the service in accordance with 9 CFR part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in North Dakota and Tennessee. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register.**

Executive Order 12291 and Regulatory Flexibility Act

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

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Executive Order 12372

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

Accordingly, 9 CFR part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 97 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741, 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 97.2 is amended by removing or adding in the table, in alphabetical order, the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES
[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Remove:			
* * *	*	*	
Tennessee:			
Nashville	.....	.....	2
* * *	*	*	
Add:			
* * *	*	*	
North Dakota:			
* * *	*	*	
Pembina	Fargo	.....	6
* * *	*	*	
Tennessee:			
* * *	*	*	
Nashville	.....	2	
* * *	*	*	

Done in Washington, DC this 7th day of May 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-11405 Filed 5-12-93; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 93-50]

RIN 1550-AA61

Small and Medium-Sized Business and Farm Loan Documentation Exemption for Qualifying Associations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Interim final rule with request for comment.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing an interim final rule with request for comment to revise its loan documentation regulation. The Federal banking agencies—the OTS, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Board—have recently issued an interagency policy statement on documentation for loans to small and medium-sized business and farms. With respect to well- or adequately capitalized, well-managed savings associations, the elimination of unnecessary documentation for small business and farm lending will reduce costs to the institution and the time it takes to respond to credit applications without adversely affecting the institution's safety and soundness.

OTS currently requires the maintenance of specific documentation for all types of loans.

To conform this rule with the policies expressed in the interagency statement and to alleviate the restrictions on credit availability that may result from documentation requirements that are not necessary to ensure prudent lending, OTS is amending the loan documentation rule to permit eligible institutions to reduce loan documentation for qualifying loans in accordance with the criteria established by the interagency policy. Thus, loans that qualify for the exemption will be evaluated solely on the basis of performance and will not be subject to examiner criticism on documentation grounds. OTS is requesting comment from interested parties on all aspects of this interim final rule.

DATES: Effective May 13, 1993. Comments must be received on or before June 14, 1993.

ADDRESSES: Send comments to Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, Attention Docket No. [93-50]. These submissions may be hand delivered to 1700 G Street NW., from 9 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7753 or (202) 906-7755. Submissions must be received by 5 p.m. on the day they are due in order to be considered by the OTS. Late-filed, misaddressed or misidentified submissions will not be considered in this rulemaking. Comments will be available for inspection at 1776 G Street NW., Level 1C.

FOR FURTHER INFORMATION CONTACT: Laurie Nicoli, Counsel (Banking and Finance), (202) 906-7452, Regulations and Legislation Division; Robert Fishman, Program Manager, (202) 906-5672, Policy; Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

As set forth more extensively in an interagency policy statement issued on March 30, 1993,[1] the four Federal banking agencies, including OTS, believe that problems with the availability of credit, particularly to small and medium-sized business and farms, may be attributed to several factors. Among these factors are the impact of certain supervisory policies and examination practices and the increase in regulation mandated by recent legislation.

One of the supervisory policies the agencies have committed to re-examining is the amount and type of documentation that they will require of depository institutions to support loans to small and medium-sized business and farms. Documentation of a lending decision serves a number of important purposes. It facilitates an institution's assessment of the risks of a loan; it identifies the source of repayment; and it ensures that the institution's claim against the borrower is legally enforceable.

As the Federal banking agencies stated in the March 30, 1993 policy statement, however, requiring documentation by adequately capitalized institutions beyond that necessary to support sound credit decisions and meet other relevant criteria is not always cost-effective. Unnecessary documentation can add to a financial institution's costs without improving its credit quality. Moreover, such documentation may impede the institution from responding in a timely manner to the legitimate credit needs of its community.

In light of concerns regarding the availability of credit, especially to small and medium-sized businesses and farms, OTS is reassessing the requirements of its loan documentation regulation. 12 CFR 563.170(c).[2] OTS's

[1] *See* Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and OTS, "Interagency Policy Statement on Documentation of Loans for Loans to Small and Medium-Sized Businesses and Farms" (March 30, 1993). This loan documentation policy statement implements one aspect of a larger program being undertaken by the agencies to address problems of credit availability. *See* OCC, FDIC, FRB, and OTS, "Interagency Policy Statement on Credit Availability" (March 10, 1993) *See also* Remarks by the President on Policy to Alleviate the Credit Crunch (March 10, 1993) (issued by the White House, Office of the Press Secretary) (announcing the Federal banking agencies' credit availability program).

[2] The current OTS requirements for loan documentation are set forth at 12 CFR 563.170(c). The regulation requires, for example, for all loans not secured by real estate, that the lender's records include: an application for the loan, signed by the borrower, which discloses the purpose of the loan; a note evidencing the borrower's obligation to repay the amount of the loan, executed by the borrower; a financial statement, current at the time of the loan and signed by the borrower, that discloses its financial ability to repay the loan (or a written credit report); documentation showing when and by whom such loan was approved and any terms and conditions of such approval; and documentation showing the date, amount, purpose, the recipient of every disbursement of the proceeds of such loan. Moreover, if the loan is made to a business entity, the regulation requires that the records also include

review is intended to ensure that the level and type of documentation required is tied more closely to an institution's actual documentation needs and to the level of safety and soundness concerns it presents. While OTS will continue to require financial institutions to maintain documentation standards that are consistent with prudent lending policies, OTS has preliminarily concluded that it may not be necessary for all institutions to maintain all the documentation presently required by § 563.170(c) for all loans. Therefore, OTS is amending its recordkeeping regulation to allow institutions rated MACRO 1 or 2 (and that meet other specified criteria) to reduce loan documentation for qualifying loans to small and medium-sized businesses and farms.

This interim final rule is necessary to implement the March 30, 1993 policy statement issued by the Federal banking agencies in order to immediately improve the availability of credit by reducing the administrative burden on thrifts in the processing of loans to creditworthy borrowers.

II. Description of the Interim Final Rule

This interim final rule amends OTS's current recordkeeping regulation, 12 CFR 563.170, to provide an exemption for qualifying loans at eligible institutions. Following the standards discussed in the March 30, 1993 policy statement, the amended regulation permits well- or adequately capitalized institutions with a MACRO 1 or 2 rating to identify a portion of their portfolio of small and medium-sized business and farm loans that will be evaluated solely on performance and will be exempt from examiner criticism on documentation grounds. While thrift management will retain responsibility for the credit quality assessment and loan loss allowance for these loans, the lending institution will not be subject to criticism for the documentation of these loans.

The details of the exemption are as follows:

—*Documentation exemption.* Each institution eligible for the exemption provided in this regulation may assign qualifying loans, subject to the aggregate limit on such loans, to an exempt portion of the portfolio. Loans assigned to this exempt portion will not be reviewed for the completeness of their documentation during the examination of the institution. Assignments of loans to the exempt portion must be made in writing, and an aggregate list or accounting segregation of the assigned loans must be maintained, including the performance status of each loan.

—*Restrictions on loans in the exempted portion of the portfolio.* The institution must fully evaluate the collectibility of exempt loans in determining the adequacy of its general valuation allowance (GVA) attributable to such loans and include the evaluation in its internal records of its assessment of the adequacy of its GVA. Once a loan in the exempt portion of the portfolio becomes more than 60 days past due, the loan may be reviewed and classified by an OTS examiner; however, any decision to classify would be based on credit quality and not on the level of documentation.

—*Eligible institutions.* An institution is eligible for the documentation exemption if: (1) The institution is well- or adequately capitalized under OTS's prompt corrective action regulations;[3] and (2) during its most recent report of examination, the institution was assigned a composite MACRO rating of 1 or 2.

—*Ineligible loans.* Loans to any executive officer, director, or principal shareholder of the institution, or to any related interest of that person, or loans which are delinquent as of the selection date, may not be included in the exempt category of loans.[4]

—*Aggregate limit on loans.* The aggregate value of all loans assigned to the basket of loans provided for in the exemption may not exceed 20 percent of the institution's total capital, as defined in OTS's capital regulations.[5]

—*Limit on value of individual loan.* A loan, or group of loans to any one borrower, assigned to the exempt category may not exceed $900,000 or 3 percent of the institution's total capital, as defined in OTS's capital regulations,[6] whichever is the smaller amount.

—*Transition from eligibility to ineligibility.* An institution that has properly assigned loans to the exempt portion of its portfolio pursuant to this statement but subsequently fails to qualify as an eligible institution may not add new loans (including renewals) to this category.

III. Continuing Review of Loan Documentation Rules and Policies

OTS is currently reviewing its loan documentation requirements in connection with the anticipated promulgation of regulations pursuant to section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991. In connection with that project, OTS may propose a repeal or modification of the extensively detailed requirements currently set forth in section 563.170(c), as well as this amendment. Comments received in response to this interim final rule will also be considered during that review.

IV. Treatment of Small and Medium-sized Business and Farm Loans Not Qualifying for Exemption

OTS will continue current examination practices with regard to documentation of small and medium-sized business and farm loans at institutions not qualifying for the exemption and loans at qualifying institutions that are not assigned to the exempt category.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, OTS has found good cause to dispense with both prior notice and comment on this interim final rule, and a thirty-day delay of its effective date, in light of the need to act expeditiously to alleviate the current constriction on credit by encouraging sound lending to creditworthy borrowers. The rule relieves a regulatory burden consistent with the interagency policy adopted by the four Federal banking agencies; it is effective upon publication in the **Federal Register**. The agency, however, seeks public comment on this interim rule and may modify it in response to those comments, if appropriate.

Paperwork Reduction Act

The recordkeeping requirement contained in this interim final rule has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1550–0011.

The recordkeeping requirement contained in this rule is found at 12 CFR 563.170(c). The likely recordkeepers will be well- or adequately-capitalized savings associations who received a

documentation showing whether the obligor on the loan is able to generate sufficient cash flow to meet scheduled interest and debt reduction payments and, if not sufficient, the lender's records shall include documentation demonstrating the anticipated source of the borrower's payments. *See* 12 CFR 563.170(c)(1). If the loan is secured by real estate, the regulation requires additional documentation. *See* 12 CFR 563.170(c)(2). The other banking agencies' guidance on loan documentation requirements is not set forth in regulation.

[3] OTS's prompt corrective action regulations, which implement section 38 of the Federal Deposit Insurance Corporation Improvement Act 1991, are codified at 12 CFR part 565.

[4] See 12 CFR 563.43.

[5] See 12 CFR Part 567

[6] See 12 CFR Part 567

MACRO rating of 1 or 2 in their most recent examinations.

The estimated average additional annual burden associated with the new recordkeeping requirement for institutions claiming exemptions is 1 hour per recordkeeper. While maintaining an aggregate list of qualified loans and their performance constitutes a new recordkeeping requirement for those savings associations claiming the exemption, those savings associations should realize an overall reduction in their recordkeeping burden through the exemption from maintaining loan documentation on such loans. The amount of net savings generated by the exemption is not estimable, however, as data on the number of small and medium-sized business and farm loans is not currently available.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Thrift Supervision, 1700 G Street NW., Washington, DC and to the Office of Management and Budget, Paperwork Reduction Project (1550–0011), Washington, DC, 20503.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

Executive Order 12291

The OTS has determined that this rule does not constitute a "major rule"; therefore, a regulatory impact analysis is not required.

List of Subjects in 12 CFR Part 563

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

Accordingly, the Director of the Office of Supervision hereby amends part 563, subchapter D, chapter V, title 12 of the Code of Federal Regulations as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

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

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1468, 1817, 1818, 3806; 42 U.S.C. 4106; Pub. L. 102–242, sec. 306, 105 Stat. 2236, 2335 (1991).

2. Section 563.170 is amended by adding a new paragraph (c)(10) to read as follows:

§ 563.170 Examinations and audits; appraisals; establishment and maintenance of records.

* * * * *

(c) * * *

(10) *Exemption for loans to small and medium-size businesses and farms.*—(i) *Definitions.* For purposes of this paragraph (c)(10):

(A) *Qualifying loan* means any loan to a small or medium-sized business or farm that satisfies the following conditions:

(*1*) The loan, or group of loans to any one borrower, does not exceed either $900,000 or three per cent of the association's total capital, as defined in 12 CFR part 567, whichever is the lesser amount;

(*2*) The loan is not made to any executive officer, director, or principal shareholder of the association, or any related interest of that person; and

(*3*) The loan is not delinquent as of the date it is selected by the association as qualifying for the exemption.

(B) *Eligible savings association* means any savings association that:

(*1*) Is well- or adequately capitalized, as defined in 12 CFR part 565; and

(*2*) Was assigned a MACRO rating of 1 or 2 in its most recent report of examination.

(ii) *Exemption.* Subject to the conditions set forth in paragraph (c)(10)(iv) of this section, the requirements of paragraphs (c)(1) through (c)(7) of this section shall not apply to qualifying loans made by an eligible savings association.

(iii) *Maintenance of records.* For all qualifying loans for which this exemption is claimed, an eligible savings association shall assign in writing such loans to an exempted portion of the association's portfolio. Each such association shall maintain an aggregate list or accounting segregation of the assigned loans, including the performance status of each loan.

(iv) *Conditions of exemption.* This exemption is subject to the following conditions:

(A) The aggregate value of all loans designated by the association as qualifying for this exemption may not exceed 20 per cent of the association's total capital, as defined in 12 CFR Part 567;

(B) Eligible savings associations shall continue to evaluate the collectibility of loans assigned to the exempt portion of the portfolio, in determining the adequacy of the association's general valuation allowance (GVA) attributable to such loans. Such evaluation shall be included in the association's internal records of its assessment of the adequacy of its GVA; and

(C) In the event an eligible association that has assigned loans to an exempt portion of its portfolio becomes ineligible because it no longer meets the requirements of paragraph (c)(10)(i)(B) of this section, such association may not add new loans (including renewals of qualified loans) to the exempt portion of its portfolio.

* * * * *

Dated: April 7, 1993.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 93–11398 Filed 5–12–93; 8:45 am]

BILLING CODE 6720–01–P

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–341; Re: Notice Nos. 741, 768]

RIN 1512–AA07

Spring Mountain District Viticultural Area (91F–067P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area to be known as "Spring Mountain District" in Napa County, California. The original petition for designation of a viticultural area to be named "Spring Mountain" and an amended petition to change the name of the viticultural area to "Spring Mountain District" were filed on behalf of Marston Vineyards and York Creek Vineyards. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definite American

viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

ATF received a petition from Marston Vineyards and York Creek Vineyards proposing to establish a viticultural area in Napa County, California, to be known as "Spring Mountain." The viticultural area is located within Napa Valley just west of St. Helena, and contains approximately 8,600 acres, of which approximately 800 acres are planted to vineyards. The terrain in the viticultural area consists primarily of east-facing slopes of varying steepness, ranging in elevation from 400 to 2,600 feet. Thirteen wineries are currently active within the viticultural area.

Comments

ATF received four comments during the initial comment period. Two commenters, Cain Cellars and Summit Ranch Vineyard, both of St. Helena, California, wrote in support of the proposed area. The third comment, on behalf of Spring Mountain Vineyard, opposed designation of the area as "Spring Mountain" and suggested instead the name "Spring Mountain District". The fourth comment, from the petitioner, responded to the arguments submitted on behalf of Spring Mountain Vineyards, but did not object to the suggested amendment of the name.

Amended Notice

On December 2, 1992, the petitioner wrote to ATF to amend its original petition by changing the proposed viticultural area name to "Spring Mountain District." Since the original petition had included evidence which supported both names, ATF issued an amended notice of proposed rulemaking on February 17, 1993, Notice No 768 (58 FR 40452), and allowed a 30-day comment period to obtain comments on the amended name.

Comments on the Amended Notice

During the second comment period, only one comment was received. Summit Ranch Vineyards wrote to suggest "Appellation: Spring Mountain" or "Spring Mountain Appellation" as an alternative name, explaining that either designation had a more "quality oriented sound," but offering no evidence that the area is locally or nationally known by either name.

Conclusion

On the basis of the information in the original petition and material presented in the comments of Spring Mountain Vineyard and the amended petition, ATF is adopting the viticultural area with the boundaries proposed, and the name Spring Mountain District.

Name

The petitioner provided the following items of evidence that the viticultural area is locally and nationally known by the name "Spring Mountain District":

(a) An article in the local newspaper, the *St. Helena Star*, on December 7, 1877, made reference to "Spring Mountain District" and mentioned viticultural activities in the area.

(b) In the *St. Helena Star* for January 9, 1880, there was a "Spring Mountain Notes" column which included this item: "Fifty eight tons of grapes were sold from Spring Mountain district last Fall, and it is calculated that 100 acres of new vineyard will be put in this Spring."

(c) In *Massee's Guide to Wines of America* (1974) "Spring Mountain" is described as being "well on its way to becoming a separate district in its own right, much like Carneros, * * *." *

Evidence of Boundaries

Evidence that the boundaries of the viticultural area are as specified in the petition includes the following:

(a) In *The Connoisseurs' Handbook of California Wines* (1984) Spring Mountain is described as being a "distinctly identifiable watershed area * * * west of St. Helena in the Napa Valley and forms part of the Mayacamas Mountain Range * * *. Chateau Chevalier and Spring Mountain Vineyard occupy two of the loveliest refurbished properties * * *. York Creek Vineyard is near the top of Spring Mountain. Other wineries here include Yverdon, Keenan, and Smith-Madrone."

(b) In the *New Signet Book of Wine* (1985) Alexis Bespaloff states that a "number of wineries are situated on the slopes of Spring Mountain, the best known of which is Spring Mountain Vineyards." Other vineyards and wineries mentioned as being within the viticultural area include Newton Vineyard, Chateau Chevalier, Cain Cellars, Robert Keenan Winery, Yverdon Vineyards, Ritchie Creek Vineyard, and Smith-Madrone Vineyards.

(c) In *California's Great Cabernets* (1989) Spring Mountain is described as including the vineyards of York Creek, Smith-Madrone, Philip Togni, and Newton.

(d) In *Massee's Guide to Wines of America* (1974) Lyncrest Vineyard, currently Marston Vineyards, is also mentioned as being within the Spring Mountain viticultural area.

(e) In Bob Thompson's *Pocket Guide to California Wines* (1990) Streblow Vineyards is described as "[a] 12-acre vineyard and 1,200 case winery on the lower slopes of Spring Mountain * * *" and Spring Mountain is said to be the "sole source of all the wines" for Stony Hill Vineyards.

Collectively taken, the locations of the vineyards and wineries mentioned above closely approximate the parameters of the Spring Mountain District viticultural area.

Geographical Features

Approximately 8,600 acres in size, the viticultural area is roughly rectangular in shape, extending south from the northern boundary along Ritchie Creek approximately 5 miles to slightly beyond Sulphur Creek, and east from the Napa-Sonoma county line along the summit of the Mayacamas mountain range to the 400 foot elevation near the Napa Valley floor. The 400 foot contour line generally marks the boundary between valley floor and hillside vineyards in the Napa Valley. The following features distinguish the viticultural area from the surrounding areas:

Soil

(a) The predominant soils in the viticultural area consist of moderately deep and deep residual upland soils that are an equal mix derived from volcanic and sedimentary parent material.

(b) North of the viticultural area the segment of the Mayacamas Mountains from Diamond Mountain northward is comprised almost entirely of residual upland soils of volcanic origins.

(c) To the east of the viticultural area, on the Napa Valley floor, alluvial soils predominate. These soils are developed on fill materials outwashed from the upland soils and rocks surrounding the valley. The Soil Conservation Service has identified 10 alluvial soils in the valley, none of which are found within the viticultural area.

(d) Of the six residual upland soils from volcanic rocks that are present in the viticultural area (Aiken, Boomer, Felta, Forward, Hambright, and Kidd), only one (Forward) appears in any significant acreage to the south of the viticultural area. Both areas contain residual soils from sedimentary rocks, but the acreage and percentage of these sedimentary residual rocks is much greater in the southern segment of the Mayacamas Mountains, south of the Spring Mountain District viticultural area.

(e) West of the viticultural area the warmer slopes of the Mayacamas Mountains in Sonoma County have greater evapotranspiration loss of soil moisture, which is reflected in shallower soils. Also, the residual upland soils from volcano rock found in the viticultural area (Aiken, Boomer, Forward, Felta, and Kidd) are not present in the Sonoma County slopes of the Mayacamas Mountains.

Climate

(a) The Spring Mountain District's primarily eastern exposure contributes to the region's distinctive climate. It is characterized by cool, wet winters and warm dry summers, moderated by periodic ocean breezes and fog. Average annual rainfall is 37 inches.

(b) In readings taken between April 1 and October 31, generally considered the growing season for wine grapes, daily maximum temperatures were from 2 to 11 degrees lower within the viticultural area than in St. Helena, less than 4 miles away to the east. Conversely, daily minimum temperatures within the Spring Mountain District were generally higher than those recorded in St. Helena, often by more than 10 degrees.

(c) Comparisons of maximum and minimum temperatures within the viticultural area with those of Calistoga, less than 8 miles away to the north, produce the same results, with even greater temperature differentials between the two locations.

(d) The viticultural area regularly enjoys cooling breezes and occasional fog from the west when the rest of Napa Valley, including hillside locations both north and south remains hot.

(e) The Spring Mountain District experiences greater annual rainfall than the floor of Napa Valley. In addition, the annual average rainfall in Spring Mountain is approximately 37 inches, more than the seasonal normal of 33.11 inches in St. Helena.

(f) According to meteorologist Steven Newman of Earth Environment Service, a review of daily thermograph readings taken during the summer and early autumn shows that the temperature within the viticultural area rises relatively rapidly until reaching a maximum high at approximately 3 p.m., then declines with similar speed during the late afternoon. The daily maximum temperature is reached approximately 1 hour earlier than in St. Helena, and the temperature peak is very brief when compared to locations on the Napa Valley floor.

Boundary

The boundary of the Spring Mountain District viticultural area may be found on four United States Geological Survey (U.S.G.S.) maps with a scale of 1:24000. The boundary is described in § 9.143.

Miscellaneous

ATF does not wish to give the impression by approving the Spring Mountain District viticultural area that it is approving or endorsing the quality of wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Spring Mountain District wines.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. ATF believes that the establishment of a viticultural area merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Any commercial advantage can come only from consumer acceptance of wines made from grapes grown within the area. In addition, no new recordkeeping or reporting requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows.

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.143 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.143 Spring Mountain District.

(a) *Name.* The name of the viticultural area described in this section is "Spring Mountain District."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Spring Mountain District viticultural area are four U.S.G.S. 7.5 minute series topographical maps of the 1:24000 scale They are titled:

(1) "Kenwood, Calif.," 1954 (photorevised 1980).

(2) "Rutherford, Calif.," 1951 (photorevised 1968).

(3) "St. Helena, Calif.," 1960 (photorevised 1980).

(4) "Calistoga, Calif.," 1958 (photorevised 1980).

(c) *Boundary.* The Spring Mountain District viticultural area is located in Napa County, California, within the Napa Valley viticultural area. The boundary is as follows:

(1) Beginning on the Calistoga quadrangle map at the Napa-Sonoma county line at the boundary line

between sections 18 and 19 in T8N/R6W.

(2) Then east along the boundary line between sections 18 and 19 for approximately 3/4 of a mile to its intersection with Ritchie Creek at the boundary line between sections 17 and 20.

(3) Then northeast along Ritchie Creek approximately 2 miles, to the 400 foot contour line in the northeast corner in section 16 of T8N/R6W.

(4) Then along the 400 foot contour line in a northeast then generally southeast direction, through the St. Helena and Rutherford quadrangle maps, approximately 9 miles, past the town of St. Helena to the point where it intersects Sulphur Creek in Sulphur Canyon, in the northwest corner of section 2 in T7N/R6W.

(5) Then west along Sulfur Creek (onto the Kenwood quadrangle map) and south to the point where it first divides into two intermittent streams in section 3 in T7N/R6W.

(6) Then south along the intermittent stream approximately 1.5 miles to the point where it intersects the 2,360 foot contour line in section 10 in T7N/R6W.

(7) Then southwest in a straight line, approximately .10 mile, to the unnamed peak (elevation 2600 feet) at the boundary line between Napa and Sonoma Counties.

(8) Then in a generally northwest direction along the Napa-Sonoma county line, through sections 10, 9, 4, 5, 32, 33, 32, 29, 20, and 19, to the beginning point on the Calistoga quadrangle map at the boundary between sections 18 and 19 in T8N/R6W.

Signed: April 14, 1993.

Stephen E. Higgins,

Director.

Approved: April 23, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93–11353 Filed 5–12–93; 8:45 am]

BILLING CODE 4810–31–U

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27 CFR Part 9

[T.D. ATF–340; Re: Notice No. 763]

RIN 1512–AA07

Dunnigan Hills Viticultural Area (92F–014P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in Yolo County, California, to be known as Dunnigan Hills. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

ATF received a petition from R.H. Phillips Vineyards proposing to establish a viticultural area in northwestern Yolo County, California, to be known as "Dunnigan Hills." The viticultural area is located near Sacramento, California, and between the Napa Valley viticultural area on the west and the Clarksburg, Merritt Island and Lodi viticultural areas to the southeast. The area contains approximately 89,000 acres, of which 1,118 acres are planted to vineyards. The terrain in the viticultural area is characterized by gently rolling hills of 100 to 400 feet elevation. The petitioner states that two wineries and six vineyards are located within the viticultural area. In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 763 in the **Federal Register** of December 11, 1992 (57 FR 58763).

Comments

ATF received one comment during the 45-day comment period which ended on January 25, 1993. The commenter, Marc Mondavi, stated that he and his brother Peter Mondavi, as owners of Charles Krug Winery in St. Helena, California, support the establishment of the Dunnigan Hills viticultural area.

Evidence of Name

The Dunnigan Hills area was settled in the 1850's and 1860's by western Europeans who raised grain and livestock. In 1853, A.W. Dunnigan opened a hotel which was known as Dunnigan's. In 1876, the Northern Railway was extended to Dunnigan's hotel and a town plat was recorded for the town of Dunnigan. The near-by hills were soon known as the Dunnigan Hills.

Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition includes:

(a) The name "Dunnigan Hills" appears on each of the three U.S.G.S. maps submitted with the petition.

(b) The name "Dunnigan Hills" appears in the United States Department of Agriculture *Soil Survey of Yolo County California* (1972).

(c) The name "Dunnigan Hills" was used to describe the subject area as early as 1913 by Tom Gregory in *A History of Yolo County* and as recently as 1987 by Joann Larkey, in *Yolo County, Land of Changing Patterns.*

Evidence of Boundaries

Each of the U.S.G.S. maps used to delineate the boundary of the area shows the name "Dunnigan Hills" over an area which roughly coincides with the boundaries of the Dunnigan Hills viticultural area. The southern, eastern and northern boundaries of the Dunnigan Hills are distinguished by a change from the low, rolling hills of the viticultural area to the flat terrain of the floor of the Sacramento Valley. On the west, the terrain changes to the steeper and higher slopes of the Coast Range.

Geographical Features

The Dunnigan Hills are a group of low, rolling hills running in a northwest to southeasterly direction for about 19.5 miles. At the widest point, the hills are about 10 miles wide.

The petitioner provided the following evidence relating to features which distinguish the viticultural area from the surrounding areas:

Topography and Elevation

The Dunnigan Hills rise out of a part of the Sacramento Valley which is nearly flat, varying only between 60 and 130 feet above sea level. In contrast to the surrounding valley floor, the Dunnigan Hills viticultural area consists of low, rolling hills, which rise to an elevation of about 400 feet above sea level. The hills are crossed by streams that flow west to east out of the Coast Range. On the west, the Dunnigan Hills drop to an elevation of approximately 250 feet before the transition to the steeper, higher slopes of the Coast Range begins. The terrain in the Coast Range rises rapidly to 1,200 and 1,600 feet, with peaks which are even higher.

Soil

The predominant soils in the viticultural area are the Corning-Hillgate association, well-drained, gently sloping to moderately steep gravelly loams or loams on terraces, and the Sehorn-Balcom association, well-drained, gently sloping to steep silty clay loams and clays over sandstone. Soils outside the area include the Dibble-Millsholm and Positas associations in the foothills of the Coast Range to the west, and the Yolo-Brentwood, Rincon-Marvin-Tehama, Capay-Clear Lake and Willows-Pescadero associations on the valley floor to the north, south and east.

Climate

The Dunnigan Hills viticultural area is warmer in the summer and winter than the Coast Range highlands to the west. The petitioner states the area is also less prone to frost damage in the spring than the rest of the Sacramento Valley because "the hills and streams provide better air drainage than that found on the valley floor to the north, east and south of the Dunnigan Hills." This air drainage also makes the Dunnigan Hills cooler than the surrounding valley floor in summer.

Boundary

The boundary of the Dunnigan Hills viticultural area may be found on three United States Geological Survey (U.S.G.S.) maps with a scale of 1:62500. The boundary is described in § 9.145.

Miscellaneous

ATF does not wish to give the impression by approving the Dunnigan Hills viticultural area that it is approving or endorsing the quality of wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from Dunnigan Hills.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. This process merely allows wineries to more accurately describe the origin of their wines to the consumers, and helps consumers identify the wines they purchase. Designation of a viticultural area itself has no significant economic impact because any commercial advantage can come only from consumer acceptance of wines made from grapes grown within the area. In addition, no new recordkeeping or reporting requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.145 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.145 Dunnigan Hills.

(a) *Name.* The name of the viticultural area described in this section is "Dunnigan Hills."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Dunnigan Hills viticultural area are three U.S.G.S. 15 minute series topographical maps of the 1:62500 scale. They are titled:

(1) "Guinda, Calif.," 1959.

(2) "Dunnigan, Calif.," 1953.

(3) "Woodland, Calif.," 1953.

(c) *Boundary.* The Dunnigan Hills viticultural area is located in Yolo County, California. The boundary is as follows:

(1) The beginning point is on the Dunnigan, Calif., U.S.G.S. map at the intersection of Buckeye Creek and U.S. Route 99W just south of the Colusa-Yolo county line;

(2) From the beginning point, the boundary follows Route 99W in a southeasterly direction until an unnamed westbound light-duty road coincident with a grant boundary (referred to by the petitioner as County Road 17) diverges from Route 99W just north of the town of Yolo, California, on the Woodland, Calif., U.S.G.S. map;

(3) The boundary then follows the County Road 17 for approximately 2 miles to an unnamed southbound light duty road (referred to by the petitioner as County Road 95A);

(4) The boundary then follows County Road 95A south for approximately 1/2 mile to an unnamed westbound light duty road (referred to by the petitioner as County Road 17A);

(5) The boundary then proceeds west along County Road 17A for approximately 3/8 mile to an unnamed southbound light duty road (referred to by the petitioner as County Road 95);

(6) The boundary then proceeds south along County Road 95 for approximately 1 mile to an unnamed light duty road which goes in a southwesterly direction

(referred to by the petitioner as County Road 19);

(7) The boundary then proceeds southwest along County Road 19 for approximately 1/4 mile to an unnamed light duty road which travels south-southwest (referred to by the petitioner as County Road 94B);

(8) The boundary then proceeds southwest along County Road 94B approximately 1¼ mile until it intersects Cache Creek;

(9) The boundary then follows Cache Creek in a westerly direction 5.5 miles until it intersects an unnamed north-south light duty road approximately 1 mile north of the city of Madison, California (referred to by the petitioner as County Road 89);

(10) The boundary then follows County Road 89 two miles in a northerly direction back on to the Dunnigan, Calif., U.S.G.S. map where it intersects an unnamed light duty road (referred to by the petitioner as County Road 16);

(11) The boundary follows County Road 16 west for approximately 2 miles onto the Guinda, Calif., U.S.G.S. map, where it turns north onto an unnamed light-duty road between sections 31 and 32 of T10N/R1W (referred to by the petitioner as County Road 87);

(12) The boundary follows County Road 87 north for 2 miles to an unnamed east-west light duty road (referred to by the petitioner as County Road 14);

(13) The boundary follows County Road 14 west for 3 miles, and then leaves the unnamed road and turns north on the dividing line between sections 22 and 23 of T11N/R2W.

(14) The boundary continues due north until it intersects Little Buckeye Creek just south of the Yolo-Colusa county line;

(15) The boundary then follows Little Buckeye Creek in an easterly direction until it joins Buckeye Creek;

(16) The boundary then follows Buckeye Creek in an easterly direction back to the point of beginning on the Dunnigan, Calif., U.S.G.S. map.

Signed: April 14, 1993.

Stephen E. Higgins,

Director

Approved: April 23, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93–11354 Filed 5–12–93; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 93–20]

Special Local Regulations: Ft. Pierce, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the 1993 15th Annual Budweiser Sailfish Regatta. The event will be held on May 15 and 16, 1993, from 11 a.m. EDT (Eastern Daylight Time) until 5 p.m. EDT, each day. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations will become effective on May 15, 1993, at 11 a.m. EDT and terminate on May 16, 1993, at 5 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: LTJG M. W. Rudningen, Coast Guard Group Miami, (305) 535–4536.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The information to hold the event was not received until March 26, 1993, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT J. M. LOSEGO Project Attorney, Seventh Coast Guard District Legal Office, and LTJG M. W. RUDNINGEN, Project Officer, Coast Guard Group Miami.

Discussion of Regulations

The Lake Okeechobee Race Club will sponsor the 1993 15th Annual Budweiser Sailfish Regatta. There will be fifty (50) to sixty (60) participants, in fourteen (14) to eighteen (18) foot powerboats, competing on a closed course, two heats per day, ten (10) minutes per heat on the Intercoastal Waterway, east of the Jaycee Beach Park, Hutchinson Island, Ft. Pierce, Florida. The expected number of spectator vessels is one-hundred (100).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding the environmental impact of this event, and it was determined that the event does not jeopardize the continued existence of protected species.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T0720 is added to read as follows:

§ 100.35–T0720 Ft. Pierce, Florida.

(a) *Regulated Area:* The regulated area will be all navigable waters of the Intercoastal Waterway (ICW) east of the Jaycee Beach Park, Hutchinson Island, Ft. Pierce, Florida, bounded by a line drawn between the following four corner points: 27–15′–15″ N, 80–13′–02″ W, at the southwest corner; 27–15′–21″ N, 80–12′–42″ W, at the southeast corner; 27–15′–26″ N, 80–12′–45″ W, at the northeast corner; and, 27–15′–20″ N, 80–13′–03″ W, at the northwest corner.

(b) *Special Local Regulations:* (1) Entry into the regulated area, by other than event participants, is prohibited unless authorized by the Patrol Commander.

(2) All vessels near the regulated area will follow the directions of the Patrol Commander and will proceed at no more than 5 MPH when passing the regulated areas.

(3) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any nonparticipating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(c) *Effective dates:* These regulations become effective on May 15, 1993, from 11:00 a.m. EDT and terminate on May 16, 1993, at 5 p.m. EDT.

Dated: April 5, 1993.

William P. Leahy,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 93–11339 Filed 5–12–93; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD 09–93–11]

Temporary Regulated Navigation Area: Braddock Bay, Genesee River, Irondequoit Bay, and Sodus Bay, Lake Ontario

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing Temporary Regulated Navigation Areas on Braddock Bay, Genesee River, Irondequoit Bay, and Sodus Bay from May 3, 1993 to July 31, 1993. These areas are experiencing extremely high water levels which are not expected to subside until July, 1993. These regulations will establish a "CAUTION AREA" in these areas to protect the shorelines and adjacent waterfront structures from wake damages until water levels subside.

EFFECTIVE DATE: These regulations are effective from May 3, 1993 until midnight on July 31, 1993, unless terminated earlier by the Coast Guard Captain of the Port Buffalo.

FOR FURTHER INFORMATION CONTACT: Gregory S. Cope, Captain, U.S. Coast Guard, Chief of Port Operations, Coast Guard Captain of the Port Buffalo, Marine Safety Office Buffalo, Room 111 Federal Building, Buffalo, New York, 14202–2395, (716) 846–4168.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay in the effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property or the environment. Because of extremely high water levels existing on Braddock Bay, Genesee River, Irondequoit Bay, and Sodus Bay, these regulations are needed to prevent damage to the shorelines and adjacent structures in the regulated areas.

Drafting Information

The drafters of these regulations are William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Project Officer, Aids to Navigation and Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

These regulations require that all vessels operating on Braddock Bay, Genesee River, Irondequoit Bay, and Sodus Bay be operated at a "SLOW/NO-WAKE" speed, which means that all vessels transiting these areas will be operated at bare steerage, keeping the vessel's wake at a minimum, and will exercise a high degree of caution in the area. These regulations are needed to prevent damage to the shorelines and adjacent structures in the regulated areas.

These regulations are issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, subpart B of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–6, and 160.5.

2. A new temporary § 165.T0968 is added to read as follows:

§ 165.T0968 Regulated Navigation Area: Braddock Bay, Genesee River, Irondequoit Bay, And Sodus Bay, Lake Ontario.

(a) *Locations.* (1) Braddock Bay, Lake Ontario, from the harbor entrance to the Lake Ontario State Parkway bridges.

(2) The Genesee River, Rochester, New York, from the mouth of the river to 5.5 miles up river.

(3) Irondequoit Bay, Lake Ontario, from the harbor entrance to the Highway 104 bridge.

(4) Sodus Bay, Lake Ontario, from the harbor entrance to the bridge at Ridge Road.

(b) *Regulations.* The above locations are designated as "Caution Areas". All vessels transiting these areas will be operated at bare steerageway, keeping the vessel's wake at a minimum, and will exercise a high degree of caution in the area.

(c) *Effective Date.* These regulations are effective from the beginning of May 3, 1993 until midnight on July 31, 1993, unless terminated earlier by the Coast Guard Captain of the Port Buffalo.

Dated: May 3, 1993.

A.B. Shepard,

Captain, U.S. Coast Guard Commander, Ninth Coast Guard District, Acting.

[FR Doc. 93–11338 Filed 5–12–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 14–11–5774; FRL–4625–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District, Kern County Air Pollution Control District, Placer County Air Pollution Control District and San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on April 28, September 28, and October 1, 1992. The revisions concern rules from the following districts: San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), Kern County Air Pollution Control District (KCAPCD), Placer County Air Pollution Control District (PCAPCD), and San Diego County Air Pollution Control District (SDCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended (CAA or the Act). The revised rules control VOC emissions from several different industries. The following notices of proposed rulemaking, 57 FR 17868, 57 FR 44540, and 57 FR 45360 each provided a 30-day public comment period, and EPA received one comment on its proposals to approve these revisions. Thus, EPA is finalizing the approval of these revisions into the California SIP under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA.

EFFECTIVE DATE: This action is effective June 14, 1993.

ADDRESSEES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Jerry Kurtzweg, ANR–443, 401 "M" Street, SW., Washington, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

San Joaquin Valley Unified, Air Pollution Control District, 2314 Mariposa Street, Fresno, CA 93721

Kern County Air Pollution Control District, 2700 M Street, Suite 275, Bakersfield, CA 93301

Placer County Air Pollution Control District, 11464 B. Avenue, Auburn, CA 95603

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1095

FOR FURTHER INFORMATION CONTACT: William E. Davis, Jr., Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1183.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1992, in 57 FR 17868, EPA proposed to approve the following rules into the California SIP: SJVUAPCD'S Rule 464.1, Valves, Pressure Relief Valves, Flanges, Threaded Connections and Process Drains at Petroleum Refineries and Chemical Plants; SJVUAPCD's Rule 464.2, Pump and Compressor Seals at Petroleum Refineries and Chemical Plants; KCAPCD's Rule 414.1, Valves, Pressure Relief Valves, Flanges, Threaded Connections and Process Drains at Petroleum Refineries and Chemical Plants; and KCAPCD's Rule 414.5, Pump and Compressor Seals at Petroleum Refineries and Chemical Plants. On September 28, 1992, in 57 FR 44540, EPA proposed to approve the following rules into the California SIP: SJVUAPCD's Rule 463.4, Wastewater Separators; and KCAPCD's Rule 414, Wastewater Separators. On October 1, 1992, in 57 FR 45360, EPA proposed to approve the following rules into the California SIP: PCAPCD's Rule 213, Gasoline Transfer into Stationary Storage Containers; PCAPCD's Rule 215, Transfer of Gasoline into Tank Trucks, Trailers and Railroad Tank Cars at Loading Facilities; SJVUAPCD's Rule 463.2, Storage of Organic Liquids; and SDCAPCD's Rule 61.4, Transfer of Volatile Organic Compounds into Vehicle Fuel Tanks. SJVUAPCD adopted Rules 463.4, 464.1, and 464.2 on April 11, 1991, and Rule 463.2 on September 19, 1991. KCAPCD adopted Rules 414, 414.1, and 414.5 on May 6, 1991. PCAPCD adopted Rules 213 and 215 on September 25, 1990. SDCAPCD adopted Rule 61.4 on October 16, 1990. The California Air Resources Board (ARB) submitted PCAPCD Rule 213 and SDCAPCD Rule 61.4 to EPA on April 5, 1991. The ARB submitted SJVUAPCD Rules 463.4, 464.1, and 464.2, KCAPCD Rules 414, 414.1, and 414.5, and PCAPCD Rule 215 to EPA on May 30, 1991. The ARB submitted SJVUAPCD Rule 463.2 to EPA on January 28, 1992.

These rules were submitted in response to EPA's 1988 SIP-Call and the § 182(a)(2)(A) RACT fix-up requirement of the CAA. Both EPA's 1988 SIP-Call and the § 182(a)(2)(A) required nonattainment areas to fix their deficient reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. Detailed discussions of the background for each of the above rules and nonattainment areas are provided in 57 FR 17868, 57 FR 44540, and 57 FR 45360.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in 57 FR 17868, 57 FR 44540, and 57 FR 45360. EPA has found that the rules meet the applicable EPA requirements. Detailed discussions of the rule provisions and evaluations have been provided in 57 FR 17868, 57 FR 44540, and 57 FR 45360, and in technical support documents (TSDs) available at EPA's Region IX office (TSDs dated December 30, 1991, for SJVUAPCD Rule 464.1, SJVUAPCD Rule 464.2, KCAPCD Rule 414.1, and KCAPCD Rule 414.5; July 1, 1992, for SJVUAPCD Rule 463.2, PCAPCD Rule 213, PCAPCD Rule 215, and SDCAPCD Rule 61.4; September 9, 1992, for SJVUAPCD Rule 463.4 and KCAPCD Rule 414).

Response to Comments

A 30-day public comment period was provided in each of the above-referenced notices of proposed rulemaking. EPA received one comment from the U.S. Small Business Administration (SBA) on 57 FR 17868 (SJVUAPCD Rules 464.1 and 464.2, KCAPCD Rules 414.1 and 414.5).

Comment: SBA commented that the proposed rules' compliance with the Regulatory Flexibility Act (RFA) was inadequate because no explanation was provided for EPA's certification that the proposed rules would not have a significant impact on a substantial number of small entities and because EPA failed to transmit a copy of the RFA certification to the SBA's Chief Counsel for Advocacy.

Response: EPA's explanation for this certification is now noted in the regulatory process section of this notice. EPA will include a rationale in all its future SIP actions. SBA previously waived the requirement in the RFA that EPA transmit a copy of the RFA certification to the Chief Counsel for Advocacy on SIP approvals. The comment does not effect EPA's proposal to approve these rules into the SIP.

EPA Action

In today's notice, EPA takes final action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of Section 110(a) and part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, it does not have a

significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until it rules on EPA's request.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 12, 1993.

John C. Wise,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(183)(i)(A)(*4*), (183)(i)(C)(*2*), (185)(i)(A)(*5*), (185)(i)(C)(*4*), (185)(i)(D)(*1*), and (187)(i)(A)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(183) * * *

(i) * * *

(A) * * *

(*4*) Amended Rule 61.4, adopted on October 16, 1990.

(B) * * *

(C) * * *

(*2*) Amended Rule 213, adopted on September 25, 1990.

* * * * *

(185) * * *

(i) * * *

(A) * * *

(*5*) Amended Rules 414 and 414.1 and New Rule 414.5, adopted on May 6, 1991.

(B) * * *

(C) * * *

(*4*) New Rules 463.4, 464.1, and 464.2, adopted on April 11, 1991.

(D) Placer County Air Pollution Control District.

(*1*) Amended Rule 215, adopted on September 25, 1990.

* * * * *

(187) * * *

(i) * * *

(A) * * *

(*3*) New Rule 463.2, adopted on September 19, 1991.

* * * * *

[FR Doc. 93–11333 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA–11–12–5808; FRL–4619–3]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on September 28, 1992. The revisions concern the Bay Area Air Quality Management District's (BAAQMD's) Regulation 8, Rule 16 (Rule 8–16). This approval action will incorporate Rule 8–16 into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended (CAA or the Act). The revised rule controls VOC emissions from solvent cleaning (degreasing) operations. The Notice of Proposed Rulemaking published on September 2 1992, provided a 30-day public comment period, and EPA received on comment on its proposal. The issue raised in the comment has been addressed, and thus EPA is finalizing the approval of these revisions into the California SIP under section 110(k)(3) a meeting the requirements of section 110(a) and Part D of the CAA.

EFFECTIVE DATE: This action is effective June 14, 1993.

ADDRESSEES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Jerry Kurtzweg, ANR–443, 401 "M" Street, SW, Washington, DC 20460.

Bay Area Air Quality Management District, 939 Ellis Street San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: William E. Davis, Jr., Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1183.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 1992, in 57 FR 44528, EPA proposed limited approval and limited disapproval of BAAQMD's Regulation 8, Rule 16 (Rule 8–16), Solvent Cleaning Operations, into the California SIP. Rule 8–16 was adopted by BAAQMD on August 2, 1989. The California Air Resources Board (ARB) submitted Rule 8–16 to EPA on December 31, 1990.

This rule was submitted in response to EPA's 1988 SIP-Call and the CAA requirement that nonattainment areas fix their deficient Reasonably Available Control Technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for the above rule and nonattainment area is provided in 57 FR 44528.

EPA has evaluated Rule 8–16 for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in 57 FR 44528. A detailed discussion of the rule provisions and evaluations has been provided in 57 FR 44528 and in a September 8, 1992, technical support

document (TSD) available at EPA's Region IX office. In the proposal, EPA proposed a limited disapproval because Rule 8–16 requires the use of several test methods, BAAQMD Methods 21, 22, and 31, which had not been approved by EPA at the time the Notice of Proposed Rulemaking was published. EPA was in the process of reviewing these methods when 57 FR 44528 was published, and the proposal stated that, "If Methods 21, 22, and 31 are approved, EPA would grant approval to Rule 8–16 in the final rulemaking process." Since that time, Methods 21, 22, and 31 have all been approved. Therefore, EPA is now granting final approval to Rule 8–16 because EPA has found that the rule meets the applicable EPA requirements.

Response to Comments

A 30-day public comment period was provided in 57 FR 44528. EPA received one comment on Rule 8–16 from the BAAQMD.

Comment: The BAAQMD commented that Methods 21, 22, and 31 are all technically sound, that the methods had been submitted to EPA for review, and that EPA inaction should not be grounds for a limited disapproval. The BAAQMD requested reconsideration for full approval of the rule.

Response: Since Rule 8–16 was reviewed by EPA, Methods 21, 22, and 31 have been approved and, as stated in 57 FR 44528, the rule will now be fully approved. Therefore, the BAAQMD's request for reconsideration is unnecessary.

EPA Action

In today's notice, EPA takes final action to approve the above rule for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 12, 1993.

John C. Wise,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(182)(i)(B)(4) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(182) * * *

(i) * * *

(B) * * *

(*4*) Amended Regulation 8, Rule 16, adopted on August 2, 1989.

* * * * *

[FR Doc. 93–11334 Filed 5–12–93; 8:45 am]

BILLING CODE 8560–50–P

40 CFR Part 52

[CA 12–6–5781; FRL–4618–7]

Approval And Promulgation Of Implementation Plans; California State Implementation Plan Revision: Kern County Air Pollution Control District and San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking (NFR).

SUMMARY: EPA is finalizing a limited approval and a limited disapproval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on June 9, 1992. The revisions concern the following rules from Kern County Air Pollution Control District (Southeast Desert Portion) (KCAPCD) and San Diego County Air Pollution Control District (SDAPCD): KCAPCD Rule 410.4, Surface Coating of Metal Parts and Products and SDCAPCD Rule 67.3, Coating of Metal Parts and Products. This final action will incorporate these rules into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended (CAA or the Act). The revised rules control VOC emissions from the coating of metal parts and products.

EFFECTIVE DATE: This action is effective June 14, 1993.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Jerry Kurtzweg ANR 443, 401 "M" Street SW., Washington, D.C. 20460.

Kern County Air Pollution Control District, 2700 M Street, suite 275, Bakersfield, CA 93301.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1095.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section II (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1195.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1992 in 57 FR 24453 and 57 FR 24455, EPA proposed granting limited approval and limited disapproval of the following rules into the California SIP: KCAPCD Rule 410.4, Surface Coating of Metal Parts and Products and SDCAPCD Rule 67.3, Coating of Metal Parts and Products. Rule 410.4 was adopted by Kern County Air Pollution Control District on May 6, 1991 and Rule 67.3 was adopted by San Diego County Air Pollution District on October 16, 1990. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 30, 1991 and April 5, 1991, respectively. These rules were submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their Reasonably Available Control Technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A deadline of May 15, 1991 was established for states to submit corrections of those deficiencies. KCAPCD was subject to EPA's SIP-Call, but was not subject to the RACT fix-up requirement and the May 15, 1991 deadline. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the notice of proposed rulemaking (NPR) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced NPRs. EPA is today finalizing the limited approval of these rules in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies. A detailed discussion of the rule provisions and evaluations has been provided in 57 FR 24453 and 57 FR 24455 and in technical support documents (TSDs) available at EPA's Region IX office (TSDs dated November 14, 1991 - Rule 410.4 and April 9, 1992 - Rule 67.3).

Response to Public Comments

A 30-day public comment period was provided in 57 FR 24453 and 57 FR 24455. EPA received one comment letter from the San Diego Air Pollution Control District on the NPR for Rule 67.3. The comment has been evaluated by EPA and a summary of the comment and EPA's response are set forth below.

Comment: SDCAPCD commented that submitted Rule 67.3 was originally revised and adopted with input from EPA, but that EPA's comments on the rule during public workshops and hearings either never mentioned the deficiencies, or failed to inform the SDCAPCD that they had not adequately addressed EPA's concerns. These deficiencies are now being cited as the reason for a limited disapproval. SDCAPCD believes that Rule 67.3 should be approved because the District revised the rule according to EPA's comments and no other deficiencies in the rule were cited by EPA at the time the rule was adopted. The District also believes that they should not be required to expend the time and cost of revising the rule as a result of EPA's failure to identify all rule deficiencies. The District would like to wait and correct the deficiencies when the rule is next amended to meet State requirements.

Response: EPA regrets that not all of the deficiencies in the rule were noted by EPA at the time that the district revised the rule and that revising the rule again may be a burden to the district. However, the primary responsibility for identifying rule deficiencies remains with the district, and EPA's failure to identify all rule deficiencies during local public workshops and hearings for the rule does not excuse noncompliance with CAA requirements. EPA believes that the CAA allows the district adequate time to revise the rule before sanctions or a Federal Implementation Plan would be required.

EPA Action

EPA is finalizing a limited approval and a limited disapproval of the above-referenced rules. The limited approval of these rules is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rules strengthen the SIP. However, the rules do not meet the section 182 (a)(2)(A) CAA requirement because of the rule deficiencies which were discussed in the NPR. Thus, in order to strengthen the SIP, EPA is granting limited approval of these rules under sections 110(k)(3) and 301(a) of the CAA. This action approves the rules into the SIP as federally enforceable rules.

At the same time, EPA is finalizing the limited disapproval of SDCAPCD Rule 67.3 because it contains deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. In addition, EPA is finalizing the limited disapproval of KCAPCD Rule 410.4 because it contains deficiencies that prevent it from meeting the requirements of Part D of the Act.[1] Under section 179(a)(2), when the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one of the sanctions set forth in section 179(b) unless the deficiencies are corrected within 18 months of the disapproval. As stated in the NPR, upon the effective date of this NFR, the 18 month clock for sanctions and the 24 month FIP clock will begin for SDCAPCD and KCAPCD. Sections 179(a) and 110(c). If the State does not submit the required corrections and EPA does not approve the submittal within 18 months of the NFR, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rules covered by this NFR have been adopted by the CARB and are currently in effect in the KCAPCD and SDCAPCD. EPA's limited disapproval action in this NFR does not prevent EPA or a local agency from enforcing these rules.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

[1] Under section 182(b)(2)(B), Kern County was required to submit RACT rules for all CTG sources and all non-CTG major sources by November 15, 1992. KCAPCD Rule 410.4 was proposed before the section 182(b)(2)(B) November 15, 1992 requirement submittal date. However, that date has passed and because EPA has taken notice and comment action finding that Rule 410.4 does not meet the RACT requirement, EPA is now finalizing the limited disapproval and beginning the sanction and FIP clocks.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 13, 1993.

John C. Wise,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 52, is amended as follows:

PART 52— [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c) (183)(i)(A)(*3*) and (185)(i)(A)(*6*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(183) * * *

(i) * * *

(A) * * *

(*3*) Revised Rule 67.3, adopted on October 16, 1990.

* * * * *

(185) * * *

(i) * * *

(A) * * *

(*6*) Revised Rule 410.4, adopted on May 6, 1991.

* * * * *

[FR Doc. 93–11335 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–60–P

40 CFR Part 52

[MI–5286; FRL–4619–9]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving portions of the State of Michigan's local Wayne County Air Pollution Control Division (WCAPCD) regulations, submitted as a revision to the federally approved Michigan State Implementation Plan (SIP) for Wayne County. In addition, USEPA is taking Direct Final rulemaking action approving the portions of chapter 5 of the WCAPCD regulations that were submitted as a revision to the federally approved SIP for Wayne County. The WCAPCD's regulations of 1965, as amended, and submitted to USEPA in 1972, then resubmitted as part of the Appendix to the State of Michigan's April 25, 1979, SIP submittal, are part of the Michigan federally approved SIP. The subject of this action is a set of revisions to those WCAPCD regulations which was submitted to USEPA to be incorporated into the Michigan SIP. These revised WCAPCD regulations were adopted as Wayne County Law on November 18, 1985, and submitted to USEPA by the State of Michigan on October 10, 1986. On January 28, 1993, the State, at the request of Wayne County, withdrew portions of the Wayne County ordinance from the SIP submittal. USEPA is approving portions of these WCAPCD regulations as a supplement to the current federally approved Michigan SIP and is taking Direct Final rulemaking action on one other portion of the submittal. USEPA reviewed this submittal for conformance with the provisions of the Clean Air Act, as amended. USEPA has determined that this action conforms with those requirements even though that submittal preceded the date of enactment.

EFFECTIVE DATE: This final rulemaking becomes effective June 14, 1993 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of this revision of the Michigan SIP are available for inspection at: U.S. Environmental Protection Agency, Jerry A. Kurtzweg, ANR–443, 401 M Street SW., Washington, DC 20460.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone John Mooney, at (312) 886–6043, before visiting the Region 5 office).

U.S. Environmental Protection Agency, Region 5, Air Toxics and Radiation Branch, 77 West Jackson, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 West Allegan, Lansing, Michigan 48909.

Wayne County Health Department, Air Pollution Control Division, 2211 East Jefferson, Detroit, Michigan 48207.

FOR FURTHER INFORMATION CONTACT: John Mooney, (312) 886–6043.

SUPPLEMENTARY INFORMATION: What follows is a summary of USEPA's March 26, 1990 (55 FR 11029), proposed actions. A more detailed account of USEPA's action can be found in the proposed rule.

On March 26, 1990, USEPA proposed the following actions and solicited public comment on them:

1. Approval:
   - A. Chapter 1—Definitions
   - B. Chapter 2—General Provisions
   - C. Chapter 3—Enforcement
   - D. Chapter 5—Emission Limitations and Prohibitions: Particulate Matter, sections 503 and 504
   - E. Chapter 8—Emission Limitations and Prohibitions: Miscellaneous
   - E. Chapter 9—Sealing of Emissions Sources
   - F. Chapter 10—Variances
   - G. Chapter 11—Testing and Sampling
   - H. Chapter 12—Continuous Emission Monitoring and Recording
   - I. Chapter 13—Air Pollution Episodes
2. No Action:
   - A. Chapter 6—Emission Limitations and Prohibitions (which was not submitted to USEPA by the State)
   - B. Chapter 4—Air Use Approval and Permits
3. Disapproval:
   - A. Chapter 5—Emission Limitations and Prohibitions (proposed disapproval except for sections 503 and 504)
   - B. Chapter 7—Emission Limitations and Prohibitions: Existing and New Sources of Volatile Organic Compounds (VOCs)

Comments and Responses:

Only one set of comments was received, submitted by WCAPCD on May 25, 1990. WCAPCD's comments were limited to USEPA's proposed actions on Chapters 4, 5, and 7 of the Ordinance. WCAPCD requested, and was granted, an extension of the comment period in order to submit

more detailed comments following review of USEPA's technical support documents. However, no further comments were received. As noted above, on January 28, 1993, at the request of Wayne County, the State withdrew Chapters 4, 7, and 10 of the Ordinance from its submittal. In addition, at the request of Wayne County, the State is withdrawing portions of Chapter 5, section 501, of the Wayne County Ordinance which incorporate by reference the following parts of the State rules: (1) The quench tower limit in Rule 336.1331, Table 31, Section C.8, (2) the deletion of the limit in Rule 336.1331 for coke oven coal preheater equipment, and (3) Rule 336.1355. In addition, the County identified that in the notice of proposed rulemaking, USEPA mistakenly acted on sections 504 and 505 which were never adopted by the county and, therefore, were not included in the State's submittal. The following comment was submitted regarding chapter 5 of the ordinance.

Comment: "No reasons for [proposed disapproval of sections 501 and 502] were given. In light of the fact that section 501 incorporates by reference a number of State rules, [WCAPCD] is at a loss to understand why this section should not be approved."

Response: The technical support document of February 23, 1987, states that Michigan's Rules 301 and 331 (i.e. those used as the basis for sections 501 and 502 of the Wayne County rules), "have been determined by USEPA to be unapprovable." A fuller discussion of these State rules was provided in separate technical support documents located in the docket. The proposal to disapprove section 501 of the Wayne County Ordinance was based on this evaluation of the State rules being incorporated. Since the time of proposed rulemaking on the Wayne County Ordinance, the State rules have been further evaluated. Although technical support documents of 1986 and 1987 recommended, and a Notice of Proposed Rulemaking of 1989 proposed disapproval of some of the incorporated State rules, the reevaluation recommends approving most of these rules. As noted above, the State is withdrawing portions of section 501 of the Wayne County Ordinance. As a result, the remaining parts of Chapter 5 of the Wayne County Ordinance are now approvable. These issues are discussed in more detail in the rulemaking portion of this notice.

USEPA's Final Rulemaking Actions

Based on USEPA's proposed actions on March 26, 1990, USEPA is taking final action on the following regulations.

1. Approval:
   - A. Chapter 1
   - B. Chapter 2
   - C. Chapter 3
   - D. Chapter 5—section 503
   - E. Chapter 8—except section 802
   - F. Chapter 9
   - G. Chapter 11
   - H. Chapter 12
   - I. Chapter 13
2. No Action:
   - A. Chapter 8—Section 802—USEPA is not taking action on this Section at this time because the Clean Air Act does not contain provisions for the regulation of odor and there are no National Ambient Air Quality Standards which regulate odor.

In addition, USEPA is taking final approval action, as described below, for two other parts of the State's submittal.

3. Direct Final Rulemaking—Chapter 5
   - A. Sections 501 and 502—USEPA expects no adverse public or congressional reaction resulting from approval of this portion of the SIP revision. The State of Michigan is aware that USEPA plans to approve this portion of the revision and process it under the Direct Final procedures. The State of Michigan concurs with this decision. USEPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. These same provisions have been previously approved by USEPA as revisions to Michigan's State Implementation Plan. This portion of USEPA's rulemaking action will be effective July 12, 1993, unless, within 30 days of publication, notice is received that adverse or critical comments will be submitted bearing solely on this finding that Chapter 5 satisfies the 1981 federally enforced criteria for TSP Part D SIP requirements. If such notice is received, the action on section 501 and 502 of Chapter 5 of this submittal will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal for the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective July 12, 1993.
4. Final Approval Action on Appendices
   - A. Appendices A and D—USEPA's notice of proposed rulemaking did not directly specify rulemaking action for the appendices, however, action was proposed indirectly by proposing action on the chapters that incorporate the appendices by reference. The appendices were also discussed more explicitly in the technical support documents for the proposal. USEPA did not directly specify any rulemaking action with regard to appendices A, B, C, D, and E, which were part of the original State submittal. Since the time of the original submittal, the State has withdrawn those Chapters that referenced appendices B, C, and E. The Agency's action on a SIP submittal is rulemaking that is subject to the procedural requirements of the Administrative Procedures Act (APA). Under the good cause exception to the rulemaking requirement, section 553(b)(B), however, the Agency need not provide notice and an opportunity for comment if the Agency for good cause determines that notice and comment are "impracticable, unnecessary, or contrary to the public interest."

Notice and comment are impracticable and unnecessary in the present circumstance. Although USEPA did not directly propose approval of the appendices, USEPA proposed action on the rules that incorporate these appendices by reference.

Therefore, since USEPA did indirectly propose action on these appendices, and any review of the effect of the proposed rules would necessarily involve review of the appendices, USEPA believes that it is unnecessary to propose separate action on the appendices. In addition, it is impracticable for the Agency to take such action because, in light of the statutory time constraints on acting on SIPs, such a process would divert valuable agency resources from action on the large number of SIPs on which USEPA has not had an opportunity to propose and take final action. Therefore, USEPA is taking final action on these appendices in this action. In this manner, USEPA is approving appendices A and D.

This action has been classified as a Table One action by the Regional Administrator, under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225).

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities because it merely approves or disapproves for Federal purposes rules that are already in effect and enforceable at the county level.

The Agency has reviewed this request for the revision of the Federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment due to the fact that the WCAPCD ordinance does not constitute a relaxation of the existing local or State rules.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United State Court of Appeals for the appropriate circuit by July 12, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial rule may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Sulfur dioxide.

Note—Incorporation by reference of the State Implementation Plan for the State of Michigan was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 26, 1993.

Carol Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as follows.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(92) to read as follows:

§ 52.1170. Identification of plan.

* * * * *

(c) * * *

(92) On October 10, 1986, the State of Michigan supported portions of the revised Wayne County Air Pollution Control Division Air Pollution Control Ordinance as approved by Wayne County on September 19, 1985, as a revision to the Michigan State Implementation Plan.

(i) Incorporation by reference.

(A) Chapters 1, 2, 3, 5 (except for the portions of Chapter 5, section 501, of the Wayne County Ordinance which incorporate by reference the following parts of the State rules: The quench tower limit in Rule 336.1331, Table 31, Section C.8; the deletion of the limit in Rule 336.1331 for coke oven coal preheater equipment; and Rule 336.1355), 8 (except section 802), 9, 11, 12, 13 and appendices A and D of the Wayne County Air Pollution Control Division (WCAPCD) Air Pollution Control Ordinance as approved by WCAPCD on September 19, 1985.

[FR Doc. 93–11336 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WI 13–2–5841; FRL–4654–6]

Approval and Promulgation of Implementation Plans; Wisconsin; Rhinelander Sulfur Dioxide Attainment and Maintenance Plan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On January 5, 1993, USEPA proposed to disapprove Wisconsin rule NR 418.07 as a revision to Wisconsin's State Implementation Plan (SIP) for sulfur dioxide (SO_2). This SIP revision request, submitted by the State on April 28, 1989, to satisfy the requirements of the Clean Air Act (CAA), regulates certain sources of SO_2 in Rhinelander, Wisconsin. No public comments were received on USEPA's proposed action. USEPA is disapproving this revision request in this action.

EFFECTIVE DATE: This final rulemaking becomes effective on June 14, 1993.

ADDRESSES: Copies of the SIP revisions and USEPA's analysis are available for inspection during normal business hours at the following address: (It is recommended that you telephone Sheila Breen at (312) 886–6053, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sheila Breen, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6053.

SUPPLEMENTARY INFORMATION:

I. Summary

On January 5, 1993, USEPA proposed to disapprove Wisconsin rule NR 418.07 as a revision to Wisconsin's SO_2 SIP (58 FR 326). This revised rule, submitted by Wisconsin to USEPA on April 28, 1989, regulates certain sources of SO_2 constructed before April 1, 1985, located within the corporate boundaries of Rhinelander, Wisconsin. A paper mill (Rhinelander Paper Company) is the only source presently affected by the rule's limits. The limits for each SO_2 source in the proposed SIP revision are summarized in NR 418.07 and were detailed in USEPA's January 5, 1993, Notice of Proposed Rulemaking (NPR). Background information for USEPA's NPR is contained in the January 5, 1993, **Federal Register** and will not be repeated here.

II. Analysis of State Submittal

USEPA has reviewed the technical analyses that were submitted in conjunction with the Rhinelander SO_2 rule and is disapproving the SIP revision for two reasons. First, the Industrial Source Complex (ISC) model used by WDNR has been shown to underpredict ambient SO_2 concentrations in the Rhinelander area. Second, the USEPA has determined that the rollback analysis used by WDNR to technically support all of the limits in section NR 418.07 (except those in subsection (1)(a)(1)) does not adequately ensure that the NAAQS will be attained at these emission limitations. A more detailed account of these two deficiencies is provided in the November 16, 1989, and October 11, 1990, technical support documents for the NPR and in the January 5, 1993, NPR.

III. Public Comments

On January 5, 1993, USEPA proposed disapproval of this SIP submittal and requested public comment. The public comment period closed on February 4, 1993, and no comments were received.

IV. Rulemaking Action

USEPA is disapproving section NR 418.07: Rhinelander RACT Sulfur Limitations as a revision to Wisconsin's

State Implementation Plan because the State has not shown that the rule provides for attainment and maintenance of the SO_2 NAAQS consistent with all applicable requirements of the CAA. These requirements include sections 110(a)(2) and 191(b) of the CAA, as amended in 1990.[1]

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 1993. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such a rule. This action may not be challenged later in proceedings to enforce its requirements. (Section 307(b)(2).)

The Agency has reviewed this request for revision of the federally approved State Implementation Plan for conformance with the provisions of the 1990 Clean Air Act Amendments. As discussed above, the Agency has determined that this action does not conform with those requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401–7671(q).

[1] Section 191(b) requires States with areas designated primary nonattainment for SO_2 to submit to the Administrator an "applicable implementation plan meeting the requirements of this part".

Dated: March 24, 1993.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–11332 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[PA 10–3–5610; A–1–FRL–4615–3]

Approval and Promulgation of Implementation Plans; Pennsylvania; Correction of Reasonably Available Control Technology Regulations for Certain Sources of Volatile Organic Compounds

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions make the changes required by the Clean Air Act, as amended in 1990 (the Act), pertaining to the correction of State volatile organic compound (VOC) regulations consistent with the EPA guidance provided in the Control Technique Guidelines (CTGs). The intended effect of this action is to approve the revisions to the Pennsylvania SIP pertaining to gasoline marketing, recordkeeping, surface coating, graphic arts, deletion of the generic bubble regulation, seasonal operation of auxiliary incineration equipment, compliance schedules, and synthesized pharmaceutical products.

EFFECTIVE DATE: This rule will become effective on June 14, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: Jerry Kurtzweg; and Commonwealth of Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 2357, Executive House—2nd & Chestnut Streets, Harrisburg, PA 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, (215) 597–9337.

SUPPLEMENTARY INFORMATION: On August 11, 1992 (57 FR 35771), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Pennsylvania. The formal SIP revision was submitted by Pennsylvania on August 15, 1991. The NPR proposed approval of changes to 25 Pennsylvania Code Chapters 121 and 129, pertaining to the regulation of VOC sources. Specifically, these changes are:

(1) The geographic expansion of the Stage I vapor recovery regulations and the removal of certain exemptions in the Stage I regulations (Section 129.61);

(2) Improved recordkeeping and a requirement that any alternative compliance methods not specified by the regulations must be approved by EPA as SIP revisions (Section 129.51);

(3) The removal of certain exemptions for bulk terminals and bulk plants (Sections 129.59 and 129.60, including the corresponding definitional changes in Section 121.1);

(4) The lowering of certain applicability levels for certain surface coating processes and expanded geographic applicability of the surface coating regulations (Section 129.52);

(5) Removal of the generic bubble provision (Section 129.53);

(6) The change in the regulation pertaining to the seasonal operation of incineration equipment (Section 129.54);

(7) Promulgation of compliance schedules (Section 129.66);

(8) Promulgation of graphic arts applicability levels (Section 129.67); and,

(9) The corrections to the regulation for the manufacture of synthesized pharmaceutical products (Section 129.68).

This submittal was part of a larger package which also included the definitions and emission standards for wood furniture coating. On October 11, 1991, EPA returned the wood furniture regulation portion of the package to Pennsylvania because adequate technical support had not been provided with the submittal and the submittal was, consequently, determined to be incomplete. Therefore this notice addresses the August 15, 1991 submittal with the exception of the wood furniture regulations and applicable definitions.

Other specific elements of these revisions and the rationale for EPA's final action are explained in the NPR and the accompanying technical support document (TSD) and will not be restated here. Comments were received from one commenter. The comments are summarized below and followed by EPA's responses.

Comment #1: Pennsylvania failed to provide adequate notice and opportunity for comment on changes in the method for calculating compliance

with the VOC emission standard for surface coating processes.

Response: In response to EPA comments during the state's notice and comment period on the proposed regulations, Pennsylvania revised the method for calculating compliance with its surface coating standard. The final regulation, 25 Pa. Code § 121.52(b), uses 7.36 pounds per gallon (lb/gal) as the standard solvent density for surface coating processes.

Pennsylvania was not required to commence a second notice and comment period to address this change in its proposed regulation. The purpose of a public notice and comment period by the state on a proposed regulation is to solicit comments and additional pertinent information about the proposal. It is often the case that, pursuant to public comment on the proposal, pertinent information becomes known and is factored into the state's final version of the regulation. Pennsylvania made the changes to its proposed surface coating regulations in response to comments submitted during the public comment period. These comments were made part of the public record of the state's rulemaking to adopt these regulations.

Comment #2: The use of 7.36 lb/gal solvent density alters the basis for compliance determinations and causes difficulty in the implementation of the regulations.

Response: The 7.36 lb/gal solvent density factor was used by EPA in the development of the emission standards for surface coating sources published in the Control Technique Guidelines (CTGs). These CTGs were issued by EPA as guidance for States to use in the development of its regulations. Pennsylvania's proposal to change its regulations is in direct response to EPA's 1988 and 1989 SIP calls and to Section 182 (a)(2)(A) of the Act, all of which require that States correct (or supplement) reasonably available control technology (RACT) regulations. (See August 11, 1992 **Federal Register** notice and accompanying TSD for discussion of SIP calls.) Pennsylvania's adoption of a standard 7.36 lb/gal solvent density factor corrects a deficiency in its prior regulations. The use of this standard solvent density is required in order to convert the lb VOC/gal coating less water emission standards into the solids-based equivalent standard, lbs VOC/gal coating solids. It is necessary to convert the emission standard to its solids-based equivalent to ensure that VOC emissions will be actually reduced. Comparison of the actual coating with the emission standard on a solids equivalent basis ensures that this is true. The amount of solids in a coating determines how much of that coating is needed to paint an object. The more coating solids a coating has, the less coating that will need to be used to coat the same object. Using less VOC bearing coatings will result in less VOC emissions. Standardizing the comparisons of surface coatings on the basis of coating solids allows a true comparison of VOC emissions of one coating to another.

Standardizing the solvent density of the emission standards to 7.36 lbs/gal, which was used in the development of those standards, is expected to make implementation of the surface coating regulations more consistent. In the past, emission standards were not always converted to their solids based equivalent standards. Consequently, sources subject to the same regulation were not necessarily meeting the equivalent emission standard. There is expected to be more certainty and consistency, resulting in real emission reductions, when this method of converting emission standards to a solids based equivalent standard is used. Moreover, EPA has used this method of determining compliance and has found it to be a practical way to calculate emissions.

Comment #3: The use of 7.36 lb/gal solvent density is too simplistic and will not result in lower VOC emissions in all cases.

Response: As discussed above in the response to comment #2, the use of the 7.36 lb/gal solvent density is meant to correct a deficiency in the Pennsylvania regulation which had previously not standardized its compliance calculations. In all cases, the use of the 7.36 lb/gal solvent density will result in arriving at a solids-based equivalent emission standard for the individual surface coating categories in a manner consistent with the development of those emission standards as reasonably available control technology (RACT).

A detailed evaluation of these SIP revisions has been performed by EPA in a technical support document (TSD) for this action. A copy of this TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Final Action

EPA is approving the changes in the Pennsylvania VOC regulations, Chapters 121 and 129, pertaining to Stage I vapor recovery, surface coating, graphic arts, recordkeeping, gasoline marketing, pharmaceutical products, and compliance schedules because they are consistent with the Act. These changes represent Pennsylvania's partial response to the May 26, 1988 and the November 8, 1989 SIP calls.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This rulemaking action, approving changes to Chapters 121 and 129 of the Pennsylvania regulations pertaining to Stage I vapor recovery, surface coating, graphic arts, deletion of the generic bubble regulation, recordkeeping, gasoline marketing, pharmaceutical products, and compliance schedules, has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for tables 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the approval of revisions to the Pennsylvania State Implementation Plan regarding Chapters

121 and 129, must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Intergovernmental relations, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 23, 1993.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

Part 52 of Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(79) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(79) Revisions to the State Implementation Plan submitted by the Pennsylvania Department of Environmental Resources on August 15, 1991.

(i) Incorporation by reference.

(A) Letter from the Pennsylvania Department of Environmental Resources dated August 15, 1991 submitting revision to the Pennsylvania State Implementation Plan, pertaining to Chapters 121 and 129 of the Pennsylvania regulations pertaining to Stage I vapor recovery, surface coating, graphic arts, deletion of the generic bubble regulation, recordkeeping, gasoline marketing, pharmaceutical products, and compliance schedules.

(B) The definitions of bulk gasoline plant, bulk gasoline terminal, clear coa and miscellaneous metal parts and products found in Chapter 121.1, Chapter 129.51 (a) (1) through (6), (b), and (c), Chapter 129.52 (a) through (e), Table I, 10.(a) topcoats for locomotives and heavy-duty trucks and 10.(b) hopper cars and tank car interiors, deletion of Chapter 129.53 (now reserved), Chapter 129.54, Chapter 129.59, Chapter 129.60, Chapter 129.61 Chapter 129.66, Chapter 129.67, and Chapter 129.68 published in the Pennsylvania Bulletin dated August 3, 1991 (Vol. 21, no. 31, pages 3406–3416). These regulations were made effective on August 3, 1991.

[FR Doc. 93–11337 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 58, No. 91
Thursday, May 13, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Fees for Registered Futures Association and Exchange Rule Enforcement and Financial Reviews

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commission periodically adjusts fees charged for certain program services rendered. In this regard, the staff recently reviewed the Commission's formula for charging fees for registered futures association and exchange rule enforcement and financial reviews (17 CFR part 1). After analyzing the data contained in this review the Commission has decided to propose an amendment to its formula for determining fees charged to exchanges from one based only on actual costs to one based on actual costs which also considers trading volume.

DATES: Comments must be received on or before July 12, 1993.

ADDRESSES: Comments on the proposed amendment should be sent to Jean A. Webb, Secretary to the Commission, 2033 K Street Washington, DC 20581. Comments should refer to FY 1993 Service Fees.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Special Assistant to the Executive Director, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone number 202 254–6090.

SUPPLEMENTARY INFORMATION: The Futures Trading Act of 1982, (Pub. L. 97–444. 96 Stat. 2294, 2326, January 11, 1983) amended section 26 of the Futures Trading Act of 1978 (7. U.S.C. 16a) to add specific authority for the Commission:

> To promulgate, after notice and opportunity for hearing a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: *Provided* that the fees for any specific service or activity or function shall not exceed the actual cost thereof to the Commission.

The Conference Report accompanying the legislation [H.R. Rep. No. 964, 97th Cong. 2nd Sess. 57 (1982)] states that "the conferees intend that the fee schedule addressed by the Conference substitute be strictly limited to Commission activities directly related to "eight enumerated Commission functions including registered futures association and contract market rule enforcement reviews and financial reviews".

The formula for determining these fees was last amended on May 11, 1990 (55 FR 19725) when the formula changed from 65% to 100% of actual average three-year costs.

Under the proposed fee the total amount which would be collected by the Commission would still be based upon the average costs incurred by the Commission in conducting rule enforcement and financial reviews during the previous three fiscal years. The proposal would provide relief for low-volume exchanges as explained below. Under the proposal, the Commission would continue to calculate actual costs and determine percentages each year based upon exchange trade volume. Thereafter, the Commission would publish a list of the annual fees for each exchange.

I. Computation of Fees

In accordance with the Futures Trading Act of 1982 (7 U.S.C. 16a) the Commission has established fees for certain activities and functions performed by the Commission.[1] In calculating the actual cost of performing registered futures association and exchange rule enforcement and financial reviews the Commission takes into account personnel costs, benefits and administrative costs.

The Commission first determines personnel costs by extracting data from the agency's Management Accounting Structured Code (MASC) system. Employees of the Commission record the time spent on each project under the MASC system. The Commission then adds an overhead factor for benefits, including retirement, insurance and leave, based on a government-wide standard established by the Office of Management and Budget in Circular A–76. An overhead factor is also added for general and administrative costs, such as space, equipment and utilities. These general and administrative costs are derived by computing the percentage of Commission appropriations spent on these non-personnel items. The overhead calculations fluctuate slightly due to changes in government-wide benefits and the percentage of Commission appropriations applied to non-personnel costs from year to year. The actual overhead factor for the preceding fiscal years is as follows: FY 1990—98%; FY 1991—94%; Fy 1992—99.

Once the total personnel costs and overhead for each project have been determined, the costs for FY 1990, FY 1991 and FY 1992 are averaged. This results in a calculation of the average annual costs for each project over the three-year period. The average annual costs for rule enforcement reviews and financial reviews for each exchange are as follows:

Exchange	FY 1990–1992 average annual costs
Chicago Board of Trade	$212,959.11
Chicago Mercantile Exchange	216,088.48
Commodity Exchange, Inc	106,396.81
Coffee, Sugar and Cocoa Exchange	78,137.34
New York Mercantile Exchange	94,035.16
New York Cotton Exchange	129,969.30
Kansas City Board of Trade	52,919.18
New York Futures Exchange	149,498.63
Minneapolis Grain Exchange	69,220.55
Philadelphia Board of Trade	4,056.41
Amex Commodity Corporation	1,507.53
Total	1,114,788.51

The average annual cost for the National Futures Association is $319,438.13.

Under the proposal, the Commission would look at volume for the three fiscal years to determine the actual volume for

[1] For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

each exchange and its percentage of total trading volume across all exchanges during that same period.

Exchange	Three years average volume	Percentage
Chicago Board of Trade	450,833,151	44.2
Chicago Mercantile Exchange	334,384,010	32.8
Commodity Exchange, Inc	50,604,292	4.9
Coffee, Sugar and Cocoa Exchange	31,198,484	3.0
New York Mercantile Exchange	127,408,895	12.5
New York Cotton Exchange	12,545,785	1.2
Kansas City Board of Trade	4,316,023	.4
New York Futures Exchange	4,788,844	.4
Minneapolis Grain Exchange	1,766,214	.1
Philadelphia Board of Trade	68,990	.0
Amex Commodity Corporation	0	.0
Total	1,017,914,688	100.0000

The formula for calculating the fee would be as follows:

0.5a + 0.5vt

where:

a = actual cost

v = % of total volume

t = total cost for all exchanges

If the calculated fee using this formula were higher than actual costs the exchange would pay only actual costs. If the calculated fee using the formula were less than actual costs then the exchange would pay the calculated fee. No exchange would pay more than actual costs. Also, if an exchange had no volume over the three year period they would pay a flat 50% of actual costs. The National Futures Association, under the proposal, would continue to be charged 100% of its actual costs.

For example:

The Minneapolis Grain Exchange had an actual cost of $69,220.55(a), and its three-year volume was 0.1735% of the total three year volume. Based upon this the fee for FY would be:

(.5)($69,220.55) +
(.5)(.001735)($1,114,788.51) = or
34,610.27 + 967.09 = 35,577.36

The fee for the Minneapolis Grain Exchange would be $35,577. Based upon the formula the fees for all of the exchanges for FY 1993 would be:

Exchange/NFA	Fee
Chicago Board of Trade	$212,959
Chicago Mercantile Exchange	216,088
Commodity Exchange, Inc	80,909
Coffee, Sugar and Cocoa Exchange	56,152
New York Mercantile Exchange	94,035
New York Cotton Exchange	71,855
Kansas City Board of Trade	28,823
New York Futures Exchange	77,372
Minneapolis Grain Exchange	35,577
Philadelphia Board of Trade	2,066
Amex Commodity Corporation	754
National Futures Association	319,438
Total	1,196,028

As in the calculation of previous year fees, the FY 1992 fee for the Chicago Board of Trade would include the MidAmerica Commodity Exchange and the Chicago Rice and Cotton Exchange.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et. seq.*, requires that agencies consider the impact of those rules on small businesses. The fees implemented in this release affect contract markets (also referred to as "exchanges") and registered futures associations. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, 47 FR 18618 (April 30, 1982). Registered futures associations also are not considered "small entities" by the Commission. Therefore, the requirements of the Regulatory Flexibility Act do not apply to contract markets or registered futures associations. Accordingly, the Chairman, on behalf of the Commission, certifies that the fees implemented herein do not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC on May 7th, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-11303 Filed 5-12-93; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[EE-63-92]

RIN 1545-AR08

Update of Railroad Retirement Tax A Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaki and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the Railroad Retirement Tax Act (RRTA). These proposed regulations update th existing RRTA regulations by removi obsolete provisions and adding new provisions to reflect the statutory changes that have occurred since the publication in 1964 of the existing RRTA regulations. In addition, becau Tier I of the RRTA mirrors the Feder Insurance Contributions Act (FICA), these proposed regulations generally cross-reference the definition of compensation under the RRTA to the definition of wages under the FICA. T proposed regulations will provide bo railroad employers and Service personnel with the guidance necessar to comply with the law.

DATES: Written comments must be received by July 12, 1993. Requests t speak (with outlines of oral comment at a public hearing scheduled for Aug 30, 1993, at 10 a.m. must be received August 9, 1993.

ADDRESSES: Send all submissions to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention CC:CORP:T:R (EE-63-92), Washingto

DC 20044. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, 1111 Constitution Ave., NW., Washington, DC. 20224.

FOR FURTHER INFORMATION CONTACT: Jean M. Whalen, (202) 622–6040 concerning the regulations; and Carol Savage, (202) 622–8452 concerning the hearing (not toll-free numbers).

SUPPLEMENTARY INFORMATION: This document contains proposed amendments to the Employment Tax Regulations (26 CFR part 31) under sections 3201 through 3231 of the Internal Revenue Code (Code). The proposed regulations are to be issued under the authority of section 7805.

Background

The federally administered retirement system for railroad employees was created in the 1930's. This system provides benefits similar to those under the social security system as well as benefits similar to those under private pension plans. Benefits under the railroad retirement system are administered by the Railroad Retirement Board (the Board). The Railroad Retirement Tax Act (RRTA), which provides the funding for the railroad retirement system, is administered by the Internal Revenue Service. The existing RRTA regulations generally were issued in 1964 and are outmoded due to the passage of subsequent legislation.

The Railroad Retirement Act of 1937, which provides for benefits, was completely revised by the Railroad Retirement Act of 1974 (Pub. L. 93–445) (the 1974 Act). Prior to the 1974 Act, a railroad worker could be entitled to benefits under both the social security system and the railroad retirement system. A railroad worker covered under both systems received greater benefits than a worker covered under only one of the systems. The 1974 Act phased out these dual railroad retirement and social security benefits and coordinated the benefit structures of the two systems.

Under the 1974 Act, the Railroad Retirement system was separated into two tiers that are funded by payroll taxes paid by employees and employers.

Tier I benefits are designed to be equivalent to social security benefits. Benefits under Tier I are based on railroad service plus any credits earned from social security service. Tier I benefits received after 1983 are subject to federal income taxation in the same manner as social security benefits.

Tier II benefits are additional benefits based only on railroad employment and are analogous to private employer-paid pensions. Tier II benefits are treated as private pensions for federal income tax purposes.

The Railroad Retirement Solvency Act of 1983 (Pub.L. 9876) amended both the 1974 Act and the RRTA. As a result of these changes, the Tier I tax is virtually identical to the FICA tax. The Tier I tax is imposed on employers, employees, and employee representatives (a group unique to the railroad industry) at the same rate as the tax imposed under the FICA. The Tier I tax is imposed on compensation paid up to the FICA annual wage ceiling. Prior to these legislative changes, the RRTA tax was imposed on compensation earned up to a monthly amount equal to one-twelfth of the annual FICA wage base.

Along with conforming the structure of the RRTA to parallel that of the FICA, the exclusions from the definition of compensation under the RRTA now generally mirror the exclusions from the definition of wages under the FICA. These exclusions include such items as contributions to or distributions from qualified plans, payments under cafeteria plans, and benefits that are excluded from gross income under various Code sections, including 117 (qualified scholarships), 120 (qualified group legal services), and 132 (fringe benefits). Also, the treatment of deferred compensation arrangements and employer-paid life insurance premiums under the RRTA is now the same as the treatment under the FICA.

Also excluded from compensation under the RRTA is remuneration for service performed by certain nonresident alien individuals temporarily in the United States. This provision has the same effect as a FICA provision. However, under the FICA, service performed by these individuals is excluded from employment, while under the RRTA, service performed by these individuals is not excluded from employment, but the amount they receive is excluded from compensation.

Some exclusions were added to the RRTA and the FICA simultaneously. Exclusions that already existed in the FICA were added to the RRTA in subsequent legislation in order to keep the systems parallel. However, the exclusions from the FICA for amounts received for moving expenses under section 217 of the Code and amounts received under dependent care assistance programs under section 129 of the Code are not presently mirrored in the RRTA. In addition, the FICA excludes from wages payments made by an employer to a former employee's survivor or estate after the calendar year of the employee's death, as well as certain other payments made by an employer on or after the termination of employment because of the employee's death or disability retirement. These provisions are not mirrored in the RRTA.

While the treatment of tips for the employee RRTA tax mirrors the FICA, tips are excluded from compensation for purposes of the employer RRTA tax.

Sick pay treatment under the FICA and Tier I of the RRTA are identical. However, sick pay is not included in compensation for purposes of the Tier II tax and the Supplemental Annuity tax.

Other legislative and administrative changes also necessitate changes in the existing regulations. These changes are not substantive, but provide accuracy and clarity in the regulations. For example, the definition of "carrier" in section 3231(g) of the Code has been modified. In addition, if the amount of compensation earned in the service of a local lodge or division of a railway-labor organization is below a certain statutory limit, the payment is excluded from compensation. This limit has been increased.

The Internal Revenue Service, in Revenue Ruling 77–445, 1977–2 C.B. 357, and Revenue Ruling 84–91, 1984–1 C.B. 203, adopted factors set forth in two sections of regulations promulgated by the Board. These regulation sections, which deal generally with who is an "employer" subject to the railroad retirement system, set forth the definition of "casual service" and the factors to be considered in determining whether business activities of an employer can be segregated. While the Service looks at the same factors as the Board in determining who is an "employer," the Service is not bound by the Board's determination of who is an employer.

In summary, the majority of the existing regulations under the RRTA no longer reflect the law. Congress has made benefits under Tier I equivalent to social security benefits and has also made the taxing structure of the two systems virtually identical. By updating the regulations and referencing the definition of compensation under the RRTA to that of wages under the FICA, these proposed RRTA regulations provide needed guidance and implement the congressional goal of making the systems parallel. Any future guidance concerning wages under the FICA will also apply to compensation under the RRTA to the extent the provisions in the two acts are the same.

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations for guidance pending the

issuance of final regulations. These regulations will generally be effective for calendar years beginning after December 31, 1992. If future regulations are more restrictive, such guidance will be applied without retroactive effect.

Special Analysis

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 533(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

A public hearing will be held on Monday, August 30, 1993, in the Internal Revenue Service Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply to the public hearing.

Person who have submitted written comments by July 12, 1993, and who also desire to present oral comments at the hearing on the proposed regulations, should submit, not later than August 9, 1993, a request to speak and an outline of the oral comments to be presented at the hearing stating the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building before 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Jean M. Whalen of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing Vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR part 31 are as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 31.3121(a)–1 is amended as follows:

1. Paragraph (a) is redesignated as (a)(1).

2. Paragraph (a)(2) is added to read as follows:

§ 31.3121(a)–1 Wages.

(a) * * *

(2) The term *compensation* as used in section 3231(e) of the Internal Revenue Code has the same meaning as the term *wages* as used in this section, determined without regard to section 3121(b)(9), except as specifically limited by the Railroad Retirement Tax Act (chapter 22 of the Internal Revenue Code) or regulation. The Commissioner may, in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin, provide any additional guidance that may be necessary or appropriate in applying the definitions of sections 3121(a) and 3231(e). See § 601.601(d)(2)(ii)(*b*).

* * * * *

Par. 3. Section 31.3201–1 is revised to read as follows:

§ 31.3201–1 Measure of employee tax.

The employee tax is measured by the amount of compensation received for services rendered as an employee. For provisions relating to compensation, see § 31.3231(e)–1. For provisions relating to the circumstances under which certain compensation is to be disregarded for the purpose of determining the employee tax, see paragraphs (b)(1) and (b)(2) of § 31.3231(e)–1.

Par. 4. Section 31.3201–2 is revised to read as follows:

§ 31.3201–2 Rates and computation of employee tax.

(a) *Rates*—(1)(i) *Tier I tax.* The Tier I employee tax rate equals the sum of the tax rates in effect under section 3101(a) relating to old-age, survivors, and disability insurance, and section 3101(b), relating to hospital insurance. The section 3101(a) rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i)(I). The section 3101(b) rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i)(II). These contribution bases are determined under section 230 of the Social Security Act and are identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively, under the Federal Insurance Contributions Act.

(ii) *Example.* The rule in paragraph (a)(1)(i) of this section is illustrated by the following example.

Example. A earned $60,000 in 1992. The section 3101(a) rate of 6.2 percent would be applied to *A*'s compensation up to $55,500, the applicable contribution base for 1992. The section 3101(b) rate of 1.45 percent would be applied to the entire $60,000 of *A*'s compensation because the applicable contribution base for 1992 is $130,200.

(2)(i) *Tier II tax.* The Tier II employee tax rate equals the percentage set forth in section 3201(b) of the Code. This rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(ii).

(ii) *Example.* The rule in paragraph (a)(2)(i) of this section is illustrated by the following example.

Example. A earned $60,000 in 1992. The section 3201(b) rate of 4.90 percent would be applied to *A*'s compensation up to $41,400, the applicable contribution base for 1992.

(b)(1) *Computation.* The employee tax is computed by multiplying the amount of the employee's compensation with respect to which the employee tax is imposed by the rate applicable to such compensation, as determined under paragraph (a) of this section. The applicable rate is the rate in effect when the compensation is received by the employee. For rules relating to the time of receipt, see § 31.3121(a)–2(a) and (b).

(2) *Example.* The rule in paragraph (b)(1) of this section is illustrated by the following example.

Example. In 1990, employee *A* received $1,000 as remuneration for services performed for employer *R* in 1989. The employee tax is payable at the rate of 7.65 percent (6.2 percent plus 1.45 percent) in effect for 1990 (the year the compensation was received), and not the 7.51 percent rate (6.06 percent plus 1.45 percent) in effect for 1989 (the year the services were performed).

Par. 5. Section 31.3202–1 is amended by revising paragraphs (b) and (f) to read as follows:

§ 31.3202–1 Collection of, and liability for, employee tax.

* * * * *

(b) *Collection; payments by two or more employers in excess of annual compensation limitation.* For rules relating to payments by two or more employers in excess of the annual compensation limitation see § 31.3121(a)(1)–1.

* * * * *

(f) *Concurrent employment.* If two or more related corporations who are rail employers concurrently employ the same individual and compensate that individual through a common paymaster, which is one of the related corporations employing the individual, see § 31.3121(s)–1.

Par. 6. Section 31.3211–1 is revised to read as follows:

§ 31.3211–1 Measure of employee representative tax.

The employee representative tax is measured by the amount of compensation received for services rendered as an employee representative. For provisions relating to compensation, see § 31.3231(e)–1.

Par. 7. Section 31.3211–2 is revised to read as follows:

§ 31.3211–2 Rates and computation of employee representative tax.

(a) *Rates*—(1)(i) *Tier I tax.* The Tier I employee representative tax rate equals the sum of the tax rates in effect under sections 3101(a) and 3111(a), relating to the employee and the employer tax for old-age, survivors, and disability insurance, and sections 3101(b) and 3111(b), relating to the employee and the employer tax for hospital insurance. The section 3101(a) rate and the section 3111(a) rate are applied to the compensation up to the contribution base described in section 3231(e)(2)(B)(i)(I). The section 3101(b) rate and the section 3111(b) rate are applied to the contribution base described in section 3231(e)(2)(B)(i)(II). These contribution bases are determined under section 230 of the Social Security Act, and are identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively, under the Federal Insurance Contributions Act.

(ii) *Example.* The rule in paragraph (a)(1)(i) of this section is illustrated by the following example.

Example. B, an employee representative earned $60,000 in 1992. The sections 3101(a) and 3111(a) rates of 12.4 percent (6.2 percent plus 6.2 percent) would be applied to *B*'s compensation up to $55,500, the applicable contribution base for 1992. The sections 3101(b) and 3111(b) rates of 2.9 percent (1.45 percent plus 1.45 percent) would be applied to the entire $60,000 of *B*'s compensation because the applicable contribution base for 1992 is $130,200.

(2)(i) *Tier II tax.* The Tier II employee representative tax rate equals the percentage set forth in section 3211(a)(2) of the Code. This rate is applied up to the contribution base described in section 3231(e)(2)(B)(ii).

(ii) *Example.* The rule in paragraph (a)(2)(i) of this section is illustrated by the following example.

Example. B earned $60,000 in 1992. The section 3211(a)(2) rate of 14.75 percent would be applied to *B*'s compensation up to $41,400, the applicable contribution base for 1992.

(3) *Supplemental Annuity Tax.* The supplemental annuity tax for each work-hour for which compensation is paid to an employee representative for services rendered as an employee representative is imposed at the same rate as the excise tax imposed on every employer under section 3221(c). See also § 31.3211–3.

(b)(1) *Computation.* The employee representative tax is computed by multiplying the amount of the employee representative's compensation with respect to which the employee representative tax is imposed by the rate applicable to such compensation, as determined under paragraph (a) of this section. The applicable rate is the rate in effect when the compensation is received by the employee representative. For rules relating to the time of receipt, see § 31.3121(a)–2 (a) and (b).

(2) *Example.* The rule in paragraph (b)(1) of this section is illustrated by the following example.

Example. In 1990, employee representative *B* received $1,000 as remuneration for services performed for employer *R* in 1989. The employee representative tax is payable at the rate of 30.05 percent (15.30 percent plus 14.75 percent) in effect for 1990 (the year the compensation was received), and not the 29.77 percent rate (15.02 percent plus 14.75 percent) in effect for 1989 (the year the services were performed).

(c)(1) *Rule where compensation is received both as an employee representative and employee.* The following rule applies to an individual who renders service both as an employee representative and as an employee. The employee representative tax is imposed on compensation received as an employee representative under the rules described in § 31.3211–2. The employee tax is imposed on compensation received as an employee under the rules described in § 31.3201–2. However, if the total compensation received is greater than the applicable contribution base, the employee representative tax is imposed on the amount equal to the contribution base less the amount received for services rendered as an employee.

(2) *Example.* The rule in paragraph (c)(1) of this section is illustrated by the following example.

Example. C performed services both as an employee and an employee representative in 1992. *C* earned $40,000 as an employee and $20,000 as an employee representative. *C*'s entire compensation of $40,000 is subject to tax under the rules described in § 31.3201–2. The amount of employee representative compensation subject to the section 3101(a) and the section 3111(a) rate is $15,500 ($55,500 − $40,000). The entire $20,000 is subject to the sections 3101(b) and 3111(b) rates since the combined compensation is less than $130,200, the applicable contribution base for 1992. The amount of the employee representative compensation subject to the section 3211(a)(2) rate is $1,400 ($41,400 − $40,000).

Par. 8. Section 31.3221–1 is amended as follows:

1. Paragraphs (a) and (b) are revised.
2. Paragraph (d) is removed.
3. The revisions read as follows:

§ 31.3221–1 Measure of employer tax.

(a) *General Rule*—The employer tax is measured by the amount of compensation paid by an employer to its employees. For provisions relating to compensation, see § 31.3231(e)–1. For provisions relating to the circumstances under which certain compensation is to be disregarded for purposes of determining the employer tax, see paragraphs (b)(1) and (b)(2) of § 31.3231(e)–1.

(b) *Payments by two or more employers in excess of annual compensation limitation.* For rules relating to payments by two or more employers in excess of the annual compensation limitation, see § 31.3121(a)(1)–1.

* * * * *

Par. 9. Section 31.3221–2 is revised to read as follows:

§ 31.3221–2 Rates and computation of employer tax.

(a) *Rates*—(1)(i) *Tier I tax.* The Tier I employer tax rate equals the sum of the tax rates in effect under section 3111(a),

relating to old-age, survivors, and disability insurance, and section 3111(b) relating to hospital insurance. The section 3111(a) rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i)(I). The section 3111(b) rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i)(II). These contribution bases are determined under section 230 of the Social Security Act and are identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively, under the Federal Insurance Contributions Act.

(ii) *Example.* The rule in paragraph (a)(1)(i) of this section is illustrated by the following example.

Example. *R*'s employee, *A*, earned $60,000 in 1992. The section 3111(a) rate of 6.2 percent would be applied to *A*'s compensation up to $55,500, the applicable contribution base for 1992. The section 3111(b) rate of 1.45 percent would be applied to the entire $60,000 of *A*'s compensation because the applicable contribution base for 1992 is $130,200.

(2)(i) *Tier II tax.* The Tier II employer tax rate equals the percentage set forth in section 3221(b) of the Code. This rate is applied up to the contribution base described in section 3231(e)(2)(B)(ii).

(ii) *Example.* The rule in paragraph (a)(2)(i) of this section is illustrated by the following example.

Example. *R*'s employee, *A*, earned $60,000 in 1992. The section 3221(b) rate of 16.10 percent would be applied to *A*'s compensation up to $41,400, the applicable contribution base for 1992.

(3) *Supplemental Annuity Tax.* The supplemental annuity tax for each work-hour for which compensation is paid by an employer for services rendered during any calendar quarter by employees is imposed at the tax rate determined each calendar quarter by the Railroad Retirement Board. See also § 31.3211–3.

(b)(1) *Computation.* The employer tax is computed by multiplying the amount of the compensation with respect to which the employer tax is imposed by the rate applicable to such compensation, as determined under paragraph (a) of this section. The applicable rate is the rate in effect at the time the compensation is paid. For rules relating to the time of payment, see § 31.3121(a)–2(a) and (b).

(2) *Example.* The rule in paragraph (b)(1) of this section is illustrated by the following example.

Example. In 1990, *R*'s employee *A* received $1,000 as remuneration for services performed for *R* in 1989. The employer tax is payable at the rate of 22.40 percent (7.65 percent plus 14.75 percent) in effect for 1990 (the year the compensation was received) and not the 22.26 percent rate (7.51 percent plus 14.75 percent) in effect for 1989 (the year the services were performed).

Par. 10. Section 31.3231(a)–1 is amended as follows:

1. Paragraph (a)(1) is revised.
2. Paragraphs (c) and (d) are redesignated as (d) and (e).
3. Paragraphs (c) and (f) are added.
4. The revisions and additions read as follows:

§ 31.3231(a)–1 Who are employers.

(a) * * *

(1) Any carrier, that is, any express carrier, sleeping car carrier, or rail carrier providing transportation subject to subchapter I of chapter 105 of Title 49.

* * * * *

(c) As used in paragraph (a)(2) of this section, the term *casual* applies when the service rendered or the operation of equipment or facilities by a controlled company or person in connection with the transportation of passengers or property by railroad is so irregular or infrequent as to afford no substantial basis for an inference that such service or operation will be repeated, or whenever such service or operation is insubstantial.

* * * * *

(f) Any company that is described in paragraph (a)(2) of this section is an employer under section 3231. In certain cases, based on all the facts and circumstances, it may be appropriate to segregate those businesses engaged in rail services and therefore subject to the Railroad Retirement Tax Act from those businesses engaged exclusively in nonrail services and therefore not subject to the Railroad Retirement Tax Act. The factors considered are set forth in guidance published by the Internal Revenue Service. See § 601.601(d)(2)(ii)(*b*) of this chapter.

Par. 11. Section 31.3231(e)–1 is revised to read as follows:

§ 31.3231(e)–1 Compensation.

(a) *Definition*—(1) The term *compensation* has the same meaning as the term *wages* in section 3121(a), determined without regard to section 3121(b)(9), except as specifically limited by the Railroad Retirement Tax Act (chapter 22 of the Internal Revenue Code) or regulation. The Commissioner may, in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin, provide any additional guidance that may be necessary or appropriate in applying the definitions of sections 3121(a) and 3231(e). See § 601.601(d)(2)(ii)(*b*) of this chapter.

(2) A payment made by an employer to an individual through the employer's payroll is presumed, in the absence of evidence to the contrary, to be compensation for services rendered as an employee of the employer. Likewise, a payment made by an employee organization to an employee representative through the organization's payroll is presumed, in the absence of evidence to the contrary, to be compensation for services rendered by the employee representative as such. For rules regarding the treatment of deductions by an employer from remuneration of an employee, see § 31.3123–1.

(3) The term *compensation* is not confined to amounts earned or paid for active service, but includes amounts earned or paid for an identifiable period during which the employee is absent from the active service of the employer and, in the case of an employee representative, amounts earned or paid for an identifiable period during which the employee representative is absent from the active service of the employee organization.

(4) Compensation includes amounts paid to an employee for loss of earnings during an identifiable period as the result of the displacement of the employee to a less remunerative position or occupation as well as pay for time lost.

(5) For rules regarding the treatment of reimbursement and other expense allowance amounts, see § 31.3121(a)–3. For rules regarding the inclusion of fringe benefits in compensation, see § 31.3121(a)–1T.

(b) *Special Rules.* (1) If the amount of compensation earned in any calendar month by an individual as an employee in the service of a local lodge or division of a railway-labor-organization employer is less than $25, the amount is disregarded for purposes of determining the employee tax under section 3201 and the employer tax under section 3221.

(2) Compensation for service as a delegate to a national or international convention of a railway-labor-organization employer is disregarded for purposes of determining the employee tax under section 3201 and the employer tax under section 3221 if the individual rendering the service has not previously rendered service, other than as a delegate, which may be included in the individual's years of service for purposes of the Railroad Retirement Act.

(3) For special provisions relating to the compensation of certain general

chairs or assistant general chairs of a general committee of a railway-labor-organization employer, see paragraph (c)(3) of § 31.3231(b)–1.

Par. 12. Section 31.3231(e)-2 is added to read as follows:

§ 31.3231(e)–(2) Contribution base.

The term compensation does not include any remuneration paid during any calendar year by an employer to an employee for services rendered in excess of the applicable contribution base. For rules applying this provision, see § 31.3121(a)(1)–1.

§ 31.3231(e)–2T [Removed]

Par. 13. Section 31.3231(e)-2T is removed.

§ 31.3231(e)–3 [Removed]

Par. 14. Section 31.3231(e)–3 is removed.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 93–10744 Filed 5–12–93; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 31

[EE–9–92]

RIN 1545–AR07

Supplemental Annuity Tax—Railroad Retirement

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations on the supplemental annuity tax under the Railroad Retirement Tax Act (RRTA). The proposed regulations contain rules for calculating the work-hours subject to the tax. The proposed regulations also contain a safe harbor that railroad employers may use to determine the taxable work-hours in lieu of calculating work-hours separately for each employee. The proposed regulations will provide railroad employers with guidance necessary to comply with the law and will offer a simple safe-harbor calculation that can significantly reduce the burden on employers. The proposed regulations will affect all railroad employers and employee representatives.

DATES: Written comments must be received by July 12, 1993. Requests to speak (with outlines of oral comments) at a public hearing scheduled for August 30, 1993, at 10 a.m. must be received by August 9, 1993.

ADDRESSES: Send all submissions to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (EE–9–92), Washington, DC 20044. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, 1111 Constitution Ave. NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Karin Loverud at 202–622–6060 concerning the regulations; Carol Savage at 202–622–8452 concerning the hearing (not toll-free numbers).

SUPPLEMENTARY INFORMATION: This document contains proposed amendments to the Employment Tax Regulations (26 CFR part 31) under sections 3211(b) and 3221(c) of the Internal Revenue Code (Code). The proposed regulations are to be issued under the authority of sections 3211, 3221, and 7805.

Background

Retirement benefits for railroad employees are provided under a system that currently combines elements similar to those under both the social security system and the private pension system.

In addition to Tier I benefits (similar to social security benefits) and Tier II benefits (similar to private pension benefits), a supplemental retirement annuity was established in 1966 by Public Law 89–699 (1966 Act). The benefit provisions are administered by the Railroad Retirement Board (Board).

The 1966 Act established a program to be administered by the Board for the payment of supplemental annuities for career railroad employees. The program, which was required to be self-financing, was to be financed separately from the regular railroad retirement program by imposing on railroad employers an excise tax under section 3221(c) of the Code. The rate was originally set at 2 cents for each work-hour of employment. In 1970, Public Law 91–215 replaced the 2-cent rate with a rate determined quarterly by the Board at a level sufficient to finance the annuities. The rate is currently 31 cents.

The supplemental tax is imposed on every employer for each work-hour for which compensation is paid by the employer for services rendered to the employer during a calendar quarter. Section 3211(b) of the Code imposes a similar tax on employee representatives. No tax is imposed on employees to fund the supplemental annuities.

Because the system is self-financing, the rate that an employer must pay depends on the aggregate number of workhours reported by all railroad employers. That is, an increase in the aggregate number of work-hours reported by all railroad employers will cause a decrease in the tax rate applied to those hours. Conversely, a decrease in the aggregate number of work-hours will cause an increase in the tax rate.

The only guidance previously published with respect to the supplemental tax is in the instructions for Form CT–1, Employer's Annual Railroad Retirement and Unemployment Repayment Tax Return. The instructions today are nearly identical to the instructions 25 years ago. Nevertheless, in recent years, significant variations in the interpretation of the statutory language have arisen. The proposed regulations provide rules for determining the number of work-hours for each employee. More specifically, the proposed regulations define the term "work-hours" and demonstrate the method of calculating work-hours. These rules clarify the Service's longstanding interpretation that the tax applies to hours for which pay is received even though no services are performed.

Safe Harbor

The proposed regulations also contain a safe harbor method of calculating work-hours. The safe harbor is intended to simplify calculation of the supplemental annuity tax. Under the safe harbor, the employer counts the number of employees who received any compensation during the month and multiplies that figure by a "safe harbor number" to determine the number of work-hours subject to the tax. Each individual who is paid compensation is counted, even if the individual is a part-time, temporary, or seasonal employee. For purposes of the safe harbor count, it is irrelevant whether an employee actually performed any services for the employer during the month.

Because the employee count is based on the number of employees paid compensation for the month, the employer need look to only one data source in calculating its tax liability under the safe harbor method.

Class I railroads file statistical reports quarterly and annually with the Interstate Commerce Commission. These reports include information on the average number of employees on the employer's rolls during the reporting period, the number of employees paid during the reporting period, and the number of hours, worked and not worked, for which the employees were paid. Comparable data is not available for class II and class III railroads.

The Service desires that the safe harbor number be set so that as many taxpayers as possible choose to use the safe harbor. A major concern in setting a safe harbor number is to avoid shifting

the burden of the supplemental annuity tax from one group of employers to another. For instance, if actual work-hours calculated by class I employers are significantly higher than actual work-hours calculated by class III employers, a safe harbor number low enough to encourage use of the safe harbor by a significant number of class I employers would tend to understate work-hours for those employers relative to class III employers. Because of the self-financing nature of the supplemental annuity system, more of the burden of the tax would ultimately be shifted to the class III employers.

The proposed regulations provide the Commissioner with the authority to publish the safe harbor number in guidance of general applicability. Pursuant to this grant of authority, a proposed revenue procedure is contained in an appendix to this notice of proposed rulemaking. The proposed safe harbor number, 190 hours, is based on the data reported to the ICC by class I railroads.

Comments are specifically requested on whether 190 hours is an appropriate safe harbor number. Of particular interest are comparisons of the number of work-hours obtained by using the proposed safe harbor number with the actual number of work-hours calculated by using the proposed definition of work-hours. Comments are also requested as to whether a single safe harbor number is appropriate for all taxpayers or whether the number of hours should differ for different classes of taxpayers.

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations, except for the safe harbor provision, for guidance pending the issuance of final regulations. These regulations will generally be effective for calendar years beginning after December 31, 1992. The safe harbor provision will be effective for calendar years beginning after December 31, 1993. If future regulations are more restrictive, such guidance will be applied without retroactive effect.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

A public hearing will be held on Monday, August 30, 1993, at 10 a.m. in the Internal Revenue Service auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply to the public hearing.

Persons who have submitted written comments by July 12, 1993, and who also desire to present oral comments at the hearing on the proposed regulations, should submit, not later than August 9, 1993, a request to speak and an outline of the oral comments to be presented at the hearing stating the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building before 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Karin Loverud of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR part 31 are as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 31.3211–3 is added to read as follows:

§ 31.3211–3 Employee Representative Supplemental tax.

See paragraphs (a), (b), and (c) of § 31.3221–3 for rules applicable to the supplemental tax for each work-hour for which compensation is paid to an employee representative for services rendered as an employee representative.

Par. 3. Section 31.3221–3 is added to read as follows:

§ 31.3221–3 Supplemental tax.

(a) *Introduction*—(1) *In general.* Section 3221(c) imposes an excise tax on every employer, as defined in section 3231(a) and § 31.3231(a)–1, with respect to individuals employed by the employer. The tax is imposed for each work-hour for which the employer pays compensation, as defined in section 3231(e) and § 31.3231(e)–1, for services rendered to the employer during a calendar quarter. This § 31.3221–3 provides rules for determining the number of taxable work-hours.

(2) *Overview.* Paragraph (b) of this section defines work-hours. Paragraph (c) of this section demonstrates the calculation of work-hours. Paragraph (d) of this section offers a safe harbor calculation of work-hours for use by any employer in lieu of calculating the number of work-hours for each employee.

(b) *Definition of work-hours*—(1) *In general.* For purposes of section 3221(c) and this section, *work-hours* are hours for which the employee is compensated, whether or not the employee performs services.

(i) *Payments included in work-hours.* Work-hours include regular time worked; overtime; time paid for vacations and holidays; time allowed for meals; away-from-home terminal time; called and not used, runaround, and deadheading time; time for attending court, participating in investigations, and attending claim and safety meetings; and guaranteed time not worked. Work-hours also include conversion hours, that is, compensation converted into workhours. Conversion

hours may be derived from payment by the mile or by the piece. Work-hours also include time for which the employee is paid for periods of absence not due to sickness or accident disability, such as for routine medical and dental examinations or for time lost.

(ii) *Payments excluded from work-hours.* Certain kinds of payments are not subject to conversion into work-hours. These include those payments that are specifically excluded from "compensation" within the meaning of section 3231(e), such as certain sick pay payments (section 3231(e)(1)(i)); tips (section 3231(e)(1)(ii)); and amounts paid specifically (either as an advance, as reimbursement, or allowance) for traveling expenses (section 3231(e)(1)(iii)). Traveling expenses paid under a nonaccountable plan are excluded from work-hours even though they are includible in compensation. See § 31.3231(e)–1(a)(5). Also excluded from work-hours are amounts representing bonuses, amounts received pursuant to the exercise of an employee stock option, and all separation payments or severance allowances.

(2) *Hourly compensation.* Because the tax under section 3221(c) is calculated on the basis of work-hours, the number of hours for which an employee receives compensation is the figure used to determine work-hours. In the case of an hourly-rated employee, each hour for which the employee receives compensation is one work-hour.

(3)(i) *Daily, weekly, monthly compensation.* If an employee is paid by the day, week, month, or other period of time, the tax is imposed on the number of hours comprehended in the rate and, if any, the number of overtime hours for which additional compensation is paid. Thus, in the case of an office worker who receives an annual salary based on an 8-hour, 5-day-a-week work schedule that includes paid holidays, vacations, and sick time, the number of work-hours for one month is 174 (2088 hours/year ÷ 12 months).

(ii) *Examples.* The rule in paragraph (b)(3)(i) of this section is illustrated by the following examples.

Example 1. A, an office worker, receives an annual salary that is paid monthly. The salary is based on an 8-hour, Monday through Friday work schedule. *A* is not paid for overtime hours. *A* is not expected to work on holidays, during *A*'s annual vacation, or during periods that *A* is ill. The number of work-hours for one month is 174 (2088 hours/year ÷ 12 months). This figure remains constant, even though some months have more workdays than others.

Example 2. B is paid a stated amount for each day *B* works, regardless of the number of hours worked. However, if *B* works more than 8 hours during any day, *B* is paid overtime for each additional hour worked that day. *B* is not paid for holidays, vacations, or sick time. During May, *B* worked 6 hours on 4 days, 7 hours on 6 days, 8 hours on 6 days, and 9 hours on 5 days. Because *B* is paid a daily rate for up to 8 hours, 8 hours are comprehended in the daily rate. Therefore, the number of work-hours for May is 173 (21 days × 8 hours/day + 5 overtime hours), even though *B* actually worked 159 hours.

(4)(i) *Conversion hours.* Compensation not based on time (hour, day, month, etc.), such as compensation paid by the mile or by the piece, must be converted into the number of hours represented by the compensation paid. Thus, if an employee is paid by the mile, 1 work-hour equals the number of miles constituting a workday, divided by 8 hours. However, in the case of a collective bargaining agreement that specifies a number of hours as constituting a workday, the number of hours specified under the agreement may be used instead of 8.

(ii) The rule in paragraph (b)(4)(i) of this section is illustrated by the following example.

Example. C's normal workday consists of 2 150-mile round trips that together take 6 hours. *C* is paid by the mile. The collective bargaining agreement does not specify the number of hours in a workday. Thus, the number of workhours for each day *C* works is 8, or 1 work-hour for each 37.5 miles (300 miles/day ÷ 8 hours/day). If the applicable collective bargaining agreement specifies that 6 hours constitute a workday, the number of work-hours for each day *C* works would be 6.

(c)(1) *Calculation of work-hours.* An employer may calculate the work-hours separately for each employee, as described in the examples in this paragraph. If the employer chooses to calculate work-hours separately for each employee, the employer must calculate the number of regular hours, overtime hours, and conversion hours for each employee for each month. In lieu of separate calculations, the employer may calculate the work-hours for all the employer's employees using the safe harbor formula described in paragraph (d) of this section.

(2) The rules in paragraph (b) of this section are illustrated by the following examples.

Example 1. D worked 8 hours a day, Monday through Friday, during the months of February and March 1992. *D* did not work on Presidents Day, but was paid for the holiday. *D*'s work-hours for February were 160 (19 days × 8 hours a day + 8 holiday hours). *D*'s work-hours for March were 176 (22 days × 8 hours a day).

Example 2. E worked 7-hour shifts every Tuesday through Saturday during the months of February and March 1992. *E* also worked 7 overtime hours during February and 21 overtime hours during March. Also, *E* was paid for 7 hours on Presidents Day, even though *E* did not work on that day. The number of work-hours for February was 161 (21 days × 7 hours a day + 7 overtime hours + 7 holiday hours). The number of work-hours for March was 168 (21 days × 7 hours a day + 21 overtime hours). Because *E* receives an hourly wage and was paid for the Presidents Day holiday, the number of hours (7) for which *E* was paid are added to the hours *E* actually worked. If *E* had worked on Presidents Day and had received extra pay for working on a holiday and holiday pay for 7 hours, the employer would include 14 hours in *E*'s work-hours for that day, the 7 hours *E* actually worked and the 7 holiday hours for which *E* was paid.

Example 3. Employment beginning during month. F began employment on March 16, a Monday, and worked 8 hours a day, Monday through Friday. The employer calculates that *F*'s hours for the month were 96, because *F* worked 12 8-hour days during the month. If March 16 were on a Friday, the employer would calculate 11 days, or 88 hours.

Example 4. Employment ending during month. G's last day of employment was Friday, March 13. *G* worked 8 hours a day, Monday through Friday, except for March 3, when *G* was ill. *G* was paid for 8 hours for March 3. The employer calculates that *G*'s work-hours for March were 80, because *G* worked 9 8-hour days and was paid for an additional 8 hours.

(d) *Safe harbor*—(1) In general. In lieu of calculating work-hours separately for each employee, an employer may use the safe harbor for all employees. If the employer elects to use the safe harbor for a calendar year, the employer must use the safe harbor for all employees for the entire calendar year. If an employer uses the safe harbor for a calendar year, the employer need not elect the safe harbor for the following calendar year. An employer that elects the safe harbor for a calendar year may not subsequently elect to separately calculate employee workhours for that calendar year.

(2) *Method of calculation.* The safe harbor treats each employee of the employer as receiving monthly compensation for a number of hours equal to the safe harbor number. To determine the number of work-hours for a month, the employer multiplies the safe harbor number by the number that equals the total number of employees to whom the employer paid compensation during the month.

(i) *Safe harbor number defined.* The safe harbor number is the number established in guidance promulgated by the Commissioner.

(ii) *Employee defined.* Solely for purposes of this paragraph, an employee is any individual who is paid compensation, within the meaning of § 31.3231(e)–1, regardless of the

amount, during the month. Thus, for example, a part-time, temporary, or seasonal employee is counted as an employee. A terminated employee is counted in the month of termination (provided the terminated employee received compensation in the month of termination), but not in any subsequent month in which the employee does not perform service for the employer as an employee, even if the terminated employee is paid compensation in a subsequent month. Thus, for example, an employee who terminates employment during the month, receives compensation during the month of termination, and receives a final paycheck the following month is counted as an employee of the employer for the month of termination but not for the following month.

(3) *Method of election.* An employer makes the safe harbor election for a calendar year on the employment tax return filed for the previous calendar year. However, for calendar year 1993, the election is made on the return filed for 1993.

(4) *Additional rules.* The Commissioner may, in revenue procedures, revenue rulings, notices, or other guidance of general applicability, revise the safe harbor number or provide additional safe harbors that satisfy section 3221(c).

(e) *Effective dates.* This § 31.3221–3 is effective for calendar years beginning after December 31, 1992. Taxpayers may apply the rules in paragraphs (a), (b), and (c) of this section before that date.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Appendix—Proposed Revenue Procedure

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

Section 1. Purpose

This revenue procedure establishes the safe harbor number for taxpayers to use in calculating the supplemental tax under the Railroad Retirement Tax Act for calendar years beginning after December 31, 1993. Use of the safe harbor number is not mandatory. Taxpayers may use actual workhours as described in section 31.3221–3 of the Employment Tax Regulations.

Sec. 2. Background

.01 Section 3221(c) of the Internal Revenue Code imposes an excise tax on every employer, as defined in section 3231(a), with respect to individuals employed by the employer. The tax is imposed for each work-hour for which the employer pays compensation, as defined in section 3231(e), for services rendered to the employer during a calendar quarter.

.02 Section 31.3221–3(d) of the regulations establishes a safe harbor calculation for an employer to use in lieu of calculating the work-hours separately for each employee. The safe harbor treats each employee of the employer as receiving monthly compensation for a number of hours equal to the safe harbor number. To determine the number of work-hours for a month, the employer multiplies the safe harbor number by the number that equals the total number of employees to whom the employer paid compensation during the month.

.03 Under section 31.3221–3(d)(2)(i) of the regulations, the safe harbor number is the number established in guidance promulgated by the Commissioner. This revenue procedure is such guidance.

Sec. 3. Safe Harbor Number

The safe harbor number is 190. This safe harbor number will remain in effect until a new safe harbor number or new safe harbor numbers are published by the Commissioner.

Sec. 4. Effective Date

This revenue procedure is effective for calendar years beginning after December 31, 1993.

[FR Doc. 93–10746 Filed 5–12–93; 8:45 am]
BILLING CODE 4830–01–U

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26 CFR Part 31

[EE–79–89]

RIN 1545–AN40

Requirement of Making Quarterly Payments of the Railroad Unemployment Repayment Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations stating the time and manner of making payments of the railroad unemployment repayment tax. The proposed amendments are necessary because of statutory changes made by the Technical and Miscellaneous Revenue Act of 1988. The proposed regulation will affect railroad employers and employee representatives.

DATES: Written comments must be received by July 12, 1993. Requests to speak (with outlines of oral comments) at a public hearing scheduled for August 30, 1993, at 10 a.m. must be received by August 9, 1993.

ADDRESSES: Send all submissions to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (EE–79–89), Washington, DC 20044. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, 1111 Constitution Ave., NW., Washington DC 20224.

FOR FURTHER INFORMATION CONTACT: Jean M. Whalen, (202) 622–6040 concerning the regulations; and Carol Savage, (202) 622–8452 concerning the hearing (not toll-free numbers).

SUPPLEMENTARY INFORMATION: This document contains proposed amendments to the Employment Tax Regulations (26 CFR part 31) under sections 6011 and 6302 of the Internal Revenue Code (Code). The proposed regulations are to be issued under the authority of section 7805.

Background

Section 7106 of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) amended the Internal Revenue Code concerning the railroad unemployment repayment tax, chapter 23A (sections 3321–3323), for years after 1988. Unlike most other employers, rail employers are not subject to the taxes imposed by the Federal Unemployment Tax Act (FUTA), but instead are subject to the Railroad Unemployment Insurance Act (RUIA). The RUIA is similar to the FUTA, but the tax is paid to the Railroad Retirement Board rather than to the Internal Revenue Service. The railroad unemployment repayment tax provisions were added to the Code in 1983 to provide a method for rail employers to repay approximately 600 million dollars of advances that were made to the railroad unemployment fund by the railroad retirement fund. These provisions were originally patterned to a large measure after the FUTA. For example, the tax base was the same as the FUTA base (the first $7,000 of wages paid during the year to each employee), and the employer deposit schedule followed the FUTA deposit requirements under section 6157(d) of the Code.

Under section 7106 of TAMRA, sections 3321–3323 of the Code were condensed into sections 3321 and 3322 and were extensively amended to pattern the provisions after the RUIA instead of the FUTA. Among other things, these amendments changed the railroad unemployment repayment tax from one based on annual rail wages paid to one based on monthly rail wages paid. Congress also repealed section 6157(d), which had specifically required quarterly deposits.

The Internal Revenue Service has the authority under section 6302 of the Code to issue regulations setting forth the time of collecting any tax if the time is not otherwise provided by title 26. With the removal of section 6157(d), the Code is silent on the time for making the railroad unemployment repayment tax deposits, thereby necessitating regulatory guidance. Because the railroad unemployment repayment tax is now patterned after the RUIA, which like the FUTA requires quarterly

deposits, the quarterly deposit requirement is retained for the railroad unemployment repayment tax.

This document amends § 31.6302(c)–2A of the Employment Tax Regulations by affirming the quarterly deposit requirement. In addition, because of the repeal of section 6157(d) of the Code, this document removes the cross reference to § 31.6302(c)–2A in § 31.6157–1 of the regulations and conforms § 31.6011(a)–3A to the statutory changes made by TAMRA.

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations for guidance pending the issuance of final regulations. These regulations will generally be effective for calendar years beginning after December 31, 1992. If future regulations are more restrictive, such guidance will be applied without retroactive effect.

Special Analysis

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 533(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

A public hearing will be held on Monday, August 30, 1993, in the Internal Revenue Service Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply to the public hearing.

Persons who have submitted written comments by July 12, 1993, and who also desire to present oral comments at the hearing on the proposed regulations, should submit, not later than August 9, 1993, a request to speak and an outline of the oral comments to be presented at the hearing stating the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building before 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Jean M. Whalen of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR part 31 are as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME AT SOURCE

Paragraph 1. The authority citation for part 31 is amended by removing the citation for "Sec. 31.6302(c)–2A" and adding a new citation to read as follows:

Authority: 26 U.S.C. 7805 * * * Sec. 31.6302(c)–2A also issued under 26 U.S.C. 6302 * * *

Par. 2. Section 31.6011(a)–3A is amended as follows:

1. The first sentence of paragraph (a)(1) is revised.
2. The first sentence of paragraph (a)(2) is revised.
3. A new paragraph (c) is added.
4. The revisions read as follows:

§ 31.6011(a)–3A Returns of the railroad unemployment repayment tax.

(a) *Requirement*—(1) *Employers.* Every rail employer (as defined in section 3322(a) of the Code and section 1 of the Railroad Unemployment Insurance Act) shall make a return of the tax imposed by section 3321(a) (relating to the railroad unemployment repayment tax) for each return period with respect to the total rail wages (as defined in section 3322(b)) paid by the rail employer during the return period. * * *

(2) *Employee Representatives.* Each employee representative (as defined in section 3322(c) of the Code and section 1 of the Railroad Unemployment Insurance Act) shall make a return of the tax imposed by section 3321(b) on the rail wages paid (as determined under section 3321(b)(2)) during each calendar quarter within the return period. * * *

* * * * *

(c) *Definition.* For calendar years after 1986, the return period is the calendar year.

§ 31.6157–1 [Amended]

Par. 3. Section 31.6157–1 is amended by removing the last sentence.

Par. 4. Section 31.6302(c)–2A is amended as follows:

1. Paragraph (a) is revised.
2. Paragraph (b)(1)(i) is amended by adding a sentence at the end.
3. Paragraph (b)(2) is amended by adding a sentence at the end.
4. The revisions and additions read as follows:

§ 31.6302(c)–2A Use of Government depositaries in connection with the railroad unemployment repayment tax.

(a) *Effective Date.* The provisions of this section generally apply to the tax imposed by section 3321(a) on rail employers (as defined in section 3323(a) for calendar years before 1989 and in section 3322(a) for 1989 and succeeding calendar years) on wages paid on or after July 1, 1986, during a period in which a return is made.

(b) * * * (1) * * * (i) * * * For calendar quarters beginning on or after May 13, 1993, every rail employer is required to compute the tax imposed by section 3321(a) on a quarterly basis and shall deposit the amount of the tax so computed with respect to a calender quarter (other than the fourth quarter of a calendar year) with a Federal Reserve bank or with an authorized financial institution on or before the last day of the first calendar month following the close of the calendar quarter.

* * * * *

(2) * * * For calendar quarters beginning on or after May 13, 1993, the provisions of paragraph (b)(1) of this section shall not apply with respect to any calendar quarter if the amount of tax imposed by section 3321(a) for such calendar quarter, plus unpaid amounts

for prior calendar quarters within the taxable period, does not exceed $100.

Michael P. Dolan,

Commissioner of Internal Revenue.

[FR Doc. 93–10745 Filed 5–12–93; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL12–20–5567; FRL–4619–2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 29, 1990, EPA promulgated a Federal Implementation Plan (FIP) which contained stationary source volatile organic compound (VOC) control measures representing reasonably available control technology (RACT) for emission sources located in six northeastern Illinois (Chicago area) counties: Cook, DuPage, Kane, Lake, McHenry and Will. EPA also took final rulemaking action on certain VOC RACT rules previously adopted and submitted by the State of Illinois for inclusion in its State Implementation Plan (SIP). Included in EPA's rules was a requirement that metal furniture coating operations be subject to specified VOC emission limitations. The metal furniture coating limits apply to the metal furniture painting operations at Allsteel, Incorporated's (Allsteel) metal furniture manufacturing plant in Montgomery, Illinois (in Kane County). Allsteel requested that EPA reconsider its rule as applicable to Allsteel's metal furniture painting operation, on the basis that an alternative RACT coating limit is appropriate for certain of its specialty coatings. EPA has agreed to do so. As a result of EPA's reconsideration it is proposing site-specific RACT requirements for Allsteel's metal furniture painting operations. EPA solicits public comments on its proposed rulemaking action.

DATES: Comments on this proposed revision to the Chicago FIP must be received by June 14, 1993 at the address below. A public hearing, if requested, will be held in Chicago, Illinois. Requests for the hearing should be submitted to Jay Bortzer by June 14, 1993, at the address below. Interested persons may call Ms. Hattie Geisler at (312) 886–3199 to see if a hearing will be held and the date and location of any hearing. Any hearing will be strictly limited to the subject matter of this action, the scope of which is discussed below.

ADDRESSES: Written comments on this action should be addressed to Jay Bortzer, Chief, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Street, Chicago, Illinois 60604. Comments should be strictly limited to the subject matter of this action, the scope of which is discussed below.

DOCKET: Pursuant to section 307(d)(1), of the Clean Air Act (CAA), 42 U.S.C. 7607(d)(1) (Pamph. 1991), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a public docket for this action, A–92–68, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following addresses. We recommend that you contact Steven Rosenthal before visiting the Chicago location and Jacqueline Brown before visiting the Washington, DC location. A reasonable fee may be charged for copying.

U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 18th Floor, Southwest, 77 West Jackson Blvd., Chicago, Illinois 60604

U.S. Environmental Protection Agency, Docket No. A–92–68, Air Docket (LE–131), room M1500, Waterside Mall, 401 M Street, SW, Washington, DC 20460, (202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch, EPA Region 5, (312) 886–6052, at the Chicago address indicated above.

SUPPLEMENTARY INFORMATION:

I. Background

In an effort to comply with certain requirements under Part D of the CAA, as amended in 1977 (1977 Act), 42 USC 7401 et seq. (1983), on December 20, 1979, Illinois submitted to EPA, rules for the control of certain stationary sources of VOC that had been adopted by the Illinois Pollution Control Board (IPCB). These rules included emission limitations for coating operations, including metal furniture coating. The purpose of these rules was to satisfy the section 172, 42 USC 7502 (1983), requirement that Illinois adopt RACT rules for existing sources. Control techniques guideline (CTG) documents have been prepared by EPA to assist States in defining RACT for the control of VOC emissions from existing stationary sources. Each individual CTG recommends a presumptive norm of control considered reasonably available to a specific source category. See 44 FR 20372 (April 4, 1979). These rules were approved by USEPA on February 21, 1980.

On April 1, 1987, the State of Wisconsin filed a complaint in the United States District Court for the Eastern District of Wisconsin against EPA and sought a judgment that EPA, among other requested actions, be required to promulgate revisions to the Illinois ozone SIP for northeastern Illinois because the existing rules did not meet the RACT requirement of Section 172. *Wisconsin* v. *Reilly,* No. 87–C–0395, E.D. Wis.

On May 25, 1988, EPA released a guidance document titled "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations." The purpose of this VOC guidance document was to identify RACT defeciencies that States should correct in existing SIPs and that EPA should propose to disapprove if submitted in a future SIP.

On January 18, 1989, the District Court in *Wisconsin* v. *Reilly* ordered that EPA promulgate an ozone implementation plan for northeastern Illinois within 14 months of the date of that order. On September 22, 1989, EPA and the States of Illinois and Wisconsin signed a settlement agreement in an attempt to substitute a more acceptable schedule for promulgation of a plan for the control of ozone in the Chicago area. On November 6, 1989, the District Court vacated its prior order and ordered all further proceedings stayed, pending the performance of the settlement agreement.

The settlement agreement calls for the use of a more sophisticated air quality model, allows more time for EPA to promulgate a Federal implementation plan (FIP) using the model, and requires interim emission reductions while the modeling study is being performed. The interim emission reductions consist of Federal promulgation of required VOM[1] RACT rules for Illinois to remedy deficiencies in its State regulations.

Pursuant to the settlement agreement EPA proposed to replace Illinois' coating rules with federally promulgated coating rules on December 27, 1989, in order to make these coating rules consistent with EPA's May 25, 1988, VOC guidance. The specific deficiencies that were contained in Illinois' coating rules included inadequacies in its recordkeeping requirements and test methods, excessively high applicability cutoffs,

[1] The State of Illinois uses the term "VOM" in its regulations. For the purposes of this RACT analysis, this term is considered equivalent to EPA's term "volatile organic compounds (VOC)".

improper definitions, and a provision allowing sources to average their coating lines together in a manner inconsistent with EPA policy. The coating rules proposed for promulgation by EPA covered Allsteel's metal furniture painting operations. On June 29, 1990, (55 FR 26814), EPA took final action to replace Illinois' coating rules with federally promulgated coating rules.

On August 28, 1990, Allsteel filed a petition for review of EPA's June 29, 1990, rulemaking in the United States Court of Appeals for the Seventh Circuit. Nine other parties filed petitions for review, which were ultimately consolidated by the Court as *Illinois Environmental Regulatory Group ("IERG") et al.* v. *Reilly*, No. 90–2778.

On May 6, 1992, Allsteel requested that EPA reconsider the FIP rule as applicable to Allsteel's metal furniture painting operation, on the basis that an alternative RACT coating limit is appropriate for certain of its specialty coatings. On August 26, 1992, EPA announced its intention to reconsider the coating rule as it applies to Allsteel and issued a three-month stay of the applicable rule pending reconsideration, pursuant to Section 307(d)(7)(B) of the Act, 42 U.S.C. 7607(d)(7)(B) (Pamph. 1991). 57 FR 38615. In addition, on August 26, 1992, EPA proposed to extend the three-month stay, but only if and as long as necessary to complete reconsideration. 57 FR 38650.

As a result of EPA's decision to reconsider the Federal rules as applied to Allsteel, EPA has reviewed information regarding Allsteel's painting operations in order to evaluate RACT for its specialty coating operations. Today's notice presents a discussion of this analysis and proposes revised RACT rules for Allsteel.

II. Analysis of RACT

The Chicago FIP specifies a metal furniture coating limitation of 3.0 pounds of VOC per gallon of coating. This limitation, which is contained in 40 CFR 52.741(e), applies to Allsteel's metal furniture painting operations. Allsteel has provided information to EPA documenting the unavailability of certain specialty coatings which meet the FIP limit of 3.0 pounds VOC per gallon. These specialty coatings are high chroma, metallic, and plastisol/organisol coatings.

Allsteel provided information on its specialty paints in an August 15, 1991, letter to EPA. This letter contains information on the colors, uses, applications, volumes and costs of control related to the specialty paints and on Allsteel's efforts to reformulate its paints or find compliant paints for its specialty uses. Allsteel estimated that as much as 10 percent of its future customer paint requirements could be in specialty colors, such as metallics, for which compliance paints are unavailable. Allsteel determined that utilizing specialty paints with a VOC content of 3.2 pounds per gallon would allow it to avoid double coating (i.e., applying two coats instead of one). According to Allsteel, if 10 percent of Allsteel's future paint requirements are in specialty colors containing 3.2 pounds per gallon, the total excess VOC emissions potentially attributable to the specialty paints would be only 1,200 pounds (less than 1 ton) of VOC per year. Allsteel also provided control equipment cost information which demonstrates the economic infeasibility of using add-on control equipment to reduce its emissions from 3.2 to 3.0 pounds VOC per gallon.

Allsteel stated that it has developed or found acceptable compliance paints for many of its applications. With regard to the colors for which compliance paints are not available, Allsteel continues to meet with paint manufacturers and test reformulated paints. Over the last several years, Allsteel has been working with 3 paint manufacturers (Morton, PPG and AKZO) and performed test runs on more than 100 paints.

Allsteel's January, 9, 1992, letter to EPA supplemented the information provided to EPA on August 15, 1991. Attached to its January 9, 1992, letter is correspondence with paint manufacturers, and internal memoranda from Allsteel's Aurora Paint Laboratory which document its efforts to develop low VOC paints over the prior year. Allsteel described the coatings which it needs to be able to use, for which low VOC coatings are currently unavailable, as follows:

- High chroma colors (e.g. bright reds and yellows)
- Metallic coatings (e.g. metallic silver and bronze)
- Primers for plastisol or organisol coatings (e.g. "leather look" coatings)

Allsteel requested a regulatory change that would allow it to use 3.2 pounds VOC per gallon coatings for up to 10 percent of its paint volume per month.

As support for its petition for reconsideration, Allsteel submitted the following documents which describe Allsteel's efforts to obtain complying coatings:

a. March 4, 1992, Affidavit of Jeffrey Masi, Plant Chemist, Allsteel, Inc. regarding unavailability of and application problems with high chroma colors, metallics and plastisol and organisol primers.
b. March 4, 1992, letter from Allsteel to EPA submitting Excerpts from Deposition Transcript of Jeff Masi, *USEPA* v. *Allsteel, Inc.*, No. 874638, 1988 (N.D. Ill.), pp. 81–3, 136–141. 177–182.
c. February 10, 1992, letter from Wright Coating Co. regarding poor adhesion of water-based primers for plastisols.
d. February 5, 1992, letter from Allsteel, Inc. to EPA transmitting results of Allsteel's "Evaluation of Water Primers for Plastisols".
e. January 31, 1992, letter from PPG Industries, Inc. to Allsteel, Inc. regarding unavailability and poor hiding of 3.0 lbs./gal in high chroma colors.
f. October 30, 1991, letter from PPG Industries to Allsteel, Inc.
g. October 23, 1991, Allsteel, Inc. telephone memorandum to Fred Bonko and Jim Chopack from Scott Masters.
h. September 23, 1991, Allsteel, Inc. office memo from S.D. Masters regarding "Further Testing of Proposed 900 Series Bases."
i. September 16, 1991, Allsteel letter from River Valley Coatings, Inc. to Allsteel, Inc. about the availability of a coating which would only require one coat.
j. September 16, 1991, Allsteel, Inc. office memo from S.D. Masters regarding second meeting with PPG on 900 Series Bases.
k. January 25, 1991, PPG Industries' inter-office correspondence to Paul Rommelfaenger regarding a meeting with Allsteel at which various coating issues were discussed.
l. January 21, 1991, Allsteel, Inc. office memo from J.M. Balcerak regarding a meeting with Morton International at which various coating issues were discussed.
m. January 4, 1991, letter from PPG Industries to Allsteel, Inc., which transmitted test results for three coatings.
n. December 10, 1990, PPG Industries' inter-office correspondence to Paul Rommelfaenger regarding the trial run of a low VOC coating.

EPA agrees that Allsteel has provided adequate support for its alternative RACT proposal.

III. Recordkeeping

The proposed recordkeeping requirements for Allsteel are similar to those in 40 CFR 52.741(e)(6). They deviate from these recordkeeping requirements to the extent necessary to ensure that no coatings exceed 3.2

pounds per gallon and that no more than 10 percent of monthly coating use exceeds 3.0 pounds VOC per gallon.

IV. Compliance Date

A compliance date of four months from promulgation is proposed so that Allsteel has adequate time to comply with revised recordkeeping requirements.

V. Summary and Conclusions

Through today's notice, alternative RACT requirements and revised recordkeeping requirements are proposed for Allsteel's metal furniture painting operations. Compliance with the revised emission limits and recordkeeping requirements must be achieved 4 months from EPA's final promulgation of these rules.

Public comment is solicited on this proposal for Allsteel. Public comments received by the date shown above will be considered in the development of EPA's final rule.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less that 50,000.

This action involves only one source, Allsteel, Incorporated, which is not a small entity. Therefore, EPA certifies that this RACT promulgation does not have a significant impact on a substantial number of small entities.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671 q.

Dated: April 20, 1993.

Carol M. Browner,

Administrator.

For the reasons setout in the preamble title 40 chapter 1 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671 q.

Subpart O—Illinois

2. Section 52.741 is amended by adding a paragraph (e)(9) to read as follows:

§ 52.741 Control Strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

* * * * *

(e) * * *

(9) The Control and recordkeeping requirements in this paragraph apply to the metal furniture painting operations at Allsteel, Incorporated's metal furniture manufacturing plant in Montgomery, Illinois (in Kane County), instead of the control requirements in paragraphs (e)(1) and (e)(2) of this section and recordkeeping requirements in paragraph (e)(6) of this section. Compliance with this paragraph must be demonstrated through the applicable coating analysis test methods and procedures specified in paragraph (a)(4)(i) of this section.

(i) After [insert date 4 months after date of publication of the final rule in the **Federal Register**], no coatings shall at any time be applied which exceed 3.2 pounds (lbs) volatile organic material (VOM) per gallon of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied to coat metal furniture.

(ii) Starting with the first full month after [insert date 4 months after date of publication of the final rule in the **Federal Register**], the total volume (minus water and any compounds which are specifically exempted from the definition of VOM) of coatings as applied to metal furniture, which exceeds 3.0 lbs VOM per gallon of coating (minus water and any compounds which are specifically exempted from the definition of VOM) in any month may not exceed 10 percent of the total volume (minus water and any compounds which are specifically exempted from the definition of VOM) of coatings as applied to metal furniture in that month.

(iii) By [insert date 4 months after date of publication of the final rule in the **Federal Register**], Allsteel shall certify to the Administrator that its coating operations will be in compliance with paragraphs (e)(9)(i) and (e)(9)(ii) of this section on and after the dates specified in paragraphs (e)(9)(i) and (e)(9)(ii). Such certification shall include:

(A) The name and identification number of each coating as applied on each coating line.

(B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(C) The instrument or method by which Allsteel will accurately measure or calculate the volume of each coating as applied each month.

(iv) The Administrator must be notified at least ten days prior to the use of any metal furniture coating not previously identified pursuant to paragraphs (e)(9)(iii) of this section. This notification must include the information specified in paragraphs (e)(9)(iii)(A) and (e)(9)(iii)(B) of this section.

(v) On and after [insert date 4 months after date of publication of the final rule in the **Federal Register**] Allsteel shall collect and record all of the following information each day for each coating and maintain the information at the facility for a period of three years.

(A) The name and identification number of each coating as applied.

(B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day.

(C) Any record showing a VOM content in excess of 3.2 lbs VOM per gallon (minus water and any compounds which are specifically exempted from the definition of VOM). Copies of all such records shall be sent to the Administrator within 30 days following their collection.

(vi) Starting with the first full month after [insert date 4 months after date of publication of the final rule in the **Federal Register**] Allsteel shall collect and record all of the following information for each month and maintain the information at the facility for a period of three years:

(A) The name and identification number of each coating as applied.

(B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month.

(vii) By the 15th of every month starting on [insert 6 month, and year, after month of publication of the final rule in the **Federal Register**] Allsteel shall compute the following:

$$V_{percent} = (V_1/V_2) \times 100$$

where:

V_1 = The volume of all coatings as applied (minus water and any compounds which are specifically exempted from the definition of VOM) the prior month, which exceed 3.0 lbs VOM per gallon (minus water and any

compounds which are specifically exempted from the definition of VOM).

V_2 = The volume of all coatings as applied (minus water and any compounds which are specifically exempted from the definition of VOM) the prior month.

$V_{percent}$ = The percent, by volume, of all coatings as applied (minus water and any compounds which are specifically exempted from the definition of VOM) the prior month which exceed 3.0 lbs VOM per gallon (minus water and any compounds which are specifically exempted from the definition of VOM).

(viii) The Administrator shall be sent a copy of any calculation (and relevant records) in which $V_{percent}$ exceeds 10, no later than 30 days after the calculation is performed.

[FR Doc. 93–11100 Filed 5–12–93, 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 93–10]

Amendments to Rules Governing Rate Proceedings in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its rules of practice and procedure governing rate proceedings in the domestic offshore trades in order to enhance the Commission's ability to comply with the time constraints of the Intercoastal Shipping Act, 1933. This proposal also would clarify that the burden of proof in any hearing under section 3 of the 1933 Act is on the carrier whose rates are under investigation.

DATES: Comments due July 12, 1993.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, D.C. 20573–0001, Phone (202) 523–5783, Fax (202) 523–5785.

SUPPLEMENTARY INFORMATION: In 1978, the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843 et. seq. ("1933 Act"), was amended to make various changes to the Federal Maritime Commission's ("Commission" or "FMC") authority to suspend and investigate rate changes in the domestic offshore trades. Included among those changes were time limits on Commission rate investigations and new definitions of general rate increase ("GRI") and general rate decrease ("GRD"). That legislation also enlarged the notice requirements and provided for other distinct treatment of such general rate changes.

The Commission published procedural rules in 1979 to implement these amendments to the 1933 Act.[1] Those rules are contained in 46 CFR part 502 ("Part 502") and prescribe the method by which the Commission conducts rate proceedings in the domestic offshore trades within the time limits of the statute.

On January 9, 1992, the State of Hawaii ("Hawaii"), by its Attorney General, filed a petition ("Petition") seeking review of certain portions of part 502 and recommending specific changes to those rules. A Notice of Filing of the Petition was published in the **Federal Register** on January 23, 1992 (57 FR 2702), soliciting comments from interested persons. Five comments were received. Specific rulings on various recommendations contained in Hawaii's Petition which the Commission has determined to reject are the subject of a separate Commission order issued simultaneously herewith.

Having considered that Petition, the comments thereon, and the Commission's own experience under part 502 since 1979, the Commission has determined to propose certain changes to those rules. In general, these proposed changes would adjust the procedures relating to all types of rate increases. Some reflect separate changes recently adopted by the Commission in Docket No. 92–36, Reduction of Notice Requirements for Tariff Increases in the Domestic Offshore Trades, 57 FR 44504 (September 28, 1992). Specific proposals are as follows:

1. Require Carriers To Respond to Protestants' Information Requests Within Seven Days After the Commission's Order Of Investigation

The Commission's rules at section 502.67(b)(1) require protests to GRIs and GRDs to include seven specific items, among which are any requests for additional carrier data. In its Petition, Hawaii points out that the rules do not contain a time within which the carrier must respond to such requests for data and recommends the addition of such a requirement. The Commission believes that this is a constructive recommendation, which would serve to assist the administrative law judge ("ALJ") in completing a hearing within sixty days, as the 1993 Act requires. The absence of any deadline for responses to requests for data has the potential to create uncertainty and delay, and to divert the ALJ's attention from the immediate task of structuring and timely completion of an appropriate hearing. Thus, the Commission is proposing to amend section 502.67(d)(1) to require carriers to respond to protestants' data requests not later than seven days after the Commission issues its order of investigation in a rate proceeding involving a GRI or GRD in the domestic offshore trades.

2. Extend the Time for Protestants and Hearing Counsel To Serve Their Direct Cases in GRI/GRD Proceedings

Hawaii recommends in its Petition that section 502.67(d)(1) be amended to eliminate the requirement for all parties to serve their direct cases in GRI/GRD proceedings within seven days after the proposed effectiveness of the tariff change. This recommendation is based largely upon the alleged difficulty, if not impossibility, of compliance with this deadline by protestants and the FMC's Bureau of Hearing Counsel. While the ALJ has discretion to adjust this requirement as necessary, such *ad hoc* adjustments could consume time, place additional burdens upon the ALJ and leave the parties in an uncertain status until any motions addressing these matters are decided.

A carrier which files a GRI/GRD already is required by section 502.67(a)(2) to submit, concurrently with its tariff filing, testimony and exhibits which will serve as its direct case in the event the matter is set for formal investigation. Thus, the further requirement to serve such material, under oath, upon the parties and the ALJ, no later than seven days after the tariff matter is scheduled to take effect, should place a minimal burden upon the carrier. Moreover, the justification offered by the carrier for its rate increase (or decrease) appears to be the logical starting point for any rate investigation. As discussed below, the carrier has the ultimate burden of demonstrating the reasonableness of its rates.

Therefore, in lieu of Hawaii's suggestion, the Commission is proposing to retain the requirement for carriers to serve their sworn direct testimony and exhibits, together with underlying workpapers, within seven days. However, the seven days would commence upon the issuance of the FMC's order of investigation so that adding a few extra days to the time

[1] *Part 502—Rules of Practice and Procedure*, Docket No 78–47 21 F M.C. 739 (1979).

limits for concluding rate proceedings may be possible in some cases. The 60-day, 120-day and 180-day statutory time limits for hearings, initial decisions and final decisions, respectively, commence on the date the tariff becomes effective, or would have taken effect, absent suspension. Issuance of the Commission order prior to such date may be possible in some cases and would add extra time to meet those statutory constraints.

For parties other than the filing carrier, the Commission is proposing to extend the time for filing direct cases from seven to fourteen days. The fourteen-day period also would commence on the date of issuance of the order of investigation. This is a tight, but more realistic deadline that should be met in most instances without impeding the ALJ. Pursuant to section 502.67(a)(2), protestants and the Bureau of Hearing Counsel will have had the carrier's initial submission since sixty days before the tariff was scheduled to take effect. The carrier's sworn direct case should be essentially the same, and, along with the carrier's initial discovery responses, would be available one week prior to protestants' and Hearing Counsel's deadlines for filing their direct cases. The remainder of the procedural schedule will remain entirely in the discretion of the ALJ, to accommodate the wide variety of situations which may be encountered in GRI/GRD proceedings.

3. Remove the Restriction on Protestants' Use of Carrier Workpapers in Subsequent Commission Proceedings.

In order to obtain carrier workpapers underlying financial and operating data filed in connection with proposed rate changes, potential protestants must sign a certification, set forth at section 502.67(a)(3), which states, in pertinent part, that the workpapers will be used solely in connection with protests related to and proceedings resulting from the particular rate change for which the workpapers have been prepared. In its Petition, Hawaii argues for the amendment of this certification to permit the use of carrier workpapers in subsequent Commission proceedings. The Petition asserts that parties in possession of a carrier's prior years' workpapers must request and receive the same workpapers again before they can be used, thus prolonging Commission proceedings.

To the extent that prior workpapers may be relevant to current issues, the Commission shares Hawaii's concern about the inefficiency of requesting and producing the same documents for a second time. Therefore, we are proposing an amendment to the certification which would permit the use of carrier workpapers in any Commission proceedings addressing the rates, in that same trade, of the carrier which prepared those workpapers. The use of such workpapers in any proceeding still would be subject to legitimate evidentiary objections, and the documents would remain protected from public disclosure unless authorized by the ALJ or the Commission.

4. Eliminate the Requirement for all Parties To File Prehearing Statements Seven Days After the Proposed Effective Date of Non-GRIs/GRDs.

Section 502.67(d)(2) currently requires all parties to a proceeding involving rate changes other than GRIs/GRDs to file detailed prehearing statements no later then seven days after the proposed effective date of the tariff matter under investigation. Hawaii recommends elimination of this requirement on the basis that the parties do not have sufficient information to file meaningful prehearing statements at this stage of a non-GRI/GRD proceeding.

With one limited exception, carriers are not required to file supporting data for rate changes other than GRIs/GRDs.[2] Unless a carrier voluntarily files such data,[3] other parties to a proceeding cannot be expected to explain how they plan to challenge the carrier's justification. Therefore, the Commission is proposing to eliminate the requirement for detailed prehearing statements.

5. Require Carriers To File Direct Cases in Support of Non-GRIs/GRDs Within Fourteen Days After an Order of Investigation.

As discussed above, rate changes other than GRIs/GRDs normally are filed without supporting financial or operating data. A formal investigation of any such changes must, therefore, commence without the same factual basis and analysis that accompanies a GRI/GRD. In addition, the Commission recently has reduced the notice period for filing most increases other than GRIs from thirty days to seven workdays.[4] Under these amended rules, protests to such increases (other than across-the-board increases) would be permitted until 9 a.m. of the last day prior to the effectiveness of the tariff change.

To complete an investigation of an increase filed under these circumstances within the statutory time frame would require the carrier to file its direct case as quickly as possible after the order is issued. Unless this requirement is prescribed by rule, valuable time likely will be lost while an ALJ is assigned to the proceeding and can establish a procedural schedule. Therefore, the Commission is proposing to amend section 502.67(d)(2) to require a carrier to file its direct case within fourteen days after the issuance of an order of investigation into rate changes other than GRIs/GRDs. The ALJ would continue to have the discretionary authority to adjust this date as particular circumstances may necessitate.

6. Clarify the Rule Assigning Burden of Proof in Commission Proceedings.

Section 502.155 currently reads as follows:

Section 502.155 Burden of proof.

At any hearing in a suspension proceeding under section 3 of the Intercoastal Shipping Act, 1933 (§ 502.67), the burden of proof to show that the suspended rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the respondent carrier or carriers. In all other cases, the burden shall be on the proponent of the rule or order. [Rule 155.]

In its Petition, Hawaii states that the statute and case law place the burden of proof on a carrier to establish the reasonableness of its rates in any hearing under section 3 of the 1933 Act, regardless of whether the rates have been suspended. Thus, the rule is said to be unclear, at best.

All but one of the carriers responding to the Petition agree with Hawaii's interpretation of the law relating to burden of proof, but see no need to clarify the rule, asserting that there has been no misunderstanding on this issue since 1972.[5] However, one of the carriers argues in its comments that the rule is literally correct and that non-

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[2] Section 552.2(f) requires supporting data when the aggregate of non-GRI increases affecting more than 50 percent of a carrier's rates results in an increase in gross revenues of 9 percent or more in a twelve month period.

[3] In the Pacific Coast/Hawaii Trade, Matson Navigation Company voluntarily has filed supporting data with several non-GRI tariff changes since 1985.

[4] Docket No. 92-36, *supra*. Across-the-board increases would continue to be filed on thirty days' notice, and are defined by the new rule, at 46 CFR 550.2(a), as:

any change in rates, fares, or charges which will:

(1) Result in an increase in not less than 50 percent of the total rate, fare or charge items in the tariffs per trade of any carrier; and

(2) Directly result in an increase in gross revenues of said carrier for the particular trade of less than 3 percent.

[5] Hawaii and the carriers commenting on the Petition cite *Commonwealth of Puerto Rico* v. *Federal Maritime Commission*, 468.F. 2d 872 (D.C. Cir. 1972), for the proposition that the burden is clearly on the carriers in any proceeding under section 3 of the 1933 Act.

carrier parties have the burden of proof in proceedings where rates have not been suspended. In view of this misunderstanding, the Commission takes this opportunity to state, by way of clarification, that the burden of proof in rate proceedings brought under section 3 of the 1933 Act is always on the carrier, regardless of whether the rates are suspended. Section 502.155 is proposed to be revised, accordingly.

In addition to these changes, technical amendments also are proposed in this notice to add section 3 of the 1933 Act to the authority cited for part 502, and to revise section 502.67(e) to reflect deletion of the requirement to file prehearing statements within seven days of commencement of non-GRI/GRD proceedings.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

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

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

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. The rule is procedural only and will result in a slight easing of the burdens imposed upon protestants to rate proceedings under section 3 of the 1933 Act.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553, sections 18 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 817 and 841a, and section 3 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 845, Part 502 of Title 46, Code of Federal Regulations is proposed to be amended as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 845, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6569); and 21 U.S.C. 853a.

2. In section 502.67, paragraphs (a)(3), (d)(1), (d)(2), and the introductory text of paragraph (e)(1) are revised to read as follows:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

(a) * * *

(3) Workpapers underlying financial and operating data filed in connection with proposed rate changes shall be made available promptly by the carrier to all persons requesting them for inspection and copying upon the submission of the following certification, under oath, to the carrier:

Certification

I, (Name and title if applicable) _____, of (Full name of company or entity) _____, having been duly sworn, certify that the underlying workpapers requested from (Name of carrier) _____, will be used solely in connection with protests related to and proceedings resulting from (Name of carrier) _____'s rates, fares or charges in the _____trade and that their contents will not be disclosed to any person who has not signed, under oath, a certification in the form prescribed, which has been filed with the Carrier, unless public disclosure is specifically authorized by an order of the Commission or the presiding officer.

Signature: _____

Date: _____

Signed and Sworn to before me this _____day of _____(month), _____(year).

Notary Public: _____

My Commission expires: _____

* * * * *

(d)(1) In the event the general rate increase or decrease of a VOCC is made subject to a docketed proceeding:

(i) The VOCC shall serve, under oath, testimony and exhibits constituting its direct case, together with underlying workpapers and responses to protestants' requests for additional carrier data, on all parties pursuant to subpart H of this part, and lodge copies of such testimony and exhibits with the presiding officer, no later than seven (7) days after the Commission issues its order of investigation in the docketed proceeding; and

(ii) Hearing Counsel and all Protestants shall serve, under oath, testimony and exhibits constituting their direct cases on all parties pursuant to subpart H of this part, and lodge copies with the presiding officer, no later than fourteen (14) days after the Commission issues its order of investigation in the docketed proceeding.

(2) If other proposed tariff changes are made subject to a docketed proceeding pursuant to section 3 of the Intercoastal Shipping Act, 1933, the carrier shall serve, under oath, testimony and exhibits constituting its direct case, together with underlying workpapers, on all parties pursuant to subpart H of this part, and lodge copies of such testimony and exhibits with the presiding officer, no later than fourteen (14) days after the Commission issues its order of investigation. Further procedural dates in such proceeding shall be established by the presiding officer.

(e)(1) Subsequent to the issuance of an order of investigation, the presiding officer may direct all parties to participate in a prehearing conference to consider:

* * * * *

3. Section 502.155 is revised to read as follows:

§ 502.155. Burden of proof

At any hearing under section 3 of the Intercoastal Shipping Act, 1933 (§ 502.67), the burden of proof to show that the rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the respondent carrier or carriers. In all other cases, the burden shall be on the proponent of the rule or order. [Rule 155.]

By the Commission.

Joseph C. Polking,

Secretary

[FR Doc. 93–11402 Filed 5–12–93, 8 45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB74

Endangered and Threatened Wildlife and Plants; Proposed Rule to Establish Additional Manatee Protection Areas in Kings Bay, Crystal River, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to establish three additional permanent manatee *(Trichechus manatus)* sanctuaries and extend an existing sanctuary in Kings Bay, Crystal River, Florida. All waterborne activities would be prohibited in these sanctuaries from November 15 through March 31 of each year. The proposed action would prevent the taking of manatees by harassment resulting from waterborne activities during the winter months. The number of sanctuaries in Kings Bay would be increased from three (10.7 acres) to six (39.0 acres) to accommodate the increase in the number of manatees using the area each winter, and to offset the harassment for increasing public use. This action is proposed under the authority of the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972.

DATES: Comments from all interested parties must be received by July 12, 1993. If requested, a public hearing will be held for the purpose of receiving comments on the permanent establishment of additional manatee sanctuaries at Kings Bay, Crystal River, Florida.

ADDRESSES: Written comments and materials should be sent to Manatee Coordinator, U.S. Fish and Wildlife Service, 3100 University Blvd. South, suite 120, Jacksonville, Florida 32216. The public hearing will be held at the Coastal Regional Library, 8619 W. Crystal Street, Crystal River, Florida.

FOR FURTHER INFORMATION CONTACT: Robert O. Turner at above address, 904/791-2580, or Vance Eaddy, Senior Resident Agent, U.S. Fish and Wildlife Service, 9721 Executive Center Dr., suite 206, St. Petersburg, Florida 33702, 813/893-3651.

SUPPLEMENTARY INFORMATION:

Crystal River is a short tidal river on the west coast of Florida. Forming the headwaters of Crystal River is Kings Bay, a lake-like body of water fed by many freshwater springs. These springs, because of their year-round temperature of over 74 °F, provide an essential warm-water wintering area for West Indian manatees (*Trichechus manatus*), a federally listed endangered species.

During cold weather, many of the manatees wintering in Kings Bay aggregate in an area known as the main spring or Kings Spring, located just south of Banana Island. This location is also a favorite site for skin and scuba divers, who come to Kings Bay for the clear, calm conditions favorable for learning diving techniques, coupled with the opportunity to "swim with the manatees". Diver use of this area is especially heavy during the cold winter months when diving is impractical through most of the northern states, and when the opportunity for manatee encounters is greatest.

The concurrent use of the main spring area by divers and manatees during cold weather creates a problem for manatees. Manatees are shy, harmless creatures that are easily driven away from warm springs by human activity (Buckingham 1990).

A limited number of manatees (about 15) used the springs in the 1970's prior to the establishment of the Banana Island Sanctuary. They seemed to tolerate and even enjoy some human contact. These "tame" manatees readily approached divers and allowed themselves to be petted and lightly scratched (Hartman 1979, Powell and Rathbun 1984). By 1980 when the first permanent manatee sanctuaries were established, the number of manatees wintering in the bay had increased to just over 100. This increase was greater than could be accounted for by reproduction, so it was apparent that some manatees were immigrating from other areas (Powell and Rathbun 1984). The number of manatees that chose to interact with the public increased only slightly.

Manatee use of Kings Bay now exceeds 240 animals (FWS unpublished data). A majority of manatees currently using the spring do not tolerate close human contact, and leave the warmer spring waters when humans approach too closely. They disproportionately spend their time in sanctuaries regardless of weather conditions, in direct relationship to the number of boats present (Buckingham 1990).

Efforts have been made to make divers, snorklers, and boaters aware of the manatee harassment problem. Visitors have been instructed through posters, brochures, and dive shop personnel that they should not aggressively pursue manatees or drive them from the springs. As a group, most people have been very cooperative in this regard. Though most conscientiously try to avoid harassing manatees, they seek the animals out and approach them to observe them and a few consistently pet them. Although a few manatees tolerate and occasionally invite attention, most manatees appear to find the situation intolerable, and they alter their behavior accordingly. At times, the sheer number of humans concentrated in a relatively confined area forces all the manatees to seek less disturbing conditions.

The largest numbers of manatees are found at the spring at night or during the early morning. After sunrise, when the divers begin arriving at the spring, those manatees least able to tolerate human crowding begin leaving the spring. As greater numbers of divers arrive, more manatees leave (FWS unpublished data). On days when the temperatures of the surrounding waters are not excessively cold, this may not be critical, although it still modifies the manatee's natural behavior. On days when surrounding water temperatures are below 68 °F, manatees may begin to show some signs of cold water stress such as reduced metabolic rate and cessation of feeding. If cold stress continues long enough, manatees will die.

Research shows that the presence of waterborne users causes manatees to leave the spring heads in favor of the protected sanctuaries regardless of weather conditions. On days when there is low diver turnout, a greater proportion of manatees remain in the springs (Buckingham 1990). Observations of other wintering areas, such as Blue Spring State Park, show that, left to their own devices, most manatees will remain in warm water throughout the day during cold weather periods. Activities that cause manatees to leave can, therefore, be considered "harassment" which interferes with normal "sheltering" habits of the animal. When harassment occurs it is a violation of both the Endangered Species Act and the Marine Mammal Protection Act.

Currently, manatees are able to move away from divers by going into three sanctuaries established in 1980—Banana Island, Sunset Shores, and Magnolia Springs. The Banana Island sanctuary is located near the main spring, Kings Spring, and is relatively warm in relation to surrounding waters. Sunset Shores sanctuary is still within the southern part of the bay and provides a feeding and resting area in fairly warm water. The Magnolia Springs sanctuary is located in a canal development adjacent to Kings Bay and contains a smaller spring. The number of manatees using Kings Bay increased from 100 in 1980 to 246 in 1990. Although it might appear from the increasing numbers of manatees that additional protection is not needed, this is not the case. Manatees are losing habitat elsewhere, and Kings Bay is becoming more and more essential as one of the last natural warm water areas with abundant food resources. Additional sanctuaries are essential to insure adequate undisturbed natural areas in Kings Bay where manatees may meet most of their needs, including warm water, food, and areas for resting and socializing.

The economic importance of Kings Bay, and especially the main spring, to Crystal River and Citrus County centers around the sports of Scuba diving, snorkeling and boating. The area is internationally known as a desirable location for winter diving. The presence of manatees creates a special attraction which dive shop owners exploit by advertising their facilities as a part where one can "swim with the manatees". The tourism industry created by divers coming to Crystal River is significant and total sales at five dive shops and three motels more than doubled between 1980 and 1986, with the "manatee season" accounting for 28 to 53 percent of their sales for the entire year (Milon in prep). Due in part to national publicity manatees have recently received, the number of divers visiting Kings Bay increased to about 60,000–80,000 in the winter of 1990–91, double the number in 1980 (FWS unpublished data). This rapid increase in popularity is likely to continue, significantly affecting manatees.

The Service intends to provide manatees needed winter protection without adversely affecting diving and other waterborne activities so important to Crystal River. Aerial survey data available on manatee distribution within Kings Bay suggest that strategically placed manatee sanctuaries could provide manatees warm water refugia and feeding and resting areas free from harassment without causing a major disruption of current recreational patterns (Kochman et al. 1985, Buckingham 1990).

Therefore, the Service proposes to create additional sanctuaries in Kings Bay to provide manatees relatively undisturbed habitat during the cold weather months. These sanctuaries would exclude all waterborne activities by humans from November 15 through March 31. The areas proposed as sanctuaries have been carefully selected to avoid excluding divers from their favorite sites. The Service believes that, given these added refugia, manatees will not be forced to leave the warm water necessary for their survival and will be able to feed, rest, and socialize without being harassed.

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act, and is codified at 50 CFR part 17, subpart J. Under these regulations, the Director may establish manatee protection areas whenever there is substantial evidence showing such establishment is necessary to prevent the taking (including harassment) of one or more manatees.

The proposed sanctuary addition at Magnolia Springs would expand the current Magnolia Springs Sanctuary by 1.7 acres. This short, horseshoe-shaped section of canal joins Kings Bay and is fed by auxiliary springs. The sanctuary would provide good protection for a small number of manatees which currently use the area for giving birth, resting, and as a warm water refuge.

The proposed sanctuary on the north and east sides of Buzzard Island will create an 18.0-acre sanctuary along the northwestern edge and down the length of the east side of Buzzard Island. This sanctuary is primarily used by manatees as a feeding area, since it has limited warm water input but contains abundant vegetation.

The proposed sanctuary at Tarpon Springs will create a 4.6-acre sanctuary along the northwestern side of Banana Island. The sanctuary contains a small spring and is used as a warm water, feeding, and resting area.

The 4.0-acre sanctuary on the north side of Warden Key is used primarily as a feeding area.

A standard survey of the sanctuary areas has been performed and the areas have been delineated with buoys. The proposed areas are currently being protected under the emergency provisions of 50 CFR 17.106. An emergency rule announcing this action also appears in this issue of the **Federal Register.**

Public Comments Solicited

This Service intends that any final action resulting from the proposed rule will be as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning the need for additional sanctuaries and alternatives that would alleviate the harassment of manatees from waterborne activities within the refuge.

Final promulgation of the rule will take into consideration all comments and any additional information received by the Service.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Jacksonville Field Office, 3100 University Blvd. South, suite 120, Jacksonville, Florida 32216 and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

References Cited

Buckingham, C.A. 1990. Manatee response to boating activity in a thermal refuge. MS Thesis. University of Florida, Gainesville, Fla.

Kochman, H.I., C.B. Rathbun, and J.A. Powell. 1985. Temporal and spatial distribution of manatees in Kings Bay, Crystal River, Florida. J. Wildl. Manage. 49(4):921–924.

Hartman, D.S. 1979. Ecology and behavior of the manatee (*Trichechus manatus*) in Florida. Am. Soc. Mamm. Special Publ. No. 5. 153 pp.

Milon, W. In prep. Economic activity associated with recreational diving in Kings Bay, Crystal River, Florida.

Powell, J.A., and C.B. Rathbun. 1984. Distribution and abundance of manatees along the northern coast of the Gulf of Mexico. Northeast Gulf Sci. 7:1–28.

Author

The primary author of this proposed rule is Robert O. Turner, Manatee Coordinator (see **ADDRESSES** section above).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.

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

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

2. It is proposed to amend § 17.108 by adding paragraph (a)(3), revising paragraphs (a)(4), (a)(5), and (a)(6), removing paragraph (a)(7) and adding the map at the end of this section to read as follows:

§ 17.108 List of designated manatee protection areas.

(a) * * *

(3) A tract of submerged land, lying in Sections 21 and 28, Township 18 South, Range 17 East in Citrus County, Florida, more particularly described as follows: All of the submerged land lying within the mean high water line of a canal bordering the western, northern, and eastern sides of Paradise Isle

Subdivision, as recorded in Plat Book 3, Page 88 of the Public Records of Citrus County, Florida; bounded at the western exit by a line drawn between the southwestern corner of Lot 7 of said Paradise Isle Subdivision and the southeastern corner of Lot 22 of Springs O'Paradise Subdivision, Unit No. 3, as recorded in Plat Book 3, Page 70 of said Public Records; and bounded at the eastern exit by an easterly extension of the south boundary of said Paradise Isle Subdivision; Containing 3.4 acres, more or less.

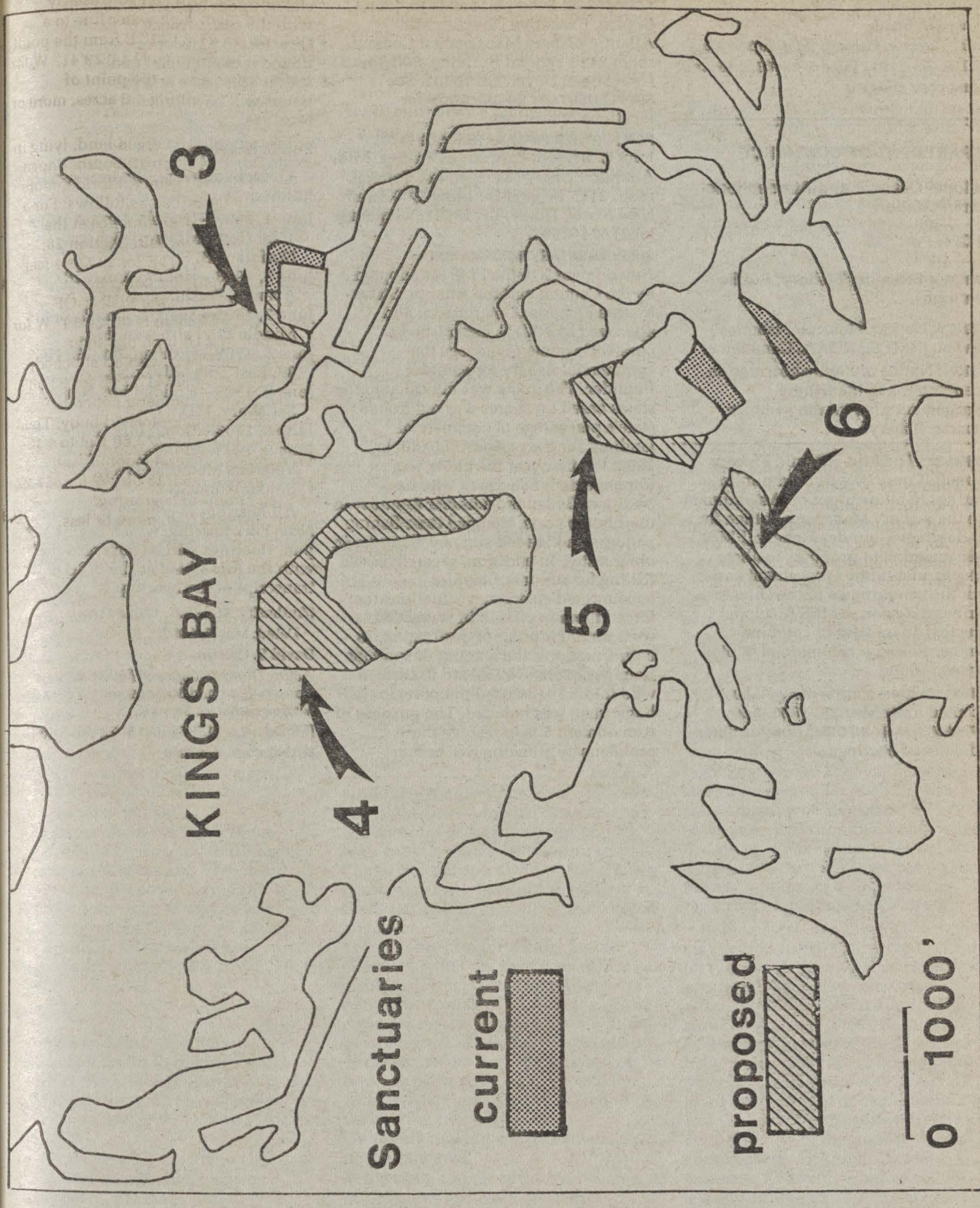
(4) A tract of submerged land, lying in Sections 28 and 29, Township 18 South, Range 17 East in Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the southwest corner of said Section 28; Then go N 06°01'23" W for 4466.90 feet to a 10-inch diameter concrete monument marking the point of beginning; Then go N 10°05'38" W for 477.32 feet to a 10-inch diameter concrete monument with an attached buoy; Then go N 37°34'41" E for 651.07 feet to a 10-inch diameter concrete monument with an attached buoy; Then go S 73°26'46" E for 634.10 feet to a 10-inch diameter concrete monument with an attached buoy; Then go S 17°50'16" E for 1691.53 feet to a 10-inch diameter concrete monument with an attached buoy; Then go S 71°48'58" W for 117.87 feet to a 10-inch diameter concrete monument with an attached buoy; Then continue S 71°48'58" W for 5 feet more or less to the mean high water line of Buzzard Island; Then follow said mean high water line northerly and westerly to a point lying S 10°05'38" E of the point of beginning; Then go N 10°05'38" W for 5 feet more or less to the point of beginning; Containing 18.0 acres, more or less.

(5) A tract of submerged land, lying in Section 28, Township 18 South, Range 17 East in Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the southwest corner of said Section 28; Then go N 28°55'06" E for 2546.59 feet to a 4-inch diameter iron pipe marking the point of beginning; Then go N 44°23'41" W for 282.45 feet to a 10-inch diameter concrete monument with an attached buoy; Then go N 33°53'16" E for 764.07 feet to a 10-inch diameter concrete monument with an attached buoy; Then go S 31°51'55" for 333.22 feet to a 4-inch diameter iron pipe; Then continue S 31°51'55" E for 5 feet more more or less to the mean high water line of Banana Island; Then go westerly along said main high water line to a point lying S 44°23'41" E from the point of beginning; Then go N 44°23'41" W for 5 feet more or less to the point of beginning; Containing 4.6 acres, more or less.

(6) A tract of submerged land, lying in Section 28, Township 18 South, Range 17 East in Citrus County, Florida, more particularly described as follows: For a point of reference, commence at the southwest corner of said Section 28; Then go N 06°43'00" E for 1477.54 feet to a 10-inch diameter concrete monument marking the POINT OF BEGINNING; Then go N 06°24'59" W for 251.66 feet to a 10-inch diameter concrete monument with an attached buoy; Then go N 65°41'12" E for 637.83 feet to a 10-inch diameter concrete monument with an attached buoy; Then go S 55°40'52" E for 272.86 feet to a 10-inch diameter concrete monument; Then continue S 65°15'06" W for 857.22 feet to the point of beginning; Containing 4.0 acres, more or less.

* * * * *

BILLING CODE 4310-55-M



BILLING CODE 4310-55-C

Dated: February 8, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–11012 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

Summer Flounder Fishery; Public Hearings

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

ACTION: Notice of Public hearings on amendment 5 to the fishery management plan for the summer flounder fishery.

SUMMARY: The Mid-Atlantic Fishery Council (Council) will hold public hearings to allow input on Amendment 5 to the Fishery Management Plan for the Summer Flounder Fishery (FMP). This amendment proposes to allow states, under mutual agreement and with the concurrence of the Director, Northeast Region, NMFS (Regional Director), to transfer or combine summer flounder commercial quota between states.

DATES: Written comments will be accepted until June 25, 1993. See **SUPPLEMENTARY INFORMATION** for times and dates of hearings.

ADDRESSES: Send comments to: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115 Federal Building, 300 South New Street, Dover, DE 19901. See **SUPPLEMENTARY INFORMATION** for locations of hearings.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115 Federal Building, 300 South New Street, Dover, DE 19901, telephone (302) 674–2331.

SUPPLEMENTARY INFORMATION: Amendment 2 to the FMP, as adopted by the Council and the Atlantic States Marine Fisheries Commission and approved by NMFS, established a coastwide quota to manage the commercial fishery for summer flounder. The quota was allocated to the states based on shares derived from a state's percentage of commercial landings for the period 1980–89. In 1993, the first year the quota was implemented, fishermen who had traditionally landed summer flounder in their home ports, changed their fishing patterns and landed summer flounder in other states. In addition, several vessels fishing for summer flounder encountered emergency situations that forced them to offload in states that were not their point of destination. In both situations, the amount of summer flounder quota available to fishermen who traditionally used the ports in their home state was reduced. The purpose of Amendment 5 is to resolve these problems by allowing two or more states, under mutual agreement and with the concurrence of the Regional Director, to transfer or combine summer flounder commercial quota between states. This issue and other related issues will be addressed at the public hearings.

Public hearings

The scheduled public hearings are as follows:

June 1, 1993—Norfolk Airport Hilton, 1500 North Military Highway, Norfolk, VA.

June 3, 1993—Holiday Inn, 916 Carolina Avenue, Washington, NC.

June 7, 1993—Seaport Inn, Rt. 6, 110 Middle St., Fairhaven, MA.

June 7, 1993—Holiday Inn, 290 Hwy. 37, East Toms River, NJ.

June 8, 1993—Holiday Inn, Route 13, Salisbury, MD.

June 8, 1993—Dutch Inn, Galilee, RI.

June 9, 1993—Holiday Inn, 3845 Veterans Memorial Hwy., Ronkonkoma, NY.

All hearings begin at 7 p.m. except the New York hearing, which begins at 7:30 p.m. Hearings will be tape recorded with the tapes filed as the official transcript of the hearing.

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

Dated: May 7, 1993.

David S. Crestin,

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

[FR Doc. 93–11397 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 91
Thursday, May 13, 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

Forms Under Review by Office of Management and Budget

May 7, 1993.

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

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250 (202) 690–2118.

Revision

- Food and Nutrition Service, Monthly Claim for Reimbursement, FNS–806. Recordkeeping; Monthly Non-profit institutions; 5,256 responses; 8,111 hours; Mattie A. Jenkins (703) 305–2870.
- Forest Service, Customer Use Survey Techniques for Operations, Management, Evaluation, and Research—Customer. On occasion, Individuals or households; 32,600 responses; 4,890 hours; Greg Super (202) 205–1398.

New Collection

- Food Safety and Inspection Service, FSIS Form 9305–2A—Certificate for Export of poultry Meat to the Republic of Korea (ROK). On occasion, businesses or other for-profit; Small businesses or organizations; 495 responses; 8 hours; Mary O. Clampitt (202) 720–7163.

Reinstatement

- Food and Nutrition Service, Federal-State Special Supplemental Food Program Agreement, FNS–339. State or local governments; 96 responses; 48 hours; Chris Martin (703) 305–2710.

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–11389 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 93–051–1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative To Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that eight environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the

environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
93–041–01, renewal of permit 92–027–01, issued on 04–09–92, renewal of permit 90–088–01, issued on 07–11–90.	Upjohn Company.	04–06–93	Cantaloupe and squash plants genetically engineered to express resistance to cucumber mosaic virus, papaya ringspot virus, water-melon mosaic virus 2, and zucchini yellow mosaic virus.	California, Georgia, Michigan.
92–329–01	Crop Genetics International.	04–08–93	Corn plants containing *Clavibacter xyli* subsp. *cynodontis* genetically engineered to express a *Bacillus thuringiensis* subsp. *kurstaki* strain HD–73 delta-endotoxin protein for resistance to European corn borer.	Iowa, Maryland, Nebraska.
92–363–03, renewal of permit 91–333–03, issued on 04–20–92.	Calgene, Incorporated.	04–08–93	Cotton plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to lepidopteran insects, and a gene from *Klebsiella ozaenae*, for tolerance to the herbicide bromoxynil.	Mississippi.
92–043–02, renewal of permit 92–080–05, issued on 12–22–92.	Cargill Hybrid Seeds.	04–08–93	Corn plants geneticaly engineered to express a gene for male sterility and tolerance to the phosphinothricin class of herbicides.	Illinois.
93–043–03, renewal of permit 91–302–02, issued on 12–23–91.	Cargill Hybrid Seeds.	04–08–93	Corn plants genetically engineered to express a gene for tolerance to the phosphinothricin class of herbicides.	Illinois.
93–053–01, renewal of permit 91–333–03, issued on 01–20–92.	DuPont Agricultural Products.	04–08–03	Cotton plants genetically engineered to express acetolactate synthase genes for tolerance to the herbicide sulfonylurea.	Arkansas, Mississippi, Texas.
93–060–03, renewal of permit 92–04902, issued on 06–05–92.	InterMountain Canola Company.	04–08–93	Rapeseed plants genetically engineered to express tolerance to the herbicide glyphosate.	Idaho.
93–063–04, renewal of permit 92–049–01, issued on 05–21–92.	Monsanto Agricultural Company.	04–08–93	Tomato plants genetically engineered to express a heterologus amino-cyclopropane-1-carboxylic acid (ACC) degradation gene, to delay ripening.	California, Illinois.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 et seq.), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 6th day of May 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–11256 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–34–M

[Docket No. 93–052–1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that five applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect an application are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room. You may obtain copies of the documents by writing to the person listed under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field test location
93–088–01	Louisiana State University .	03–29–93	Rice plants genetically engineered to express tolerance to the phosphinothricin class of herbicides and resistance to hygromycin.	Louisiana.
93–088–02	University of Wisconsin	03–29–93	Alfalfa plants genetically engineered to express industrial enzymes.	Wisconsin.
93–090–01	Hoechst-Roussel Agri-Vet Company.	03–31–93	Sugarbeet plants genetically engineered to express tolerance to the phosphinothricin class of herbicides.	North Dakota.
93–090–02	DuPont Agricultural Products.	03–31–93	Rapeseed plants genetically engineered to express modified fatty acids in seeds.	Idaho.
93–090–03	North Carolina State University.	03–31–93	Tobacco plants genetically engineered to express resistance to root-knot nematodes.	North Carolina.

Done in Washington, DC, this 6th day of May 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–11257 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

[Docket No. 93–014N]

National Advisory Committee on Microbiological Criteria for Foods; Subcommittee Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Microbiological Criteria for Foods' Subcommittee on Campylobacter will be held on Thursday, 8 a.m. to 5 p.m., May 27, 1993, in room 3109 South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250.

The Subcommittee's work is under the auspices of the full Committee which provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria pertaining to microorganisms that indicate whether food has been processed using good manufacturing processes.

The Subcommittee meeting is open to the public on a space available basis. Interested persons may file comments prior to and following the meeting. Comments should be addressed to: Mr. Craig Fedchock, Advisory Committee Specialist, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Background materials and the agenda for the meeting are available for inspection by contacting Mr. Fedchock on (202) 720–9150.

Done at Washington, DC, on: May 7, 1993

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–11311 Filed 5–12–93; 8:45 am]

BILLING CODE 3410–DM–M

[Docket No. 93–010N]

FSIS Proposed Strategic Plan; Public Hearings and Request for Comments

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public hearings and request for comments.

SUMMARY: Notice is hereby given that the USDA is conducting a series of six public hearings nationwide to receive comments from interested organizations and the general public on its proposed Food Safety and Inspection Service (FSIS) strategic plan. Written comments from those unable to testify before a hearing are also being requested. The plan proposes a two-track approach toward modernizing the Federal meat and poultry products inspection program. Track I seeks to maximize the Agency's performance making the best utilization of resources under existing law. Track II will develop the regulatory program of the future. Included in the proposed strategic plan is the FSIS and the Animal and Plant Health Inspection Service (APHIS) portion of the USDA Pathogen Reduction Program. The comments will be used in developing the final strategic plan for FSIS and in other policy deliberations.

DATES: Comments on the proposed strategic plan must be received on or before July 12, 1993. See **"SUPPLEMENTARY INFORMATION"** for the times, dates and locations of the hearings.

ADDRESSES: Written comments to: Policy Office, Attn. Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Vitiello, Director, Planning Coordination and Analysis Unit, Policy Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, (202) 447–2843.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit written comments concerning this proposed strategic plan. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 93–010N. All comments submitted on the proposed strategic plan will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

USDA is currently developing a strategic plan to guide the FSIS modernization efforts for the inspection of meat and poultry products. Secretary Espy has directed that FSIS, in conjunction with APHIS, develop a plan for reducing pathogens in meat and poultry products. In response to the Secretary's direction, FSIS proposes to embark on a two-track approach to improve and modernize the Federal meat and poultry products inspection program. Track I is a near-term program for maximizing the performance of the current Federal meat and poultry products inspection program to best utilize its resources under current law Track II would be the end product development of the Federal meat and poultry products program of the future. Track II may result in a very different meat and poultry product regulatory program than the inspection program currently required under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and may require vastly different laws.

USDA is requesting public comment on the proposed FSIS two-track strategic plan, which is included with this notice as Appendix A. USDA is interested in learning whether the public agrees with the approach the Agency has proposed to modernize its current inspection program and whether the public believes that its Track I inspection improvement program is appropriate. Additionally, APHIS and FSIS are seeking comments on the approach for protecting the public health as expressed in the USDA Pathogen Reduction Program, a copy of which is available upon request from Mr. Dan Vitiello at the address and phone number given above.

In order to gain the widest possible comment, in addition to requesting written comments, USDA will conduct six public hearings nationwide to obtain comments from interested individuals and organizations. Each hearing will be held from 9 a.m. to 4:30 p.m. A panel of USDA officials, and, in some cases, Members of Congress will be present to receive comments. A schedule will be set up for public comments specifying the approximate time for each presentation. FSIS encourages all private and public sectors to participate in the hearings.

Individuals or organizations desiring to make comments at the hearings are requested to contact the appropriate FSIS hearing contact person, as listed below, to arrange a time for making presentations. Any person requiring special accommodations to attend the hearings may also direct those needs to the appropriate hearing contact person.

The dates and locations of the hearings and the FSIS contact person for each location are listed below. Each hearing will be held from 9 a.m. to 4:30 p.m.

Date	Place	FSIS hearing contact
May 21	The Adolphus Hotel, 1321 Commerce Street, Dallas, Texas.	Edwina Simon, (214) 767–0743.
June 1	Jackson Federal Building, 915 Second Avenue, Seattle, Washington.	Laynda Spencer, (202) 447–2760.
June 4	Savery Hotel & Spa, 401 Locust Street, Des Moines, Iowa.	Kathy Martin, (515) 284–6300.
June 9	Parc Oakland Hotel, 1001 Broadway, Oakland, California.	Glenda Petterson, (510) 273–7402.
June 11	Radisson Hotel, Courtland and International Blvd., Atlanta, Georgia.	Dorothy Windham, (404) 347–3911.
June 18	The Omni Hotel, 4th and Chestnut Street, Philadelphia, Pennsylvania.	Dolores Zamichieli, (215) 597–4271.

Done at Washington, DC, on: May 10, 1993

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

Appendix A—FSIS Proposed Strategic Plan

The Food Safety and Inspection Service (FSIS) has recognized for some time that its external customers—including consumers, the meat and poultry industries, Congress, and many special interest groups—have divergent, and often conflicting, expectations of the Agency. In addition, the Agency's legal mandate was established over 25 years ago, and reflects the science, technology, and expectations of that time. Objections have been raised when FSIS has tried to introduce modern, scientific inspection methods. There is debate about not only how the Agency should do its work, but also about what that work should be. This comes at a time when the meat and poultry industries have grown far more rapidly than Agency resources.

In early 1992, FSIS began using total quality principles to develop a strategic plan that will guide the Agency into the 21st Century. From the beginning, FSIS invited its employees and all other interested parties to participate in developing the strategic plan. Initially, employees and the public were invited to comment on the Agency's mission statement and eight principles that provided a guide to the Agency's planning activities. The comments received during this period influenced the process to such an extent that the Agency altered its approach to planning. For example, many comments called for the Agency to emphasize the prevention of microbiological hazards and restore full staffing. Others called for fundamental change in the mission and structure of FSIS.

FSIS leaders decided that the only way to meet the needs of its customers was to develop a two-track strategic plan. Track I would continuously improve the current meat and poultry inspection program. At the same time, the Agency would bring together its employees, other interested parties and outside scientific experts in developing Track II to determine the model meat and poultry regulatory program for the future. That program might be completely different from today's program. It might even require vastly different laws than those which now mandate the Federal meat and poultry products inspection program.

Track I—Maximizing the Performance of the Current Inspection Program

In the near-term, FSIS will seek to maximize the performance of the current inspection program that best utilizes its resources under existing law. The following points are key elements of the Track I program and include strategic objectives and examples of initiatives proposed or underway to accomplish those objectives. The Pathogen Reduction Program (IV) is presented in detail and, of necessity, contains objectives and initiatives that cross over other strategic objectives.

Track I—Strategic Objectives and Initiatives

I. Public Ownership—FSIS Will Seek the Views of All Its Constituencies in an Open, Participatory Manner Prior to the Decisionmaking Process

A. FSIS will increase public involvement in decisionmaking.

B. FSIS will facilitate public access to information on Agency Programs.

Initiatives include:

- Make regulatory options available for public review and comment prior to the initiation of the decisionmaking process.
- Appoint persons with diverse points of view to advisory committees.
- Conduct town hall meetings and public hearings.
- Utilize a comprehensive and open communications process:

—Preview initiatives with employees and constituents.
—Involve the public early in the development process.
—Provide status reports.
—Conduct workshops on technical aspects of initiatives.

II. Staff and Structure the Agency—Based on Today's Needs, Maximize the Current Program's Effectiveness in Protecting the Public Health

A. FSIS will reorganize or restructure itself to carry out Track I and Track II.

B. FSIS will utilize its existing workforce as the core of all inspection improvement.

C. FSIS will assess the current level of compliance with EEO/CR program goals to assure compliance and seek continuous improvement.

Initiatives include:

- Maximize staffing effectiveness within available resources.
- Prioritize current program functions. Staff accordingly.
- Develop implementation plans based on recommendations of the Processing Task Force, the Product Exemption Study, and the Wholesale Exemption Study.
- Improve projections on industry growth and organize and staff accordingly.
- Design programs and assign employees in such a way as to achieve maximum regulatory efficiency, while ensuring public health protection.

III. Labor Relations—Build a Strong, Mutually Supportive Relationship With the Employee Organizations

A. FSIS will improve its external and internal communications and information distribution to all employees.

B. FSIS will establish formal procedures for involving employee organizations in policy and planning deliberations.

Initiatives include:

- Increase employee involvement in task forces.
- Preview regulations with employees to invite up-front input.
- Train and utilize the existing workforce to build the regulatory program for the future.

IV. Pathogen Reduction Program—"The War on Pathogens"—Reduce the Level of Pathogens on Raw Meat and Poultry at Key Points in the Production and Distribution of Meat and Poultry From Farm to Table.

A. Pre-Harvest Production Activities

FSIS will facilitate research, animal identification systems, and development of model pathogen prevention programs.

B. Develop Rapid Methods

FSIS will support development and implement rapid tests to detect pathogens throughout the food production and processing system.

C. Post-Harvest Activities

FSIS will collect microbiological baseline data and design intervention techniques for pathogen reduction.

D. Risk Analysis

FSIS will base its pathogen reduction strategies on quantitative risk assessment.

E. Slaughter Plant Activities

FSIS will introduce new microbial detection and reduction techniques into the meat and poultry inspection program as they become available.

F. Processing Plant Activities

FSIS will use micro monitoring of HACCP critical control points in processing plants.

G. Food Service and Retail Activities

FSIS will provide the most current food safety information to State enforcement agencies and food handlers.

H. Consumer Awareness

FSIS will inform consumers of the risks associated with unsafe food handling.

Pathogen Reduction Program initiatives include:

- Conduct research (pre-harvest, slaughter, processing and quick tests)
- Lead effort in seeking animal identification or equivalent traceback authority.
- Adapt quantitative risk assessment to decisionmaking about pathogens.
- Implement microbiological baseline and other studies on beef, pork, poultry and ground beef.
- Encourage voluntary use of prevention systems by industry, e.g., irradiation, carcass sprays.
- Enhance veterinary coverage in plants that slaughter high risk animals.
- Strengthen recordkeeping requirements in meat and poultry slaughter and processing plants.
- Establish time/temperature and other controls.
- Discourage consumption of undercooked meat (particularly hamburgers) and encourage safe food handling practices in the home.
- Work with FDA and the States to assure adequate controls in model retail codes.

V. Consumer Service—Raise Consumer Awareness Levels Regarding Safety and Labeling of Meat and Poultry Products

A. FSIS will intensify its health and education programs that positively influence food industry employee behavior to reduce foodborne illness.

B. FSIS will provide consumers understandable information on food handling practices and the use of nutrition labeling to improve diet and health.

Initiatives include:

- Interact with coalition of industry and consumer groups.
- Expand the Meat and Poultry Hotline's role in education.
- Provide consumers with information regarding nutrition labeling.
- Provide leadership in the development of a governmentwide meat and poultry safety education campaign.

VI. Science and Technology—Improve the Current Inspection System Using Risk Analysis, New Science, and Technological Advances

A. FSIS will identify its research and development priorities and encourage research in those areas.

B. FSIS will develop and implement a formal risk analysis process to assist in making risk management decisions.

C. FSIS will establish specific procedures for obtaining the advice of recognized experts on issues affecting the scientific and technical basis of its regulatory activities.

D. FSIS will encourage and, if necessary, mandate industry use of the latest and most efficient technology and process controls, e.g., HACCP, to produce safe product.

Initiatives include:

- Accelerate the use of HACCP by industry.
- Make decisions based on sound, peer-reviewed data, published or unpublished.
- Utilize risk analysis.
- Seek international cooperation and consensus for changes in inspection.
- Develop Research and Development Plan.
- Improve ability to collect data on diseases, residues, and microbiological problems in inspected animals and disseminate to producers.
- Develop guidelines for submission of petitions by industry.

Track II—The Meat and Poultry Regulatory Program of the Future

Track II is a long-term design and development process that will produce the next generation of meat and poultry products inspection regulations. In adopting the Track II approach, FSIS recognizes that the problems facing the Agency cannot be solved by making marginal adjustments to the ongoing program. Instead, the Agency will endeavor to design and field test a new regulatory program that, when ready, can be used to replace the existing meat and poultry products inspection program. It is a project of immense scope and importance to the health and welfare of the Nation. For this reason, FSIS will initiate the Track II development by seeking the best information and ideas that can be brought to bear on the problem. The first steps in the information gathering phase are as follows:

Step 1—Conduct Regional Public Hearings

FSIS will conduct a series of six public hearings to hear the opinions and views of as many people as possible on the Agency's plans to improve the current inspection program (Track I) and develop a new regulatory program (Track II). The information gathered in these hearings will be analyzed and summarized in a formal Record of Proceedings that will be provided to Track II planning groups as they are convened.

Step 2—Conduct a Worldwide Assessment of Emerging Technologies

FSIS would contract for an assessment of current and emerging technologies that have the potential to be of use in the production and consumption of safe meat and poultry products.

Step 3—Hold Meat and Poultry Summit to Determine Future Meat and Poultry Regulatory Program

Depending on the outcome of the public hearings in Step 1, FSIS could host a meat and poultry summit to formally initiate the Track II process. There are several advantages to this approach. Before FSIS can build the meat and poultry regulatory program of the future, making revolutionary changes if needed, the Agency must determine the objectives of the future regulatory program. Very seldom do government agencies have an opportunity to build an "ideal" program for the taxpayers, from scratch. Therefore, it is imperative that FSIS determine what all interested parties expect of an "ideal" regulatory program. For instance, should that program focus solely on the safety of meat and poultry? What about regulatory enforcement? What about the economic adulteration aspects that have been part of the current program? These questions and many others need to be answered definitively by a gathering of all interests—a Meat and Poultry Summit. The Summit would involve representatives from consumer groups, public health professionals, universities, industry, Congress, other Federal, State and local agencies, and FSIS employees. The Summit could be run by FSIS or under contract by an independent organization. Extensive background materials will be prepared for the meeting, including details on how the current inspection program evolved into its present form

[FR Doc. 93–11435 Filed 5–12–93; 8:45 am]
BILLING CODE 3410–DM–M

Forest Service

Exemption of Lower Eagle Salvage Timber Sale From Appeal

AGENCY: USDA, Forest Service, Northern Region.

ACTION: Notification that a timber salvage and rehabilitation project, designed to recover dead and dying timber and aid watershed recovery, is exempt from appeals under provisions of 36 CFR part 217.

SUMMARY: During routine forest surveys, insect and disease mortality of commercial sawtimber was identified on 59 acres in the George Gulch and Eagle Creek drainages. In 1992, the Wallace District Ranger, Idaho Panhandle National Forests, proposed rehabilitation actions designed to salvage insect- and disease-damaged timber and to contribute to watershed recovery in the affected area.

The District Ranger has determined, through a Decision Memo and environmental analysis in the supporting project file, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the affected area must be accomplished in FY 1993 to avoid further deterioration of sawtimber, to initiate the planning of tree species less susceptible to disease and to contribute to watershed recovery.

EFFECTIVE DATE: Effective on May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Steve E. Williams; District Ranger; Wallace Ranger District; Idaho Panhandle National Forests; Box 14; Silverton, Idaho 83867.

SUPPLEMENTARY INFORMATION: Forest surveys conducted in 1992 determined that insect and disease infestations have damaged approximately 59 acres of sawtimber in the George Gulch and Eagle Creek drainages. Foot disease, bark beetles, and blister rust have caused and will continue to cause mortality of sawtimber in this area. Surveys of the area also indicate that the effects of past forest management activities are most likely resulting in stream channel scouring and bank instability. Immediate action is necessary to minimize the risk of potential damage to the channel due to peak flows and to initiate a trend toward future watershed recovery. The area proposed for treatment is located within lands designated as suitable for timber management and assigned to Management Area 4 as designated by the Idaho Panhandle Forests' Plan, August 1987.

In November 1992, the Wallace District Ranger, Idaho Panhandle National Forests, proposed salvage of the damaged timber and to initiate actions designed to contribute to watershed recovery. This proposal was designed to meet the following needs: (1) Recover dead and dying sawtimber before it loses value, (2) rehabilitate the affected timber stands, (3) contribute to watershed recovery and minimize the risk of stream channel damage, and (4) manage big game habitat to achieve Forest Plan objectives. An interdisciplinary team was convened, and scoping began in November 1992. Three alternatives were analyzed: (1) No action, (2) proposed action (salvage and rehabilitation proposal), and (3) modified proposed action.

The selected alternative will salvage approximately 285 MBF of dead and dying timber from approximately 59 acres. All salvage areas are accessible from existing roads. No road construction or reconstruction is planned for this sale. This proposal will incorporate a special provision (C6.604#-Watershed Improvement) into the Timber Sale Contract to accomplish watershed improvement objectives. Special authority was given to the Idaho Panhandle National Forests to accomplish watershed improvement in conjunction with timber harvest operations on sales sold in FY 1993.

The sale and accompanying rehabilitation work is designed to accomplish the objectives as quickly as possible to recover merchantable sawtimber before it deteriorates and removal becomes infeasible and to contribute to watershed recovery. To expedite implementation of this decision, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this regulation the following may be exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based on the analysis documented in the Lower Eagle Salvage Timber Sale project file and the District's Decision Memo, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR 217.4.

Dated: April 30, 1993.

Larry O. Gadt,

Acting Regional Forester, Northern Region.

[FR Doc. 93-10811 Filed 5-12-93; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409), we are giving notice of a meeting of the Census Advisory Committee on Agricultural Statistics. The meeting will convene on May 26, 1993 at the Executive Inn, 978 Phillips Lane, Louisville, Kentucky 40213.

The Committee advises the Director, Bureau of the Census, on the kind of information that should be obtained from respondents associated with agricultural production; prepares recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee and a representative from the Department of Agriculture.

The agenda for the May 26 meeting that will begin at 9 a.m. and adjourn at 12 noon is: (1) Call to order and introduction; (2) introductory remarks by the Deputy Director, Bureau of the Census; (3) where are we?—status of the 1992 agriculture census; (4) coverage program—1992 census of agriculture; (5) where do we go from here?—planning the 1997 agriculture census; (6) public questions and comments; and (7) Committee recommendations.

This meeting is open to the public and a brief period is set aside for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Persons wishing additional information regarding this meeting or who wish to submit written statements may contact Mr. George Pierce, Agriculture Division, Bureau of the Census, room 437, Iverson Mall, Suitland, Maryland. (Mailing address: Washington, DC 20233) Telephone (301) 763-8556—TDD (301) 763-4056.

Dated: May 7, 1993.

Harry A. Scarr,

Acting Director, Bureau of the Census.

[FR Doc. 93-11369 Filed 5-12-93; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 636]

Proceedings of the Foreign-Trade Zones Board, Washington, DC; Resolution and Order

Resolution and Order Approving the Application of City of Phoenix, Arizona, for Special-purpose Subzone Status Wal-Mart Stores, Inc. (Distribution/Processing Facility) Buckeye, Arizona.

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

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Phoenix, Arizona, grantee of FTZ 75, filed with the Foreign-Trade Zones Board (the Board) on July 1, 1992, requesting special-purpose subzone status at the distribution/processing facility of Wal-Mart Stores, Inc., in Buckeye, Arizona, the Board finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations are satisfied, and that the propsal is in the public interest, approves the application. Approval includes authority to assemble/process stereo systems (using domestic speakers) and camera kits. No foreign textile products will be used in any processing or manufacturing under zone procedures.

Approval is subject to the FTZ Act and FTZ Board's regulations (as revised, 56 FR 50790-50808, 10/8/91), including Section 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Phoenix, Arizona, Grantee of Foreign-Trade Zone No. 75, for authority to establish a special-purpose subzone at the distribution/processing facility of Wal-Mart Stores, Inc., in Buckeye, Arizona, was filed by the Board on July 1, 1992, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 22-92, 57 FR 31354, 7/15/92);

Whereas, the application includes a request for authority to assemble/process stereo systems and camera kits under zone procedures; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 75B) at the Wal-Mart Stores, Inc., facilities in Buckeye, Arizona, at the location described in the application, subject to the Act and the Board's regulations (as revised, 56 FR 50790-50808, 10-8-91), including section 400.28. Approval includes authority to assemble/process stereo systems (using domestic speakers) and camera kits. No foreign textile products will be used in any processing or manufacturing under zone procedures.

Signed at Washington, DC, this 5th day of May, 1993, pursuant to Order of the Board.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93-11415 Filed 5-12-93; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A-351-814, A-351-815, A-351-817]

Amendment of Preliminary Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Brazil, Certain Cold-Rolled Carbon Steel Flat Products From Brazil, and Certain Cut-to-Length Carbon Steel Plate From Brazil

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

EFFECTIVE DATE: May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Bruce Harsh, Alain Letort or Linda Ludwig, Office of Agreements

Compliances, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

SUMMARY: We are amending our preliminary determinations for the above-referenced investigations to correct for significant ministerial errors. The amended estimated weighted-average margins for the above-referenced investigations are shown in the "Suspension of Liquidation" section of this notice.

AMENDED PRELIMINARY DETERMINATIONS: In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act), on February 4, 1993, the Department published its preliminary determinations of sales at less than fair value with respect to the above-referenced steel products from Brazil (58 FR 7080).

After publication of our preliminary determinations, petitioners and respondents alleged that the Department committed certain ministerial errors in calculating the preliminary margins. We have reviewed these allegations and have found that errors having a significant effect on the margins were committed in the preliminary determinations on certain hot-rolled carbon steel flat products (hot-rolled steel), certain cold-rolled carbon steel flat products (cold-rolled steel) and certain cut-to-length carbon steel plate (steel plate) for USIMINAS.

The specific analyses of the ministerial error allegations are included in a memorandum which is contained in the relevant case files in the Central Records Unit, room B–099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUSPENSION OF LIQUIDATION: The estimated margins have changed as indicated below. In accordance with section 733(d)(2) of the Tariff Act of 1930, as amended, the Department will direct Customs to continue to require a cash deposit or posting of a bond on all entries equal to the corrected estimated amounts by which the foreign market value of the subject merchandise exceeds the U.S. price as shown below. The corrected margins are as follows:

Brazil

Hot-Rolled Steel:	
USIMINAS	18.00
All others	43.49
Cold-Rolled Steel:	
USIMINAS	11.90
All others	36.12
Steel Plate:	
USIMINAS	17.39
All others	63.20

Dated: May 7, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–11414 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Issuance of an emergency modification to scientific research permit No. 828 (P504B).

On April 14, 1993 (58 FR 21284), the U.S. Army Corps of Engineers was issued Permit No. 828 under the authority of the Endangered Species Act of 1973 (ESA) (U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR Parts 217–227).

Notice is hereby given that on May 4, 1993, as authorized by the ESA, NMFS issued an emergency Modification to Permit No. 828.

Permit No. 828 authorizes the Corps to take listed Snake River sockeye salmon (*Oncorhynchus nerka*) and listed Snake River fall and spring/summer chinook salmon (*O. tshawytscha*) for the purposes of scientific research and enhancement as authorized by the ESA and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217–222).

The emergency modification authorizes the permittee to take additional listed Snake River spring/summer chinook salmon, in the following manner: (1) 370 to be captured and handled; (2) 234 to be captured and tagged with Passive Integrated Transponder (PIT) tags; (3) 391 to be lethally taken; and (4) 10 to be killed indirectly as a result of the authorized takes.

An emergency modification is necessary to adjust the take for three of the research projects authorized in the Permit. The necessary changes were based on two factors: First, for these studies, a five percent estimate was used by the applicant/cooperator to determine the wild component of the Snake River spring/summer chinook run in the initial calculations for the permit application. A better estimate for the wild component arriving at Lower Granite Dam is 12 percent, based on discriminant function scale analysis work recently conducted by the Oregon Department of Fish and Wildlife. The 12 percent figure has subsequently been used by NMFS in the Biological Opinion and by other researchers in developing their anticipated take numbers.

Second, the delay in release of hatchery-reared spring/summer chinook into the Snake River system has altered the proportion of wild to hatchery stock distributions. For example, the component of wild to hatchery spring/summer chinook has ranged from 18 to 46 percent during the week of April 19, 1993 at Lower Granite Dam. This skewed proportion impacts the projected take of listed fish at Lower Monumental and Little Goose dams beyond that projected eight months ago.

Issuance of this emergency Modification was based on a finding that such Modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which is the subject of this Modification; (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973, This emergency Modification was also issued in accordance with and is subject to parts 217–227 of title 50 CFR, and NMFS regulations governing listed species permits and modifications. This emergency Modification will be valid for the duration of the Permit, through December 31, 1993, or until superseded by changes made as a result of comments.

Written data or views, or requests for a public hearing on this modification request, should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Highway, room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application/modification summary are those of the applicant and do not necessarily reflect the views of NMFS.

The application, Permit, emergency Modification and supporting documentation are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Highway, suite 8268, Silver Spring, MD 20910 (301/713–2232); and

Environmental and Technical Services Division, National Marine

Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230–5400).

Dated: May 4, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–11367 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

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

ACTION: Receipt of application for a scientific research permit (P537).

Notice is hereby given that Mr. Fred A. Sharpe, Behavioral Ecology Research Group, Department of Biological Sciences, Simon Fraser University, Burnaby, B.C. Canada V5A 1S6 requests authorization to conduct observational/photo-identification/side scan sonar studies on up to 1000 humpback whales (*Megaptera novaeangliae*) in Alaskan waters over a four-year period. Authorization is also being requested to conduct opportunistic photo-identification of up to 100 killer whales (*Orcinus orca*) annually during the proposed humpback whale research. Individual animals of both species may be approached up to 20 times annually.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices (by appointment):

Office of Protected Services, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Rd., suite 6, Juneau, AK 99802 (907/586–7221).

Dated: May 7, 1993.

Herbert W. Kaufman,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–11316 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

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

ACTION: Receipt of application for permit.

SUMMARY: Notice is hereby given that Drs. John R. Kucklick, Joel E. Baker, and H. Rodger Harvey, Chesapeake Biological Laboratory, P.O. Box 38, Solomons, MD 20688, have applied in due form for a Permit to import marine mammal specimens as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Applicants request a Permit to import blubber samples (100 g each) taken from ten (five males and five females) Lake Baikal seals (*Phoca siberica*). The samples will be provided by the Lake Baikal Limnological Institute in Irkutsk, Russia. Laboratory research to be conducted on the samples consists of the extraction and analysis of organochlorine contaminants (DDTs, PACs, chlordanes, hexachlorocyclohexanes, and toxaphene). The duration of the requested Permit is two years.

ADDRESSES: Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice.

Documents submitted in connection with the above application are available for review, by appointment in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289).

Dated: May 7, 1992.

Herbert W. Kaufman,

Acting Director, Office of Protected Resources National Marine Fisheries.

[FR Doc. 93–11317 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Korea

May 7, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 14, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 52619, published on November 4, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 7, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 29, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on May 14, 1993, you are directed to amend the directive dated October 29, 1992 to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Korea:

Category	Adjusted twelve-month limit [1]
Sublevel in Group I	
200	393,782 kilograms.
Sublevels in Group II	
340	557,312 dozen of which not more than 290,761 dozen shall be in Category 340–D [2].
347/348	396,341 dozen.
659–H [3]	1,224,729 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[3] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–11325 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Thailand

May 7, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 14, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6717. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted for carryover and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53475, published on November 10, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 7, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on May 14, 1993, you are directed to amend further the directive dated November 4, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Thailand:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
301–P [2]	3,741,588 kilograms.
607	2,494,392 kilograms.
613/614/615	30,236,501 square meters of which not more than 17,977,600 square meters shall be in Categories 613/615 and not more than 17,977,600 square meters shall be in Category 614.
Sublevels in Group II	
338/339	1,426,880 dozen.
347/348/847	503,500 dozen.
638/639	1,681,680 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–11324 Filed 5–12–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The Architecture & Assessment Panel of the USAF Scientific Advisory Board's Committee on Options for Theater Air Defense will meet on 15–16 June 1993, at The ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of this meeting will be to receive briefings and gather information on issues related to theater air defense.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code,

specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–11371 Filed 5–12–93; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The Boost Phase Panel of the USAF Scientific Advisory Board's Committee on Options for Theater Air Defense will meet on 8–9 June 1993, at the Space & Missile Systems Center, Los Angeles, CA from 8 a.m. to 5 p.m.

The purpose of this meeting will be to receive briefings and gather information on issues related to theater air defense.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 93–11370 Filed 5–12–93; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The Cruise Missile Panel of the USAF Scientific Advisory Board's Committee on Options for Theater Air Defense will meet on 24–25 June 1993, at the ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of this meeting will be to receive briefings and gather information on issues related to theater air defense.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–11372 Filed 5–12–93; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The Panel Chairman's of the USAF Scientific Advisory Board's Committee on Options for Theater Air Defense will meet on 18 June 1993, at Space Missile Systems, Los Angeles, CA from 8 a.m. to 5 p.m.

The purpose of this meeting will be to discuss strategy for completing the summer study report on theater air defense.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–11373 Filed 5–12–93; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Meeting

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

Name of Committee: Army Science Board (ASB).

Date of Meeting: 2–3 June 1993.

Time of Meeting: 0800–1700 hours daily.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board's 1993 Summer Study on "Missile Defense Programs" will meet to continue work on the study. The ASB will receive briefings on Counterforce and Air Defense Programs. 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 unclassified 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 93–11374 Filed 5–12–93; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Finding of No Significant Impact for Proposed Training in the Urban Environment

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy gives notice that an Environmental Assessment (EA) has been prepared and that an Environmental Impact Statement is not being prepared for the U.S. Marine Corps to conduct Training in the Urban Environment (TRUE).

The proposed action involves about 200 to 250 personnel from a Marine Expeditionary Unit (MEU) participating in a two-week TRUE exercise held in a large urban area in the United States. To minimize disruptions to normal activities of a city, TRUE exercises would be rotated to a number of cities. About five exercises (three in cities on the east coast and two in cites on the west coast) would be held each year.

TRUE exercises would involve urban air navigation and hostage rescue scenarios. Urban air navigation would be conducted during daylight, evening, and night. A typical exercise would involve up to six Sea Knight cargo helicopters (CH–46), or Super Stallion cargo helicopters (Ch–53), or Utility helicopters (UN–1) traveling along a Federal Aviation Administration (FAA) approved flight route to a landing zone, performing touch-and-go's, and returning to their operations base. The CH–46S, CH–53s, and/or UH-1s may also hover for a minute or two at a landing zone to simulate a fast roping insertion of a ground assault unit. One Super Cobra attack helicopter (AH–1) may escort the CH–46s, CH–53s, and UH-1s during urban navigation exercises. However, the AH–1 would circle overhead during touch-and-go's, and during fast roping hovers conducted by the other helicopters.

A typical hostage rescue exercise involves a ground assault unit using tactics and techniques similar to those utilized by federal, state, and local law enforcement "SWAT" organizations to enter a building. The unit would approach a predetermined point of entry and place a small explosive breach charge. The charge would be detonated, and the unit would enter the building. Once inside, the unit would fire small arms (e.g., nine millimeter sub-machine guns) at mannequins and dummy targets to simulate capturing a position. Smoke grenades and percussion stun grenades would also be used. The unit would free the hostage(s) and make their way to an extraction landing zone. Total elapsed time from detonation of the breach charge to ground assault unit exit of the target building would be about 15 minutes.

The ground assault unit may be inserted by helicopters. Up to six CH–46s and/or CH–53s would depart from their operations based in the evening, or at night, and travel along an FAA approved route to a landing zone. The helicopters would touch down and the unit would quickly exit the aircraft. The

mission profile, though, may require the unit to fast rope out of the aircraft as they hover. Once on the ground, the ground assault unit would make their way to the target area either on foot, or by "commandeered" motor vehicles. These vehicles would be provided by the Department of Defense. The unit may make their way to the target site entirely by "commandeered" vehicles. Up to six helicopters (CH–46s and/or CH–53s) would transport the unit and "hostage(s)" back to the operations base. Total elapsed time a helicopter extraction would take would generally be less than 15 minutes.

As general purpose amphibious forces that are expeditionary in character, a collateral mission of an MEU is to conduct selected maritime special operations independently or in conjunction with other special operations forces. Foremost of these skills is the ability for the MEU command section to successfully plan and execute a mission given the wide range of scenarios likely to face a commander. The ability of an MEU commander to plan a specific warfare operation, and the ability of the task force organized to successfully complete an operation, is founded on the availability and suitability of training for meeting overall mission readiness. Therefore, it is critical that realistic training opportunities be provided to MEUs so that they may meet their Maritime Special Purpose Force mission requirements. To be as effective as practicable, this training must simulate real life scenarios.

Alternatives were evaluated for providing TRUE exercises to support the maritime special warfare mission of MEUs. Alternatives considered included no action, conducting TRUE exercises at a Department of Defense installation, and conducting TRUE exercises in a large urban area. Under the no action alternative, no TRUE exercises would be conducted by the Marine Corps. No training currently exists that simulates all the elements of a maritime warfare operation. Failure to provide this training would reduce the mission readiness of MEUs and would increase the risk to successful completion of a maritime special operation. Therefore, this alternative was eliminated from further consideration. None of the special training structures, or infrastructure on any Department of Defense military installation simulate a large urban environment. As a result, their use would not meet the training goal of urban air navigation. Also, the use of these facilities present no opportunities for devising realistic situational training exercise scenarios by virtue of the small area they occupy, and their small physical size. Therefore, the alternative of TRUE exercises conducted at Department of Defense military installations was dismissed from further consideration. The only practicable means of providing a suitable area for TRUE exercises is to conduct this training in urban areas. Large urban areas possess the variety of land uses, buildings, and navigation obstacles necessary to provide realistic training opportunities for urban air navigation and situational training exercises.

Impacts associated with proposed action would not be significant. The total air emissions from a two-week TRUE exercise would not result in a violation of local ambient air quality standards. The proposed action is consistent with all State Implementation Plans. Since the location of landing zones and situational training exercise sites would be selected to avoid federally protected wetlands and endangered species, the proposed action will not significantly impact these resources. The location of landing zones and situational training exercise sites would also be selected to avoid archaeological, cultural, or historic resources listed, or determined eligible for listing, on the National Register of Historic Places; therefore, the proposed action would not affect these resources.

TRUE exercises would be rotated among host cities, and aircraft routes, landing zones, and situational training exercise sites would be rotated within a city. Therefore, noise that would be generated from TRUE exercises would be transitory and of short duration. Noise resulting from TRUE exercises would be generated primarily from aircraft using landing zones. It is estimated that the percentage of people potentially awakened by helicopter noise during a TRUE exercise would be about two to five percent of the local population. This percentage of potentially affected individuals could result in an occasional noise complaint. Small ordnance (breach charge) detonation and small arms discharges would contribute to the noise environment. Though a breach charge creates a high intensity noise upon detonation, the sound rapidly diminishes with distance from the detonation point. Since the sound rapidly decays over a short distance, the likelihood of an individual being affected also decreases as the distance from the detonation location increases. Individuals over 500 feet from the site of detonation of the breach charge would be unaffected by noise generated. Noise from small arms discharges would be confined to the interior of buildings. Given the transitory nature of the noise being generated, the sound levels generated, and the infrequency of the noise being generated at a specific site, no significant short-term noise impacts would occur, and no long-term noise impacts would occur, from the TRUE program.

The FAA has jurisdiction over the use of airspace for civilian and military aircraft operations. All urban air navigation routes and landing zones would require approval from the FAA prior to use during a TRUE exercise. In addition, the location of all routes and landing zones would be coordinated by the Marine Corps with local government officials. This coordination would ensure that routes and landing zones selected are free of unknown navigational hazards (e.g., overhead wires) and away from sensitive land uses (e.g., hospitals).

A helicopter landing in an area that usually does not support helicopter operations generates curiosity, especially among children. Also, noise level increase around a landing zone as an aircraft lands, sits on the ground with its rotors turning, and takes off. Though this noise is transitory and of relatively short duration, it can hinder conversation, and can divert an individual's attention toward the source of the noise. As a result, the potential exists for an individual to fail to maintain full attention on a task (e.g., operating a motor vehicle) resulting in an accident. To minimize the potential for accidents, the Marine Corps would coordinate flight routes and landing zones used during any aspect of a TRUE exercise with the FAA and local government officials. Temporary closure of the area surrounding a landing zone by the Marine Corps and local law enforcement agencies would prevent civilians from entering the area. The extent of the area that would be secured will depend on the surrounding land uses, and configuration of nearby roads. The public would be restricted from entering the area about ten minutes prior to use by aircraft, during aircraft use, and about five minutes after all aircraft have departed.

To prevent a non-participant from wandering into the area by accident and disrupting the exercise, and from becoming injured, the Marine Corps and local law enforcement agencies would cordon off the exercise site. The target building itself would be closed by the Marine Corps about 12 to 24 hours before the exercise. The area around the building would be closed off about 15 minutes before the exercise is conducted, and would remain closed

about a total of one hour. The extent of the closed area would depend on the spatial configuration of nearby roads. In general, though, about one to two city blocks would be closed to the public during the exercise.

Based on information gathered during preparation of the EA, the Department of the Navy finds that the Training in the Urban Environment program will not significantly impact the environment.

A copy of the EA is available from: Public Affairs, Fleet Marine Force, Atlantic, U.S. Marine Corps, Norfolk, VA 23515, Telephone (804) 444–6019. A limited number of copies of the EA are available to fill single copy requests.

A final decision by the Department of the Navy on this Finding Of No Significant Impact will occur in 30 days from the **Federal Register** publication date. The public is invited to submit comments on the proposed action to the address given above prior to the end of this period.

Dated: April 28, 1993.

C.C. Krulak,

Lieutenant General, U.S. Marine Corps, Commanding General, Marine Corps Combat Development Command.

Dated: May 7, 1993.

P.W. Kelley,

CAPT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 93–11312 Filed 5–12–93; 8:45 am]

BILLING CODE 3810–AE–M

CNO Executive Panel; Meeting

Notice was published Thursday, May 6, 1993, at 58 FR 26967, that the Chief of Naval Operations (CNO) Executive Panel on Domestic Issues Task Force was scheduled to meet on May 20-21, 1993, from 9 a.m. to 5 p.m., at Headquarters of U.S. Pacific Fleet Training Command, Point Loma, California, and the Navy Training Center/Recruit Training Command, San Diego, California. This meeting has been rescheduled and will be held on May 17-18, 1993. All other information in the previous notice remains effective. In accordance with 5 U.S.C. section 552b(e)(2), the meeting change is publicly announced at the earliest time.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria, VA 22302-0268, Telephone (703) 756-1205.

Dated: May 11, 1993.

Saundra K. Melancon

Alternate Federal Register Liaison Officer.

[FR Doc. 93-11512; Filed 5-12-93; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER93–609–000, et al.]

The Montana Power Company, et al.; Electric rate, Small power production, and Interlocking Directorate filings

May 7, 1993.

Take notice that the following filings have been made with the Commission:

1. The Montana Power Company

[Docket No. ER93–609–000]

Take notice that on April 30, 1993, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 Supplement No. 2 to Rate Schedule FERC No. 179. This Supplement No. 2 is comprised of a "First Amendment to Firm Capacity and Energy Purchase Agreement Between The Montana Power Company and Black Hills Power and Light Company" ("First Amendment"). Montana requests that the Commission (a) accept the First Amendment for filing, to be effective May 1, 1993; and (b) grant a waiver of notice pursuant to 18 CFR 35.11, so as to allow the filing of the Agreement less than 60 days prior to the date on which service under the First Amendment is to commence.

A copy of the filing was served upon Black Hills Power and Light company.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Company of New York, Inc.

[Docket No. ER93–615–000]

Take notice that on April 30, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule FERC No. 102, an agreement to provide transmission service for the New York Power Authority (the Authority). The Supplement provides for an increase in the monthly transmission charge from $1.02 to $1.06 per kilowatt per month for transmission of power and energy sold by the Authority to its Economic Development Power customers on Long Island, thus increasing annual revenues under the Rate Schedule by a total $9,138.60. The Supplement also increases the monthly charge for an alternative transmission service from $2.26 to $2.35 per kilowatt per month. Con Edison has requested that the increase take effect on July 1, 1993.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER93–616–000]

Take notice that on April 30, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule FERC No. 105, an agreement to provide transmission service for Orange and Rockland Utilities, Inc. (O&R). The Supplement provides for an increase in the monthly transmission charge from $0.79 to $0.87 per kilowatt per month thus increasing annual revenues under the Rate Schedule by a total of $168,000.00. Con Edison requests that this increase take effect on July 1, 1993.

Con Edison states that a copy of this filing has been served by mail upon O&R.

Comment date: May 24, 1993, in accordance with Standard Paragraph E end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER93–621–000]

Take notice that on April 30, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule FERC No. 51, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for an increase in the monthly transmission charge from $2.26 to $2.35 per kilowatt per month for transmission of power and energy sold by the Authority to the Long Island Villages of Freeport, Greenport and Rockville Centre (the Villages), thus increasing annual revenues under the Rate Schedule by a total of $72,747.00. Con Edison has requested that the increase take effect on July 1, 1993.

Con Edison states that a copy of this filing has been served by mail upon the Authority and the Villages.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Montaup Electric Company

[Docket No. ER93–623–000]

Take notice that on April 30, 1993, Montaup Electric Company filed an

agreement between itself and Altresco Pittsfield L.P., a Limited Partnership. The agreement provides for firm transmission service for various amounts of power for delivery to Commonwealth Electric Company and Cambridge Electric Light Company over the period September 1, 1993 through December 31, 2011. Montaup requests that the agreement between itself and Altresco be allowed to become effective as of September 1, 1993.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER91–569–000]

Take notice that Entergy Services, Inc. (Entergy Services), as agent for Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (collectively the Entergy Operating Companies) on May 5, 1993, tendered for filing a compliance filing in this docket that included the Entergy Operating Companies' open-access Transmission Service Tariff as revised in accordance with the Commission's "Order Accepting Rate Schedules, Accepting Amendment to Power Agreement, Conditionally Accepting Transmission Tariff with Modifications, Conditionally Accepting Service Agreements, Granting Waiver of Notice, and Denying Motion to Update Market Power Analysis," issued on April 5, 1993, and the "Order Addressing QF Issue," issued on May 5, 1993. Entergy Services also included with its filing the revised Firm Transmission Rate and Non-Firm Transmission Rate Caps for 1993.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Black Hills Corporation

[Docket No. ER93–607–000]

Take notice that Black Hills Corporation, which operates its electric utility business under the assumed name of Black Hills Power and Light Company (Black Hills) on April 30, 1993, tendered for filing an economy power sales letter agreements with Tri-State Generation and Transmission Association, Inc. and the Western Area Power Administration.

The reasons for the proposed letter agreement are to allow Black Hills to be in a position to offer economy power sales.

Copies of the filing were provided to Tri-State Generation and Transmission Cooperative, the Western Area Power Administration, and the regulatory commission of each of the states of Montana, South Dakota, and Wyoming.

Black Hills has requested that further notice requirement be waived and the letter agreements be allowed to become effective May 1, 1993.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Central Vermont Public Service Corporation

[Docket No. ER93–611–000]

Take notice that on April 30, 1993, Central Vermont Public Service Corporation (CVPS) tendered for filing a service agreement for provision of transmission service under FERC Electric Tariff, Original Volume No. 3 (Tariff No. 3) to Woodsville Fire District Water and Light Department. By letter dated February 18, 1993 in Docket No. ER93–386–000, the Company filed the Service Agreement for provision of power to Woodsville under FERC Electric Tariff, original Volume No. 5 (Tariff No. 5). Accordingly, for Tariff No. 3 transmission service, the Company requests an effective date of the first day of the month following the date of Commission approval of the Tariff No. 5 Service Agreement. To the extent necessary, the Company requests that the Commission waive and sixth day notice period of the instant filing so that there will be identical effective dates for provision of services under Tariff No. 5 and Tariff No. 3.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Central Vermont Public Service Corporation

[Docket No. ER93–612–000]

Take notice that on April 30, 1993, Central Vermont Public Service Corporation (CVPS) tendered for filing a notice of termination of service under FPC Electric Tariff, First Revised Volume No. 1 to Woodsville Fire District Water and Light Department (Woodsville) effective May 31, 1993. CVPS will provide power and transmission service to Woodsville under FERC Electric Tariff, Original Volume Nos. 5 and 3, respectively.

By letter dated February 18, 1993 in Docket No. ER93–386–000, the Company filed the Service Agreement for provision of power to Woodsville under Tariff No. 5. Accordingly, for termination of Tariff No. 1 service, the Company requests an effective date of the first day of the month following the date of Commission approval of the Tariff No. 5 Service Agreement. To the extent necessary, the Company requests that the Commission waive the sixty day notice period of the instant filing so that there will be identical effective dates for provision of service under Tariff No. 5 and termination of service under Tariff No. 1.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Company

[Docket No. ER93–622–000]

Take notice that on April 30, 1993, Idaho Power Company (IPC) tendered for filing a request for a revised rate schedule with regard to the Agreement for the Sale and Purchase of Firm Energy dated August 31, 1992, between Oregon Trail Electric Consumers Cooperative, Inc. and Idaho Power Company.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. UNITIL Power Corporation

[Docket No. ER93–625–000]

Take notice that on April 30, 1993, UNITIL Power Corporation tendered for filing pursuant to Schedule II Section H of Supplement No. 1 to Rate Schedule FERC Number 1, the UNITIL System Agreement, the following material.

1. Statement of all sales and billing transactions for the period January 1, 1992 through December 31, 1992 along with the actual costs incurred by UNITIL Power Corporation by FERC account

2. UNITIL Power Corporation rates billed from January 1, 1992 to December 31, 1992 and supporting rate development.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER93–617–000]

Take notice that on April 30, 1993, Consolidation Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 94 for transmission service for the Long Island Lighting Company (LILCO). The Rate Schedule provides for transmission of power and energy from the New York Power Authority's Blenheim-Gilboa station The Supplement provides for an increase in annual revenues under the Rate Schedule of $44,297.50. Con Edison has requested that this increase take effect on July 1, 1993.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: May 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Philadelphia Electric Company

[Docket No. ER93–610–000]

Take notice that on April 30, 1993, Philadelphia Electric Company (PE) tendered for filing as an initial Rate Schedule an Agreement for Installed Capacity Credit Transactions between Atlantic City Electric Company (AE) and PE dated April 26, 1993. This contract sets forth the terms under which PE will sell PJM installed capacity credits to AE. In order to maximize the economic advantages to both PE and AE, PE requests that the Commission waive its customary notice period and permit this Agreement to become effective on May 6, 1993.

PE states that a copy of this filing has been served by mail upon AE, the Pennsylvania Public Utility Commission, and the New York Jersey Board of Regulatory Commissioners.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota)

[Docket No. ER93–630–000]

Take notice that on May 3, 1993, Northern States Power Company (Minnesota) (NSP) tendered for filing a Municipal Interconnection and Interchange Agreement (Agreement) between NSP and the City of Sioux Falls, South Dakota (City). NSP presently provides certain sales and On Line transmission services to the City pursuant to a Municipal Resale and Transmission Service Agreement dated June 22, 1981. NSP Rate Schedule FERC NO. 413. The Agreement replaces the existing Resale Agreement, and sets forth the terms and conditions and rates for sales and transmission services to the City for the period April 12, 1993 to December 31, 2012.

NSP requests that the Agreement be accepted for filing effective April 12, 1993, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Electric and Gas Company

[Docket No. ER93–500–000]

Take notice that Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey on April 27, 1993, tendered for filing a First Supplement to the Agreement for the Sale of Capacity and Energy to Central Hudson Gas & Electric Company (CHG&E) to provide replacement power for generating units (Roseton) damaged in a fire on March 18, 1993.

PSE&G and CHG&E request the Commission to waive its notice requirements under Section 35.3 of its Rules and to permit the Capacity and Energy Sales Agreement to become effective as of March 29, 1993, the date of the initial filing with the Commission.

Copies of the First Supplement have been served upon CHG&E and interested state commissions.

Comment date: May 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Bangor Hydro-Electric Company

[Docket No. ER93–606–000]

Take notice that on April 30, 1993, Bangor Hydro-Electric Company (Bangor) tendered for filing an amendment to its wholesale electric Rate Schedule FERC No. 46. The amendment was precipitated by Bangor's buyout of a contract under which it buys power from one of its qualifying facility suppliers, Alternative Energy Decisions, Inc. (AED). The amendment reflects a reduction in the rate under that rate schedule. The Amendment also revises the Power Sales Agreement to reflect the termination of the AED Contract and to enable the purchaser to continue to receive comparable amounts of power notwithstanding the contract termination.

Bangor has requested that the amendment become effective as of the date Bangor successfully closes on the buyout of the AED contract and has requested a waiver pursuant to 18 CFR 35.11. The waiver request is supported by agreement of the purchaser.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. Southwestern Electric Power Company

[Docket No. ER93–626–000]

Take notice that on April 30, 1993, Southwestern Electric Power Company (SWEPCO) tendered for filing (i) a Power Supply Agreement between SWEPCO and East Texas Electric Cooperative, Inc. (ETC) (ETEC PSA); (ii) Amendment No. 1 to a Power Supply Agreement between SWEPCO and Tex-La Electric Cooperative of Texas, Inc. (Tex-La) (Amendment No. 1); and (iii) a letter from SWEPCO to Tex-La (Tex-La Letter). The ETEC PSA, Amendment No. 1 and the Tex-La Letter reflect newly negotiated arrangements for SWEPCO to serve certain Tex-La loads.

SWEPCO requests that the ETEC PSA be accepted to become effective May 1, 1993 and that Amendment No. 1 be accepted to become effective as of January 1, 1993. Accordingly, SWEPCO requests waiver of the Commission's notice regulations. SWEPCO requests that the Tex-La Letter be accepted to become effective as of June 29, 1993.

A copy of this filing has been served on ETEC, Tex-LA and the Texas Public Utility Commission.

Comment date: May 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

18. Montana Power Company

[Docket No. ER93–608–000]

Take notice that on April 30, 1993, the Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a Form of Service Agreement with Louis Dreyfus Electric Power, Inc. under FERC Electric Tariff, 2nd Revised Volume No. 1 (M–1 Tariff), as well as a revised Index of Purchasers under said Tariff. Montana requests that the Commission accept the Form of Service Agreement for filing, to be effective July 1, 1993.

A copy of the filing was served upon Louis Dreyfus Electric Power, Inc.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

19. Iowa-Illinois Gas and Electric Company

[Docket No. ER93–614–000]

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, on April 30, 1993, tendered for filing proposed changes in its rate schedule for third party purchase and resale transactions pursuant to Commission Order No. 84, designated as:

Iowa-Illinois Gas and Electric Company
FERC Order No. 84 Rate Schedule
2nd Revised Sheet No. 1
Cancelling 1st Revised Sheet No. 1

The rate schedule is applicable to third party purchase and resale of electric power. The rate schedule change revises the quantifiable cost portion of the rate and explicitly states that $1/MWh charge for difficult to quantify costs shall only apply to transactions of less than one year in duration.

Iowa-Illinois states that its reason for proposing the rate schedule change are to reflect increases and decreases in its

quantifiable costs and to increase Iowa-Illinois' flexibility to effectively market power and energy by permitting it to charge less than the full cost-supported rate.

Copies of the filing were served upon the Iowa Utilities Board; Illinois Commerce Commission; City of Eldridge, Iowa; Iowa Municipal Electric Agency; Waverly (Iowa) Light and Power; City of Tipton, Iowa; Illinois Power Company; Commonwealth Edison Company; Geneseo (Illinois) Municipal Utilities; Union Electric Company; Interstate Power Company; Iowa Electric Light and Power Company; Midwest Power Systems, Inc.; Iowa Southern Utilities Company; Northern States Power Company; Wisconsin Power and Light Company; and City of Pella, Iowa.

Comment date: May 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 93–11344 Filed 5–12–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF92–166–001]

Gordonsville Energy, L.P.—Unit 1; Amendment to Filing

May 7, 1993.

On May 7, 1993, Gordonsville Energy, L.P. (Applicant) tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining primarily to the useful thermal output of the cogeneration facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by May 27, 1993, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–11308 Filed 5–12–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Czech and Slovak Federal Republic concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/CS(EU)–1, for the transfer from the Federal Republic of Germany to the Slovak Republic of 3.75 kilograms of uranium, containing 744 grams of uranium–235 (19.84 percent enrichment) for use as fuel for the SUR–100 research reactor at the Slovak Technical University, Bratislava, the Slovak Republic.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on May 10, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93–11396 Filed 5–12–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4655–2]

Sole Source Aquifer Designation for the Canoe River Aquifer

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In response to a petition from the Canoe River Aquifer Advisory Committee, notice is hereby given that the Regional Administrator, Region I of the U.S. Environmental Protection Agency (EPA), has determined that the Canoe River Aquifer satisfies all determination criteria for designation as a sole source aquifer, pursuant to section 1424(e) of the Safe Drinking Water Act, 42 U.S.C. § 300h-3(e). The following findings were made in accordance with the designation criteria: the Canoe River Aquifer supplies 50% of the water needs for the communities within the service area boundaries; there are no viable alternative sources of sufficient supply; the boundaries of the designated area and project review area have been reviewed and approved by EPA; and, if contamination were to occur, it would pose a significant public health hazard and a serious financial burden to the communities within the aquifer service area. As a result of this action, EPA may review, suggest modifications to, or withhold funding for, any federal financially assisted projects proposed for construction within the Canoe River Aquifer that may pose an adverse risk of ground water contamination.

EFFECTIVE DATE: This determination shall become effective May 27, 1993.

ADDRESSES: The data upon which these findings are based is available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region I, Water Management Division, One Congress Street, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Chief of the Ground Water Management Section & Water Supply Branch, EPA Region I, JFK Federal Building (WGP 445), Boston, MA 02203; (617) 565–3610.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C., section 300h-3(e), states:

If the Administrator determines, on his own initiative or petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On December 10, 1992, EPA received a petition from the Canoe River Aquifer Advisory Committee, representing the towns of Sharon, Easton, Mansfield, Norton, and Foxborough, requesting the designation of the Canoe River Aquifer as a sole source aquifer under Section 1424(e) of the SDWA. The Sole Source Aquifer designation process consists of four phases, as outlined in the Sole Source Aquifer Designation Petitioner Guidance: Phase I—Petition Preparation, Phase II—Initial Petition Review/Determination of Completeness, Phase III—Detailed Review/Technical Verification, and Phase IV—Designation Determination. The Water Management Division has determined that the Canoe River Aquifer Advisory Committee's petition fully satisfies the first three phases of the designation process.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under section 1424(e) were:

1. The Canoe River Aquifer is a high-yielding stratified drift aquifer which the service area population relies on for 50% of its drinking water needs.
2. There exists no reasonable alternative drinking water source or combination of sources of sufficient quantity to supply the designated service area.
3. EPA has found that the Canoe River Aquifer Advisory Committee has appropriately delineated the boundaries of the aquifer recharge area, project designation area and project review area.
4. While the quality of the Canoe River Aquifer's ground water is considered to be good, it is highly vulnerable to contamination due to its geological characteristics and possible land use activities. The Aquifer is a stratified drift aquifer consisting of shallow sand and gravel deposits. The shallow nature of the Aquifer allows contaminants to be rapidly introduced into the groundwater with minimal assimilation. It is this high vulnerability to contamination, coupled with the aquifer's value as the principal source of drinking water for the residents of the five towns, that could pose a significant public health hazard.

III. Description of the Canoe River Aquifer Designated Area and Project Area

The Canoe River Aquifer is located in Bristol and Norfolk Counties, Massachusetts, approximately twenty miles south-southwest of Boston. Part of the Taunton River Basin, the Canoe River Aquifer sub basin is approximately twenty five square miles in area, and encompasses portions of the towns of Sharon (Norfolk County), Easton, Mansfield, Norton, and Foxborough (Bristol County).

The Canoe River begins its headwaters south of Massapoag Lake in Sharon and flows in a southerly direction through Foxborough, Mansfield, Easton, and Norton to Winnecunnet Pond in Norton. The surficial features above the Canoe River Aquifer are characterized by an extensive system of surface waters, wetlands, floodplains, and productive wildlife habitat. Topography is characterized by isolated linear hill formations separated by expansive lowlands. Land surface is generally flat to gently rolling, with elevations ranging from 50 feet to 350 feet above mean sea level. Volcanic and granitic rocks of pre-Carboniferous age underlie the northern and southern edges of the Taunton River Basin, while sedimentary rocks of Carboniferous age, consisting of sandstone, shale, siltstone, conglomerate, and coal beds underlie the interior portion of the basin. Glacial stratified drift deposits composed primarily of sand and gravel form the major aquifers in the basin, of which the Canoe River is a sub basin. The aquifers are generally long, narrow, and thin, with saturated thicknesses ranging from 20 to 100 feet. Ten municipal wells currently provide high quality drinking water to approximately 50,000 people within the five towns. Almost one hundred rivers, brooks, streams, and extensive wetland and floodplain areas support a rich and ecologically diverse habitat for wildlife. Uplands within the watershed are characterized by a mixture of open fields, deep woods, transitional woodlands, and over a thousand acres of productive farmland and cranberry bogs.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to EPA Region I by the Canoe River Aquifer Advisory Committee, and letters of support received during the public comment period. This information is available to the public and may be inspected at the address listed above.

V. Project Review

EPA Region I is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda of Understanding have been developed through which EPA will be notified of proposed commitments by federal agencies to projects which could contaminate the Canoe River Aquifer. EPA will evaluate such projects, and, where necessary, conduct an in-depth review, including soliciting public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into for that project. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to ensure that it will not contaminate the aquifer. Included in the review of any federal financially assisted project will be the coordination with state and local agencies and the project's developers. Their comments will be given full consideration and EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, EPA will rely to the maximum extent possible on any existing or future state and/or local control measures to protect the quality of ground water in the Canoe River Aquifer.

VI. Summary and Discussion of Public Comments

A total of sixteen written comments were received in support of the petition. Seven people spoke in favor of the petition at the public hearing. There were no comments opposing the petition, either in written form or at the public hearing.

Dated: April 29, 1993.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 93–11323 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–60–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement

May 7, 1993.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). For further information contact Judy Boley, Federal Communications Commission, (202) 632–0276.

OMB No.: 3060–0095
Title: Cable Television Annual Employment Report
Form No.: FCC 395–A
A revised report form FCC 395–A has been approved for use through 1/31/96. The revised edition date of the report is dated March 1993.

OMB No.: 3060–0105
Title: Licensee Qualification Report
Form No.: FCC 430
The approval on FCC 430 has been extended through 2/28/96. The updated edition of the report is dated March 1993.

OMB No.: 3060–045
Title: 800 MHz Construction Letter
Form No.: FCC 800–A
A revised form letter FCC 800–A has been approved for use through 3/31/96. The June 1992 edition with the previous OMB expiration date of 4/30/95 will remain in use until revised forms are available.

OMB No.: 3060–0440
Title: Fee Processing Form
Form No.: FCC 155
The approval on FCC 155 has been extended through 2/26/96. The August 1991 edition with the previous OMB expiration date of 2/28/93 will remain in use until updated forms are available.

OMB No.: 3060–0134
Title: Application for Renewal of Private Radio Station License
Form No.: FCC 574–R
A revised application form FCC 574–R has been approved for use through 3/31/96. The May 1991 edition with the previous OMB epiration date of 4/30/94 will remain in use until revised forms are available.

OMB No.: 3060–0318
Title: Notification of Status of Facilities Under Part 22 of FCC Rules
Form No.: FCC 489
The approval on FCC 489 has been extended through 2/28/96. The revised edition date of the form is April 1993.

OMB No.: 3060–0319
Title: Application for Assignment or Transfer of Control Under Part 22
Form No.: FCC 490
The approval on FCC 490 has been extended through 2/28/96. The revised edition date of the form is April 1993.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–11413 Filed 5–12–93; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

May 6, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contract Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0214
Title: Section 73.3526, Local public inspection file of commercial stations
Action: Revision of a currently approved collection
Respondents: Businesses or other for-profit (including small businesses)
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 10,985 recordkeepers; 185.944 hours average burden per recordkeeper; 2,042,595 hours total annual burden
Needs and Uses: Section 73.3526 required that each licensee/permittee of a commercial broadcast station maintain a file for public inspection. The contents of the file vary according to type of service and status. The contents include, but are not limited to, copies of certain applications tendered for filing, a statement concerning petitions to deny filed against such applications, copies of ownership reports and annual employment reports, statements certifying compliance with filing announcements in connection with renewal applications, etc. On 3/11/93, the Commission adopted a Report and Order, MM Docket Nos. 92–259, 90–4, and 92–195, Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issue. Among other things, this R&O added a new § 76.64(f). Section 76.64(f) requires a commercial television station to make an election between retransmission consent and must-carry status. Television stations that fail to make an election will be deemed to have elected must-carry status. This statement must be placed in the station's public inspection file. This R&O inadvertently omitted an amendment to § 73.3526. It will be included in the Memorandum Opinion and Order on reconsideration. The data are used by the public and FCC to evaluate information about the broadcast licensee's performance, to ensure that broadcast stations are addressing issues concerning the community to which it is licensed to serve and to ensure that radio stations entering into time brokerage agreements comply with Commission policies pertaining to licensee control and to the Communications Act and the antitrust laws.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–11412 Filed 5–12–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1938]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

May 5, 1993.

Petitions for reconsideration and clarification have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed May 28, 1993. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed

within 10 days after the time for filing oppositions has expired.

Subject: Provision of Access for 800 Service (CC 86–10) Number of Petitions Filed: 1

Subject: Regulations of International Accounting Rates (CC Docket No. 90–337) Number of Petitions Filed: 1

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–11411 Filed 5–12–93; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File no.	MM docket no.
A. Toccoa Falls College; Belton, SC.	BPED–920113ML	93–128
B. Nazareth Communications, Inc.; Williamston, SC.	BPED–920811MA	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix)—B
2. 307(b) Noncommercial Educational—Both
3. Ultimate—Both

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc. 2100 M. Street, NW., Suite 140, Washington, DC 20037; telephone (202) 857–3800.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1. To determine whether B (Nazareth) is a qualified educational organization as required by 47 CFR 73.503.(a).

[FR Doc. 93–11294 Filed 5–12–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3096–EM]

Alabama; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Alabama, (FEMA–3096–EM), dated March 15, 1993, and related determinations.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 26, 1993, to Director James Lee Witt, the President amended the emergency declaration of March 15, 1993, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the emergency conditions in certain areas of the State of Alabama resulting from severe snowfall and a winter storm on March 13, 1993, and continuing, are of sufficient severity and magnitude to warrant the expansion of the assistance authorized in my declaration of March 15, 1993, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act").

You are authorized under Title V of the Stafford Act to provide reimbursement for debris removal and emergency protective measures in the affected areas, in addition to the assistance for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles, authorized for five days. This amendment does not modify the assistance pertaining to snow plowing activities authorized under the snow emergency declaration. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

All other conditions specified in the original declaration remain the same.

Please notify the Governor of the State of Alabama and the Federal Coordinating Officer of this amendment to my emergency declaration.

I do hereby determine the following areas of the State of Alabama to have been affected adversely by this declared emergency:

The counties of Calhoun, Cherokee, Choctaw, Etowah, Jefferson, St. Clair, Shelby, Marengo, and Tuscaloosa for debris removal and emergency protective measures. (Already designated for assistance for required emergency measures for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles). This amendment does not modify the assistance pertaining to snow plowing activities authorized under the snow emergency declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 93–11379 Filed 5–12–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–986–DR]

Iowa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA–986–DR), dated April 26, 1993, and related determination.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 26, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:.

I have determined that the damage in certain areas of the State of Iowa, resulting from severe storms and flooding on March 26, 1993 through April 12, 1993, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds

available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. You may request an amendment to this declaration for Public Assistance, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren M. Pugh, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Iowa to have been affected adversely by this declared major disaster:

The counties of Black Hawk, Butler, Linn, and Tama for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James Lee Witt,

Director.

[FR Doc. 93–11381 Filed 5–12–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–985–DR]

Oregon; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential Declaration of a major disaster for the State of Oregon (FEMA–985–DR), dated April 26, 1993, and related determinations.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 26, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Oregon, resulting from the earthquake on March 25, 1993, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Oregon.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Oregon to have been affected adversely by this declared major disaster:

The counties of Clackamas, Marion, and Yamhill for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James Lee Witt,

Director.

[FR Doc. 93–11380 Filed 5–12–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–3095–EM]

Tennessee; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the State of Tennessee, (FEMA–3095–EM), dated March 14, 1993, and related determinations.

EFFECTIVE DATE: April 28, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 28, 1993, to James L. Witt, Director, the President amended the emergency declaration of March 14, 1993, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the emergency conditions in certain areas of the State of Tennessee resulting from severe snowfall and a winter storm on March 13, 1993, and continuing, are of sufficient severity and magnitude to warrant the expansion of the assistance authorized in my declaration of March 14, 1993, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act").

You are authorized under Title V of the Stafford Act to provide reimbursement for debris removal and emergency protective measures in the affected areas in addition to the assistance for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles, authorized for five days. This amendment does not modify the assistance pertaining to snow plowing activities authorized under the snow emergency declaration. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

All other conditions specified in the original declaration remain the same.

Please notify the Governor of the State of Tennessee and the Federal Coordinating Officer of this amendment to my emergency declaration.

I do hereby determine the following areas of the State of Tennessee to have been affected adversely by this declared emergency:

The counties of Anderson, Blount, Bradley, Carter, Cocke, Greene, Hamilton, Jefferson, Knox, Loudon, McMinn, Marion, Meigs, Monroe, Polk, Roane, Sevier, Sullivan, and Washington Counties for debris removal and emergency protective measures. (Already designated for assistance for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles, authorized for five days.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 93–11378 Filed 5–12–93; 8:45 am]

BILLING CODE 6718–02–M

Advisory Committee for the National Urban Search and Rescue Response System; Open Meeting

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 *et seq.*, FEMA announces the following committee meeting:

NAME: Advisory Committee for the National Urban Search and Rescue Response System (Advisory Committee).

DATES OF MEETING: May 30–31, 1993

PLACE: Saddlebrook Resort, 5700 Saddlebrook Way, Wesley Chapel (Tampa), Florida 33543–4499

TIME: May 30—8:30 a.m. to 4:30 p.m.; May 31—8:30 a.m. to 5 p.m.

PROPOSED AGENDA: During the course of the 2-day meeting, the Advisory Committee will receive a report by FEMA Headquarters on the progress of the National Urban Search and Rescue Response System and will hear reports from the Management, Communications, Management Information Systems and Training subcommittees on their activities. The group will discuss: (1) The Strategic Work Plan submitted to FEMA Headquarters, as recommended by the Advisory Committee; (2) draft bylaws for operation of the Advisory Committee; (3) revisions to the FY 1993 Work Plan; and (4) status of FEMA-sponsored training and other related exercises.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with approximately fifteen seats available on a first come first-served basis. Members of the general public who plan to attend the meeting must contact Mrs. Kimberly S. Caulfield Vasconez, FEMA, Operations Planning and Response Branch, Federal Response Division, Office of Emergency Management, State and Local Programs and Support Directorate (SL–OE–FR–OP), Federal Emergency Management Agency, 500 C Street, SW., room 613, Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the final day of the meeting.

Dated: May 7, 1993.

Richard W. Krimm,

Deputy Associate Director.

[FR Doc. 93–11383 Filed 5–12–93; 8:45 am]

BILLING CODE 6718–01–P

GENERAL SERVICES ADMINISTRATION

Stocking Change of SF 543, Medical Record—Contributor's List of Pathologic Material

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR is changing the stocking requirement of SF 543, Medical Record—Contributor's List of Pathologic Material. This form is now authorized for local reproduction. You can request camera copy of SF 543 from General Services Administration (CARM) Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Freed, GSA Standard and Optional Forms Liaison Officer, (202) 501–0492.

DATES: Effective upon publication in the Federal Register.

Dated: May 5, 1993.

Johnny T. Young,

Director, Reproduction Services Division.

[FR Doc. 93–11290 Filed 5–12–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

AGENCY: Administrtion 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 for the reinstatement of an information collection approval titled: "Application for Federal Assistance, Program Narrative Statement". this request, sponsored by the Administration for Native Americans (ANA) of the Administration for Children and Families (ACF), was approved under OMB control number 0980–0204 for use through May 31, 1992.

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–6964.

Written comments and questions regarding the requested approval for information collection should be sent 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: ANA Program Narrative/ Application for Federal Assistance Objective Work Plan.

OMB No: 0980–0204.

Description: American Indian tribes and Native American groups must submit applications to the Administration for Native Americans under the Native American Programs Act to obtain grants for social and economic development projects.

Annual Number of Respondents: 420.

Annual Frequency: 1.

Average Burden Per Response: 29.7.

Total Burden Hours: 12,474.

Dated: April 23, 1993.

Larry Guerrero,

Deputy Director, Office of Information, Systems Management.

[FR Doc. 93–11297 Filed 5–12–93; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for the reinstatement of an information collection sponsored by the Administration for Native Americans (ANA) of the Administration for Children and Families (ACF). This information collection titled: "Objective Evaluation Report" was previously approved under OMB control number 0980–0144 for use through May 31, 1992.

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–6964.

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: Objective Evaluation Report.

OMB No.: 0980–0144.

Description: The Objective Evaluation Report, a component of ANA's management information and evaluation system, is one of the two required reports which provide the basic information on the progress of projects receiving federal financial assistance grants under the Native American Programs Act of 1974 as amended.

The Objective Evaluation Report is a self-evaluation through which the grantee reports on achievement of the objectives funded and indicates results and benefits of the project. This report is a major source of information needed by ANA to fulfill the requirements of section 811 of the Act which requires reports on the evaluation of grants funded by the Administration for Native Americans.

Annual Number of Respondents: 245.

Annual Frequency: 1.

Average Burden Hours Per Response: 2.

Total Burden Hours: 490.

Dated: April 29, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 92–11298 Filed 5–12–92; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for the reinstatement of an information collection sponsored by the Administration for Native Americans (ANA) of the Administration for Children and Families (ACF). This information collection titled: "Objective Progress Report" was previously approved under OMB control number 0980–0155 for use through May 31, 1992.

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–6964.

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: Objective Progress Report.

OMB No.: 0980–0155.

Description: The Objective Progress Report, a component of the Administration for Native Americans' (ANA) management information and evaluation system, is one of the two required reports which provide the basic information on the progress of projects receiving federal financial assistance grants under the Native American Programs Act of 1974 as amended.

The Objective Progress Report provide a means through which information about projects, significant for management and policy development, may be systematically and regularly converted into ANA's Program Information and Evaluation System (PIES). This system is used to produce summary reports and is the information source for analytic studies of the projects funded by ANA. It also provides the only available history of, and specific project contents for, ANA grants. They receive many requests to produce such information from the public, from constituents, from other federal agencies and from the Congress.

Annual Number of Respondents: 245.

Annual Frequency: 2.

Average Burden Hours Per Response: 2.

Total Burden Hours: 980.

Dated: April 23, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–11299 Filed 5–12–93; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[FDA–225–93–0001]

Memorandum of Understanding Between the Food and Drug Administration and the Fish and Wildlife Service to Further the Registration of Chemicals Used in Aquaculture

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Fish and Wildlife Service (FWS). The purpose of the MOU is to further the registration of chemicals used in aquaculture. This MOU will enable FWS and FDA to conduct studies that will accelerate the approval of safe and efficacious compounds needed by aquaculture.

DATES: The agreement became effective on January 5, 1993.

FOR FURTHER INFORMATION CONTACT: Susan M. Setterberg, Office of Resource Management (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2175.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this memorandum of understanding.

Dated: May 7, 1993.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

Memorandum of Understanding Between The Fish and Wildlife Service (FWS) And The Food and Drug Administration (FDA)

I. Purpose

The U.S. Department of the Interior/Fish and Wildlife Service, Region 8, Research and Development (FWS); the FWS National Fisheries Research Center-La Crosse (NFLX); the National Fisheries Research Center-Gainesville (NFRG); the Food and Drug Administration, National Center for Toxicological Research (FDA/NCTR); and the Food and Drug Administration, Center for Veterinary Medicine (FDA/CVM) have agreed to enter into a cooperative research program to further the registration of chemicals used in aquaculture.

II. Background

The FWS and FDA/NCTR share a common interest in conducting studies related to compounds used in aquaculture. Most of the chemicals used in aquaculture either do not have a commercial sponsor or the patent has expired. In addition, most of the candidate compounds identified for potential use and registration in aquaculture do not have commercial sponsors who will support full registration for aquaculture. Few pharmaceutical and chemicals firms have shown interest in extending the registration of their products for use in aquaculture because of the high registration cost in comparison to their return on investment. Rapid industry growth in production of aquatic species for food and production of fishes for stocking and fee fishing dictates that chemicals used in aquaculture be regulated. The FDA/CVM has insufficient data to assure that many of the aquaculture compounds currently in use are safe and effective. However, the relatively low sales volume of aquaculture chemicals has imposed economic barriers to private chemical industry's initiative to develop the needed registration data.

Through a joint effort, the FWS and FDA/NCTR will be able to conduct studies that will accelerate the approval of safe and efficacious compounds needed by aquaculture.

III. Substance of the Agreement

This agreement describes the terms under which the parties will cooperate in experimental studies and programs. It will not create binding, enforceable financial obligations against either party. Each party will administer its own funds in accordance with its agency's rules and regulations. The participating parties agree:

A. To provide scientific personnel for the purpose of designing, conducting, supervising, and cooperating in experiments, studies, and programs that meet the requirements of CVM for registration oriented research.

B. To review jointly the results of the program, on an annual basis, and to evaluate its progress. Appropriate changes can be instituted upon the concurrence of both parties in an amended version of this Memorandum of Understanding.

C. To confer on the nature of experiments to be conducted and establish a priority list of aquaculture research needs considering recommendations of the Working Group on Quality Assurance in Aquaculture Production.

D. That scientific results will be published in peer-reviewed journals with authorship dependent upon the extent of involvement of each party in the research and writing of the manuscript.

E. That any party shall be free to supply the required nonexpendables, e.g., fish tanks, feed containers, etc., which shall remain the property of the supplying party.

F. That the responsibilities of the cooperating parties are contingent upon the availability of funds from which expenditures may be legally made.

G. That upon termination, property contributions shall be returned to the contributing party unless other arrangements are made.

IV. Name and Address of Participating Parties

A. U.S. Department of the Interior, Region 8, Research and Development, Fish and Wildlife Service, 1849 C Street, NW, Arlington Square Building, Mail Stop 725, Washington, DC 20240

B. National Fisheries Research Center-La Crosse, Fish and Wildlife Service, P.O. Box 818, 2630 Fanta Reed Rd., La Crosse, WI 54603

C. National Fisheries Research Center-Gainesville, Fish and Wildlife Service, 7920 NW 71st Street, Gainesville, FL 32606

D. National Center for Toxicological Research, Food and Drug Administration, NCTR Drive, Jefferson, Arkansas 72079–9502

E. Center for Veterinary Medicine, Food and Drug Administration, Metro Park North Two, 7500 Standish Place, Rockville, MD 20855

V. Liaison Officers

A. *For the Fish and Wildlife Service*, Director, (Currently Dr. John D. Buffington), Region 8, Research and Development, Fish and Wildlife Service, U.S. Department of the Interior, 1849 C Street, NW, Arlington Square Building, Mail Stop 725, Washington, D.C. 20240, Telephone: (202) 208–6393

B. *For the Food and Drug Administration*, Acting Director, NCTR (Currently Mr. Arthur Norris), National Center for Toxicological Research, Food and Drug Administration, NCTR Drive, Jefferson, Arkansas 72079–9502, Telephone: (501) 543–7517

C. *For the Food and Drug Administration*, Director, CVM (Currently Gerald B. Guest), Center for Veterinary Medicine, Food and Drug Administration, Metro Park North Two, 7500 Standish Place, Rockville, Maryland 20855, Telephone: (301) 295–8740

VI. Period of Agreement

This agreement becomes effective upon acceptance by all parties and will continue in effect for 10 years. It may be revised by mutual written consent or terminated by any party upon a 30-day advance written notice to the other party.

Approved and Accepted for the US Fish and Wildlife Service
By: Dr. John D. Buffington
Title: U.S. Fish and Wildlife Service Director, Research and Development
Date: December 22, 1992

Approved and Accepted for the Food and Drug Administration
By: Mr. Ronald Chesemore
Title: Associate Commissioner for Regulatory Affairs
Date: January 5, 1993

[FR Doc. 93–11330 Filed 5–12–93; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–4355]

Order Providing for Opening of Lands; Nevada

April 29, 1993.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order will open 280 acres of public land to the operation of the public land laws. The land was reconveyed to the United States through a private exchange.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702–785–6526.

SUPPLEMENTARY INFORMATION: 1. The following described lands were reconveyed to the United States on September 22, 1969, through a private exchange:

Mount Diablo Meridan

T. 47 N., R. 36 E.,
Sec. 33, S½S½, NE¼SE¼;
Sec. 34, SW¼NW¼/ NW¼SW¼.

The area described contains 280 acres in Humboldt County.

No minerals were conveyed to the United States.

At 10 a.m. on June 14, 1993, the lands will be open to the operation of the public land laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10 a.m. on June 14, 1993, will be considered as simultaneously filed. All other applications received will be considered in order of filing.

K. Lynn Bennett,
Associate State Director, Nevada.

[FR Doc. 93–11292 Filed 5–12–93; 8:45 am]
BILLING CODE 4310–HC–M

[NV–930–4210–05; N–4157]

Order Providing for Opening of Lands; Nevada

April 29, 1993.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order will open 10 acres of public land to the operation of the public land laws, including the mining laws, the mineral leasing laws, and material sale laws. The land was divested of title under the Recreation and Public Purposes Act and returned to the United States.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702–785–6526.

SUPPLEMENTARY INFORMATION: 1. The following described lands were divested of title under the Recreation and Public Purposes Act and returned to the United States on February 3, 1992:

Mount Diablo Meridian

T. 6 N., R. 61 E.,
Sec. 27, S½NE¼SE¼NE¼,
N½SE¼SE¼NE¼.

The area described contains 10 acres in Nye County.

At 10:00 a.m. on June 14, 1993, the lands will be open to the operation of the public land laws, including the mineral leasing and material sale laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10 a.m. on June 14, 1993, will be considered as simultaneously filed. All other applications received will be considered in order of filing.

At 10 a.m. on June 14, 1993, the lands will also be open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted

appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

K. Lynn Bennett,

Associate State Director, Nevada.

[FR Doc. 93-11293 Filed 5-12-93; 8:45 am]

BILLING CODE 4310-HC-M

[AZ-920-03-4210-04; AZA 26359A]

Arizona: Exchange of Public and Private Lands, Mohave County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of land.

SUMMARY: This action informs the public of the completion of an exchange between the United States and The Atchison, Topeka and Santa Fe Railway Company. The United States transferred 268.18 acres of surface and mineral estate in Mohave County, and The Atchison, Topeka and Santa Fe Railway Company conveyed 19,665.53 acres of mineral real estate in Mohave County.

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640-5534.

SUPPLEMENTARY INFORMATION: On April 7, 1993, the Bureau of Land Management transferred the following described land by Patent No. 02-93-0014 pursuant to the Federal Land Policy and Management Act of 1976:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 17 W.,
sec. 4, lots 10, 14, 15, 19, SW¼, W½W½W½SE¼.
containing 268.18 acres.

In exchange, the following described mineral estate was conveyed to the United States and will be administered by the Bureau of Land Management:

Gila and Salt River Meridian, Arizona

T. 23 N., R. 12 W.,
sec. 11, W½;
sec. 13, NW¼, W½SW¼;
sec. 23, SW¼NE¼, NW¼, NE¼SW¼, N½SE¼;
sec. 25, all;
sec. 27, all;
sec. 35, all.
T. 23 N., R. 13 W.,
sec. 23, all;
sec. 27, all.
T. 13 N., R. 14 W.,
sec. 7, lots 1 to 4, inclusive; E½, E½W½;
sec. 17, all.
T. 13 N., R. 15 W.,
sec. 3, lots 1 to 4, inclusive, S½N½;
sec. 21, W½, SW¼SE¼.
T. 19 N., R. 15 W.,
sec. 5, lots 1 to 4, inclusive, S½N½, S½;
sec. 17, W½;
sec. 29, W½.
T. 20 N., R. 15 W.,
sec. 33, NW¼.
T. 22 N., R. 20 W.,
sec. 5, lots 1 to 4, inclusive, S½N½, S½;
sec. 7, lots 1 to 4, inclusive, E½, E½W½.
T. 22 N., R. 21 W.,
Ssec. 1, lots 1 to 4, inclusive, S½N½, S½.
T. 23 N., R. 21 W.,
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
T. 24 N., R. 21 W.,
Sec. 27, all;
Sec. 33, N½, E½SW¼, S½S½NW¼SW¼, SW¼SW¼, SE¼.
T. 25 N., R. 21 W.,
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Sec. 9, all;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½.
T. 26 N., R. 21 W.,
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, E½W½.
T. 25 N., R. 22 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;
Sec. 23, all.
Containing 18,308.20 acres.

The following described mineral estate is within Lake Mead National Recreation Area and will be administered by the National Park Service:

Gila and Salt River Meridian, Arizona

T. 23 N., R. 21 W.,
Sec. 5, lot 1, SE¼NE¼;
Sec. 9, all;
Sec. 17, all.
Containing 1,357.33 acres.

The value of the Federal public land and the private mineral estate in the exchange were appraised at $294,998.00 and $294,982.95, respectively. The equalization payment of $15.05 was paid by The Atchison, Topeka and Sante Fe Railway Company.

The purpose of this exchange was to acquire the mineral estate to consolidate land and mineral estates, thus prompting better management and protection of outstanding cultural, riparian, aesthetic and wildlife resources. The public interest was served through completion of this exchange.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 93-11360 Filed 5-12-93; 8:45 am]

BILLING CODE 4310-32-M

[NM-038-4210-05]

Sale of Public Land in Socorro County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) announces that the following described parcels of public land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value shown. The parcels are isolated, difficult and uneconomical to manage as part of the public land, and are not suitable for management by another Federal department or agency. The sale is consistent with the BLM's planning efforts, and the public interest will be served by offering this land for sale.

Sale Method

Parcels 1, 2, 3, 4, and 5 will be offered for sale using competitive bidding procedures (43 CFR 2711.3-1). Parcels 6, 7, and 8 will be offered to the listed parties through direct sale procedures not less than 60 days from publication of this notice (43 CFR 2711.3-3).

PARCEL INFORMATION

Parcel No.	Serial NM NM	Legal description, NMPM					Appaised value	Method of sale
		Twnship	Rge	Sec	Lot/ tract	Acres		
1	69950	4 S	1 E	18	21	5.78	$8,700	Competitive.
2	69955	4 S	1 E	33	17	17.20	8,600	Competitive.
3	77434	5 S	1 E	4	26	.30	600	Competitive.
4	77435	5 S	1 E	4	28	.48	960	Competitive.

PARCEL INFORMATION—Continued

Parcel No.	Serial NM NM	Legal description, NMPM					Appaised value	Method of sale
		Twnship	Rge	Sec	Lot/ tract	Acres		
5	75576	5 S	1 E	4	38	7.74	2,500	Competitive.
6	69956	5 S	1 E	4	43	1.34	25	Direct to Socorro County.
7	77417	5 S	1 E	4	31	.001	25	Direct to Adolph and Rowena Baca.
8	77437	5 S	1 E	4	30	.06	100	Direct to Charles and Jessie Headen.

Sales Procedures

The sale of parcels 1, 2, 3, 4 and 5 will be by competitive sealed bids followed by oral bidding. Sealed bids will be considered only if received in the Socorro Resource Area Office, 198 Neel Avenue, NW., Socorro, New Mexico 87801, before 10 a.m. on August 11, 1993, the day of the sale. Oral bids will be accepted commencing at 10:30 a.m., following the opening of all sealed bids, at the same place on the same sale date. Sealed bids of less than the appraised fair market value will be rejected. The apparent highest qualified sealed bid will be publicly declared by the Authorized Officer. The apparent highest qualified sealed bid will then become the starting point for the oral bidding. If no apparent qualified sealed bids are received, the oral bidding will start at the appraised fair market value. In the absence of oral bids, the apparent highest qualified sealed bid will establish the sale price for that parcel. In the event that two or more sealed bids are received containing valid bids of the same amount for the same parcel, and no higher oral bid is received for that parcel, the determination of which is to be considered the highest designated bid will be by supplemental bidding. In such a case, the high bidders will be allowed to submit oral or sealed bids as designated by the Authorized Officer. After oral bids are received, the highest qualifying bid, whether sealed or oral, shall be declared by the Authorized Officer.

Bidders must be 18 years of age or over and United States citizens, and corporations must be subject to the laws of any state or the United States. Apparent high bidders must submit proof of these requirements within 15 days after the sale date. Bids must be made by the principal or his duly qualified agent. Each sealed bid must be written or typed and accompanied by postal money order, bank draft, or cashier's check made payable to the Department of Interior, Bureau of Land Management, for not less than 10 percent or more than 30 percent of the amount of the bid. The sealed bid envelope containing the bid and the required amount must be marked in the lower left-hand corner as follows:

Public Sale Bid Parcel No. _____
Serial No. _____
Sale Held _____
(Date)

Each successful oral bidder will be required to pay not less than 20 percent of the amount of the bid immediately following the sale. Payment must be by cash, personal check, bank draft, money order, or any combination of these. Successful bidders, whether such bid is oral or sealed, will be required to pay the remainder of the sale price prior to expiration of 180 days from the date of the sale. Failure to submit the full sale price within the above specified time limit will result in cancellation of the sale of the specific parcel and the deposit will be forfeited and disposed as other receipts of sale.

All sealed bids will be either returned, accepted, or rejected within 30 days of the sale date. Competitive Sale Parcels not sold on the day of the sale will be reoffered for sale every first Tuesday of each month, same time and place, by the same sale procedures described above until sold or until September 7, 1993, at close of business.

On parcels 6, 7, and 8: Should any of the listed parties decline to purchase an offered parcel within the time allotted the unsold parcel will then be reoffered by open competitive bidding procedures described above every first Tuesday of each month, same time and place, until sold or until December 7, 1993, at close of business.

In the event that the Authorized Officer rejects the highest qualified bid for any of the above parcels, or releases the bidder from it, the Authorized Officer shall determine whether the public land shall be withdrawn from the market or reoffered.

Terms and Conditions

Terms and conditions applicable to the sale are:

1. The patents, when and if issued, will contain a reservation to the United States for ditches and canals.
2. All minerals will be reserved to the United States together with the right to prospect for, mine, and remove the minerals.
3. All patents will be issued subject to existing access road rights-of-way and easements.
4. On parcel 5, the land lies within a 100-year floodplain and the patent will contain land use restrictions as required by Executive Order 11988.
5. On parcel 5, the land lies within a wetland area and the patent will contain wetland restrictions in accordance with Solicitor's opinion, BLM SA 0057.
6. On parcel 1, the patent will be issued subject to those rights for waterline, access road and water berm purposes as have been granted to Calvin and Liz Cryer and Joe and Laura Lopez by right-of-way NM NM 83794.
7. On parcels 3 and 4, the purchasers will, upon issuance of the patent, be required to grant easements for certain access routes across the parcels.
8. The purchasers of parcels 2 and 5 acquire the property realizing that public access to the property is lacking.

DATES: Interested parties may submit comments regarding the proposed action to the Socorro Resource Area Manager by June 28, 1993.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Socorro Resource Area Office, 198 Neel Avenue, NW., Socorro, NM 87801.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the land, terms and conditions of sale, and bidding instructions may be obtained from the Socorro Resource Area Office at the above address. Telephone calls may be directed to Jon Hertz or Chella Herrera at (505) 835–0412.

SUPPLEMENTARY INFORMATION: Comments must reference specific parcel numbers.

Adverse comments received on specific parcels will not affect the sale of any other parcel. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Upon publication in the Federal Register, the lands described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this Notice of Realty Action shall terminate upon issuance of patent or other document of conveyance to such land, upon publication in the Federal Register of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

The BLM may accept or reject any offer to purchase or withdraw any tract from sale if the Authorized Officer determines that consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Dated: May 5, 1993.

Josie Banegas,

Acting District Manager.

[FR Doc. 93–11382 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–FB–M

[NM–060–03–4210–05; NM–87918]

Notice of Realty Action, Minor Plan Amendment, Sale of Public Lands; Lincoln County, NM.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a minor plan amendment in order to complete a direct sale of public land in Lincoln County, New Mexico.

SUMMARY: The Bureau of Land Management is considering a minor plan amendment in order to sell a 160-acre isolated parcel of land to the adjacent land owner.

DATES: Comments on this action will be accepted through June 28, 1993.

ADDRESSES: Comments may be mailed to the District Manager, Bureau of Land Management 1717 W. Second, Roswell, NM 88201–2019.

FOR FURTHER INFORMATION CONTACT: John Rakowski, Realty Specialist, at the above address, or phone (505) 622–9042.

SUPPLEMENTARY INFORMATION: The parcel is suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of October 21, 1976. This is an isolated parcel completely surrounded by one land owner. There is no legal access and the parcel contains valuable private improvements. The lands will be sold at no less than the appraised fair market value.

Description: New Mexico Principal Meridian, T. 9 S., R. 19 E., sec. 18, NE¼ Lincoln County, New Mexico.

Comments: Public comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 5, 1993.

Tony L. Ferguson,

Acting District Manager.

[FR Doc. 93–11358 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–FB–M

[NV–930–03–4210–05; N–56717]

Realty Action; Lease Purchase for Recreation and Public Purposes, Clark County, NV

The following described public land in Las Vegas, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 18: E½NE¼NE¼SE¼
Aggregating 5.00 acres (gross)

The Armenian Apostolic Church intends to use the land for a church facility and community center. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads, public utilities and flood control purposes in accordance with the transportation plan for Clark County to include: A 40.00 foot easement on the north, a 50.00 foot easement on the east, a 30.00 foot easement on the south with a 20.00 foot spandrel at the intersection of Fort Apache and Katie and a 30.00 foot spandrel at the intersection of Twain and Fort Apache.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes, leasing under the mineral leasing laws and disposals of mineral materials.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P. O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the Federal Register.

Dated: May 3, 1993.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 93–11356 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–HC–M

[UT–050–4210–05; UTU–68967]

Realty Action; Lease or Conveyance of Public Lands to Wayne County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Wayne County, Utah have been examined and found suitable for classification for lease or conveyance to Wayne County under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Wayne County proposes to use the lands for a regional landfill.

Salt Lake Meridian

T.28 S., R.8 E.
Sec. 26: E½NW¼.
Containing 80 acres more or less

The lands are not needed for Federal purposes. Lease or conveyance is

consistent with current BLM land use planning and would be in the public interest. The lease/patent, when issued will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

Detailed information concerning this action is available at the Office of Bureau of Land Management, P.O. Box 99, Hanksville, Utah, 84734.

Publication of this notice constitutes notice to the grazing permittees of the Cathedral Allotment that the 80 acres will be excluded from the allotment upon issuance of the patent.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publications of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Richfield District Office, 150 East 900 North, Richfield, Utah 84701.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: May 4, 1993.

Neil Thomas,

Assistant District Manager, Administration.

[FR Doc. 93–11359 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–DQ–M

[OR–942–00–4730–02: GP3–216]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 33 S., R. 2E., accepted April 19, 1993
T. 5 S., R. 41 E., accepted April 16, 1993
(Sheets 1 & 2)
T. 17 S., R. 1 W., accepted March 26, 1993
T. 21 S., R. 1 W., accepted April 5, 1993
(Sheets 1 & 2)
T. 19 S., R. 3 W., accepted March 25, 1993
T. 23 S., R. 3 W., accepted March 25, 1993
T. 24 S., R. 4 W., accepted April 9, 1993
T. 3 S., R. 6W., accepted March 22, 1993
T. 20 S., R. 6 W., accepted March 23, 1993
T. 34 S., R. 7 W., accepted March 26, 1993
T. 13 S., R. 8 W., accepted April 9, 1993
T. 29 S., R. 11 W., accepted April 12, 1993

Washington

T 7 N., R. 14 E., accepted April 23, 1993

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protests(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 N.E. 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protests against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 N.E. 44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: April 30, 1993.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

National Park Service

Natchez National Historical Park; Meeting

AGENCY: National Park Service, DOI.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Natchez National Historical Park Advisory Commission will be held at 2 p.m. to 3 p.m. at the following location and date.

DATES: June 10, 1993.

LOCATION: Administrative Headquarters, Natchez National Historical Park, 504 South Canal Street, Natchez, Mississippi 39120.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Thompson, Acting Superintendent, Natchez National Historical Park, Post Office Box 1208, Natchez, Mississippi 39121.

SUPPLEMENTARY INFORMATION: The purpose of the Natchez National Historical Park Advisory Commission is to advise the Secretary of the Interior on the development and management of the Natchez National Historical Park. The members of the Advisory Commission are as follows:

Mr. John Callon
Ms. Joan Gandy
Dr. Alferdteen Harrison
Mr. Ronald Miller
Mr. Kenneth P'Pool
(vacant)

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are very limited. Any member of the public may file with the commission a written statement concerning matters to be discussed. A written statement may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at park headquarters for public inspection approximately four weeks after the meeting.

Dated: April 26, 1993.

James W. Coleman, Jr.,

Regional Director, Southeast Region.

[FR Doc. 93–11410 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Privacy Act of 1974—Deletion of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is deleting from its inventory of Privacy Act systems of records a notice describing records maintained by the Office of Surface Mining Reclamation

and Enforcement. The system of records notice being abolished is entitled "Personnel identification—Interior, OSM–5." It was previously published in the Federal Register on October 31, 1983 (48 FR 50173). The system of records is no longer being maintained in the Department of the Interior.

Prior to January 5, 1985, the Office of Surface Mining Reclamation and Enforcement maintained a record of employee identifying information and locations to prepare identification cards for employees and to contact employees in an emergency. This record became obsolete when the Office of Surface Mining Reclamation and Enforcement implemented the Payroll and Personnel (PAY/PERS) automated system. The Office of Surface Mining Reclamation and Enforcement payroll, attendance, retirement and leave records contained in the PAY/PERS system are covered by the Departmentwide system of records notice INTERIOR/OS–85. The Office of Surface Mining Reclamation and Enforcement personnel records contained in the PAY–PERS system are covered by the Departmentwide system of records notice INTERIOR/OS–79 and the Governmentwide system of records notice published by the Office of Personnel Management OPM/GOVT–1.

Currently, information obtained directly from employees and data contained in the Official Personnel Folders and in the PAY/PERS system are used to prepare identification cards for employees and to contact employees in an emergency.

This change shall be effective on publication in the Federal Register (May 13, 1993). Additional information regarding this action may be obtained from the Departmental Privacy Act Officer, Office of the Secretary, Office of Administrative Services, 1849 "C" Street NW., Mail Stop 5412 MIB, Washington, DC 20240, telephone (202) 208–6045.

Dated: May 5, 1993.

Albert C. Camacho,

Director, Office of Administrative Services.

[FR Doc. 93–11291 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–05–M

Fish and Wildlife Service

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–776188

Applicant: Luv Them Birds, Inc., Goulds, FL.

The applicant requests a permit to purchase in interstate commerce 6 male and 3 female captive hatched blue-throated conures (*Pyrrhura cruentata*) from James Peterson, Howard Lake, Minnesota, for enhancement of propagation.

PRT–777380

Applicant: Carnegie Institution of Washington, Washington, DC.

The applicant requests a permit to import powdered bone and teeth salvaged from 10 black rhinoceros (*Diceros bicornis*) in Amboseli National Park, Kenya, from Cynthia Moss, Nairobi, Kenya, for scientific research. Isotopes in these samples from a known location would be analyzed to develop a method for identifying the sources of rhinoceros horns.

PRT–778102

Applicant: U.S. Fish & Wildlife Service, Regional Director—Region 7, Anchorage, Alaska.

The applicant requests a permit to take and import salvaged specimens of spectacled eider (*Somateria fischeri*) for purposes of scientific research and enhancement of propagation or survival of the species in accordance with approved recovery activities.

PRT–778126

Applicant: Robert T. Hitchcock, McCall, Idaho.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. F.W.M. Bowker, Thornkloof, Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT–778128

Applicant: Curtis R. Hitchcock, Boise, Idaho.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. F.W.M. Bowker, Thornkloof, Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT–776085

Applicant: Hartley Boss, Orrville, Ohio.

The applicant requests a permit to import 2 male and 2 female captive hatched Cabot's tragopan (*Traqopan caboti*) from Mr. Glenn Howe, Aylmer, Ontario, Canada, for captive breeding purposes.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Services, 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: May 10, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–11384 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–55–M

Availability of a Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit (PRT–776604) for a Landfill near Pahrump, Nye County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The County of Nye has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) and submitted a Habitat Conservation Plan (HCP), and Implementing Agreement (IA). The proposed permit would authorize the incidental take of a threatened species, the Mojave desert tortoise (*Gopherus agassizii*), near Pahrump, Nye County, Nevada. The Service also announces the availability of a draft environmental assessment (EA) for the incidental take permit application. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application HCP, IA, and EA should be received on or before June 14, 1993.

ADDRESSES: Persons wishing to review the application, HCP, IA or draft EA may obtain a copy by writing to Mr. David Harlow, Field Supervisor, U.S. Fish and Wildlife Service, Nevada Ecological Services Field Office at the address below. Documents will also be available for public inspection, by appointment, during normal business hours at the Nevada Ecological Services Field Office. Written data or comments concerning the application, HCP, IA,

and EA should be submitted to Mr. David Harlow, Field Supervisor, at the address below. Please reference permit number PRT 776604 in your comments: U.S. Fish and Wildlife Service, Nevada Ecological Services Field Office, 4600 Kietzke Lane, Building C–125, Reno, Nevada 89502. (702) 784–5227

FOR FURTHER INFORMATION CONTACT: Ms. Sheryl L. Barrett at the Nevada Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Nye County proposes to develop a 15-acre landfill near Pahrump, Nye County, Nevada. The 15 acres would allow expansion of an existing 40-acre landfill, which has a limited life expectancy and may be exhausted before the end of March 1993. Nye County proposes to clear 15 acres of land to the south of its existing landfill and to dig trenches for containment of landfill to be buried.

Based on survey data, there are an estimated 10–45 desert tortoises per square mile in the project area, or 0.02–0.07 per acre. Based on these estimates, one desert tortoise may be incidentally taken in the project area.

To minimize and monitor this incidental take, the applicant proposes to install desert tortoise barrier fencing around the perimeter of the 15-acre landfill site. The fence will be designed with anti-perching wire or similar devices that deter ravens. Following installation of the fence, the entire 15 acres will be surveyed and any desert tortoises found will be removed prior to any surface-disturbing activity. Desert tortoises found on the project site will be moved to adjacent suitable habitat within 1,000 feet of the location at which they were found. Also, all workers will be given an educational program to advise them of penalties associated with unauthorized take of desert tortoises. To mitigate the impacts associated with destruction of desert tortoise habitat, the applicant proposes to contribute $4,875 ($325 per acre) towards the conservation of desert tortoise habitat in Nevada.

The EA considers the environmental consequences of four alternatives, including the proposed action and the no action alternative. The proposed action would result in the destruction of 15 acres of desert tortoise habitat. The no action alternative would result in reaching capacity at the existing landfill and consequential health and safety dangers to the people and wildlife in the Pahrump Valley area. The third alternative would locate the proposed landfill on nearby land administered by the Bureau of Land Management, however, this land would also contain desert tortoise habitat. The forth alternative would involve construction of a transfer station, but was eliminated due to cost prohibitions.

Dated: May 5, 1993.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 93–11361 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

U.S.S. Cairo; Preservation Measures; Public Meeting

SUMMARY: The public is invited by the National Park Service to attend a public meeting in the visitor center at Vicksburg National Military Park to discuss preservation measures proposed for the U.S.S. CAIRO.

Commissioned into the United States Navy in 1862, the ironclad gunboat U.S.S. CAIRO later that same year became the first armored warship to be sunk by an electrically activated torpedo. The CAIRO was raised from the bottom of the Yazoo River in 1964; in 1973, responsibility for its care was transferred to Vicksburg National Military Park where it is now displayed.

The CAIRO is one of only four Civil War gunboats that have been raised, preserved, and displayed. It is the only one protected by the National Park Service and is, by far, the most complete gunboat of its kind on display anywhere. The 1987 edition of "History and Prehistory in the National Park System and the National Historic Landmark Program" listed the CAIRO as the only National Park Service cultural resource under the theme of Civil War Naval Operations. The CAIRO was listed on the National Register of Historic Places in 1971 and in 1990 its engines and boilers were designated as a National Mechanical Engineering Landmark.

Concerned with the deterioration of the U.S.S. CAIRO's historic fabric, the National Park Service initiated research in 1988 to determine how to best preserve this unique historic object. Senator Trent Lott subsequently was responsible for Congress appropriating funds to assist this effort. In 1992, a group of preservation specialists convened to identify and evaluate the preservation options available. From the list of 12 potential actions that was developed, the National Park Service has selected a preferred alternative which will be presented for discussion in this public meeting.

DATES: The public meeting will be held on May 27, 1993, at 7 pm at the following location.

ADDRESSES: Vicksburg National Military Park, 3201 Clay Street, Vicksburg, Mississippi 39108, Telephone: (601) 636–0583.

FOR FURTHER INFORMATION CONTACT: The Superintendent of Vicksburg National Military Park at the address above.

Dated: May 5, 1993.

Ronald W. Bishop,

Regional Director, Southeast Region.

[FR Doc. 93–11409 Filed 5–12–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

Comments on the following assessment are due 30 days after the date of availability:

AB–6 (SUB–NO. 347X), Burlington Northern Railroad Company—Abandonment Exemption—In Green, Sumter, Choctaw, Washington and Mobile Counties, Alabama. EA Available May 7, 1993.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–11400 Filed 5–12–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32291]

Tim Carper, Janis Carper, Jim Walker, and Adrian Perez—Acquisition and Operation Exemption—Union Railroad of Oregon

Tim Carper, Janis Carper, Jim Walker, and Adrian Perez have filed a verified notice of exemption to acquire and operate the entire Union Railroad of

Oregon from Union Rail Enterprises, Inc. The property consists of the entire line of 2.1 miles of railroad between milepost 0, at Union Junction, and milepost 2.0, at Union, OR. The exemption became effective April 21, 1993.[1]

Any comments must be filed with the Commission and served on: Tim Carper, Janis Carper, Jim Walker, and Adrian Perez, P.O. Box 17462, Seattle, WA 98107.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.

The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 6, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–11401 Filed 5–12–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980; United States v. Acme Tag Co., et al.

In accordance with section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Acme Tag Co., et al.*, Civil Action No. 3–93–275 was lodged on April 30, 1993 with the United States District Court for the District of Minnesota. This action was brought pursuant to CERCLA sections 106 and 107, 42 U.S.C. 9606 and 9607, to achieve a cleanup of the South Andover Site in Andover, Minnesota, and to recover costs expended by the United States at the Site. The Site is listed on the National Priorities List set forth at 40 CFR part 300, appendix B.

Under the proposed consent decree, a group of sixteen settling defendants will implement a remedy that the United States Environmental Protection Agency selected for the Site. Major elements of the selected remedy include: (1) Excavation and treatment of certain soils containing organic contaminants and return of treated soils to the Site, (2) excavation and removal of certain additional soil which will be disposed in an EPA-approved landfill, and (3) monitoring of two wetland areas located on and adjacent to the Site. In addition, the proposed consent decree provides for settling defendants to pay $2,733,000 to the Hazardous Substances Superfund in reimbursement of response costs incurred by the United States at the South Andover Site.

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 Assistance Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Acme Tag Co., et al.*, DOJ Ref. # 90–11–2–281A.

The proposed consent decree may be examined at the Office of the United States Attorney, 110 South Fourth Street, Minneapolis, Minnesota 55401; the Region V Office of the Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois 60604; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005.

In requesting a copy, please refer to the referenced case and specify the documents required, together with a check payable to the "Consent Decree Library" for the appropriate amount, as follows: Consent Decree only ($.25 per page reproduction costs): $20.25. Consent Decree with appendices: $49.75.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–11363 Filed 5–12–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Cornelius J. Beukenkamp, Jr., M.D.; Revocation of Registration

On February 11, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Cornelius J. Beukenkamp, Jr. M.D., of Medford, New York, proposing to revoke his DEA Certificate of Registration, AB1714977, and deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that Dr. Beukenkamp was no longer authorized by State law to handle controlled substances and thus was ineligible for DEA registration as set forth in 21 U.S.C. 823(f).

The Order to Show Cause was sent by registered mail to Dr. Beukenkamp at his registered location at 2915 Beechnut Avenue, Medford, New York 11763. The letter was returned to the DEA on March 10, 1993, with the notation that the addressee was unknown. On March 15, 1993, the Order to Show Cause was resent to Dr. Beukenkamp, by regular first class mail, to an alternate address on Grand Cayman Island in the British West Indies. No response was received from Dr. Beukenkamp or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Beukenkamp has waived his opportunity for a hearing. The Administrator has carefully considered the investigative file in this matter, and enters his final order under the provisions of 21 CFR 1301.57.

The Administrator finds that on June 5, 1992, the DEA received information from the New York State Education Department, Division of Professional Licensing Services, that Dr. Beukenkamp had not held an active registration to practice medicine in New York State since December 1988. Therefore, Dr. Beukenkamp is not authorized to administer, dispense, prescribe, or otherwise handle controlled substances under the laws of the state in which he is registered with DEA.

DEA has consistently held that termination of a registrant's state authority to handle controlled substances requires that DEA revoke the registrant's DEA Certificate of Registration. Sam S. Misasi, D.O., 50 FR 11469 (1985); George P. Gotsis, M.D., 49 FR 33750 (1984); Henry Weitz, M.D., 46 FR 34858 (1981).

Based on the foregoing, the Administrator concludes that Dr. Beukenkamp's registration must be revoked. 21 U.S.C. 823(f) and 824(a)(3). Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AB1714977, previously issued to Cornelius J.

[1] Under 49 CFR 1150.32(b), the exemption becomes effective 7 days after the verified notice is filed. Here, the notice was filed April 14, 1993. The exemption, therefore, became effective, and the transaction could be consummated, on April 21, 1993. Although the verified notice of exemption states that consummation is scheduled for on or about April 1, 1993, a subsequently filed letter indicates that consummation would not be until on or after April 21, 1993.

Beukenkamp, Jr., M.D., be, and it hereby is revoked, and that any pending applications for registration, be, and they hereby are, denied. This order is effective May 13, 1993.

Dated: May 6, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–11376 Filed 5–12–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–65]

R. James Rucker, Jr., D.D.S.; Denial of Application for Registration

On May 7, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to R. James Rucker, D.D.S., (Respondent), of San Mateo, California proposing to deny his application for registration as a practitioner. The statutory basis for seeking the denial of his application was that Respondent's registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f).

The Order to Show Cause alleged that Respondent had been convicted of a felony involving the sale or transport and possession of cocaine in 1987, been convicted of being under the influence of a controlled substance in 1988, and had had his California State license to practice dentistry revoked in 1990.

Respondent, through counsel, filed a request for a hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was scheduled for December 8, 1992, in San Francisco, California. However, on November 16, 1992, Respondent requested that his application be withdrawn and that the proceeding be dismissed without prejudice with regard to any future renewal of his application. On November 10, 1992, the Deputy Assistant Administrator, Office of Diversion Control, declined to grant Respondent permission to withdraw his application on the grounds that he had not shown good cause pursuant to 21 CFR 1301.37. Subsequently, Respondent waived his right to a hearing and filed a written statement pursuant to 21 CFR 1301.54(c).

On December 9, 1992, the administrative law judge transmitted the record to the Administrator. The Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The record shows and the parties so stipulated that on October 13, 1987, before the Superior Court of the State of California, County of San Mateo, Respondent was convicted, upon a plea of *nolo contendere*, of one felony count of a violation of section 11352 of the California Health and Safety Code for the unlawful transport or sale of cocaine, a controlled substance. He was sentenced to three years probation. On January 13, 1988, before the Superior Court of the State of California, County of San Mateo, Respondent was convicted of one count of a violation of section 11550(a) of the California Health and Safety Code for being under the influence of a controlled substance. He was sentenced to ninety days in jail. Subsequently, Respondent violated probation by virtue of his use or possession of controlled substances. On March 13, 1990, as a result of the felony conviction, the California Board of Dental Examiners revoked Respondent's license to practice dentistry, stayed the order, and placed him on five years probation.

In his statement filed in this matter, Respondent asserts that he has sufficiently reformed himself of his past conduct to justify being restored the right to handle Schedules III through V controlled substances. He states that he seeks registration to be able to prescribe those controlled substances, such as the Schedule III substances Tylenol #3 and Vicodin, which are medically appropriate and necessary for his dental patients. Respondent does not deny the facts underlying the Government's case, but contends that at no time did he improperly use either his DEA or dental license.

Respondent further states that at the time of his conviction he had not been practicing dentistry for two years and had subsequently undergone a drug rehabilitation residential program. He stated that he has been drug free since he entered rehabilitation in April 1988. Respondent also argues that he has successfully been complying with the terms and conditions of his dental board probation. As evidence of his rehabilitative efforts, Respondent completed 160 hours of general dentistry course work in July 1990, and the Delancey Street Foundation drug rehabilitation program in March 1990. Respondent states that in a two year stay at the Delancey Street Foundation, a highly structured drug treatment program, he participated in regular therapeutical counseling sessions as well as regular group and individual counseling sessions. He also participated in Delancey Street's Paratransit program, providing transportation services to the elderly and handicapped, and lecturing and tutoring other residents. Respondent also states that he has since resumed the practice of dentistry.

The Administrator may deny an application for registration if he determines that such registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

After considering the record, the Administrator concludes that all five factors are pertinent. As to factor (1), the State of California Board of Dental Examiners revoked Respondent's dental license, stayed the revocation, and then restored Respondent's dental license to probationary status, limiting his controlled substance privileges to Schedules III, IV, and V; as to factor (2), the record shows no indication that Respondent improperly used his DEA registration, but was involved in personal abuse of illicit street drugs; as to factor (3), Respondent was convicted of the felony offense of distributing cocaine, and of the misdemeanor offense of being under the influence of a controlled substance; as to factor (4), Respondent violated State and Federal law by his illicit distribution and use of controlled substances in August 1987, which resulted in his convictions, and by his violation of probation; and as to factor (5), Respondent has been an abuser of illegal street drugs, has had his State dental license revoked as a result of this conduct and has attended a residential drug treatment program and a dental training program in pursuit of his personal and professional rehabilitation.

The Administrator finds that in August 1987, Respondent sold base cocaine to a confidential informant, and, as a result, was convicted of a felony in October 1987; that in August 1987, he was under the influence of a controlled substance and subsequently was convicted of that misdemeanor in January 1988; that he was sentenced to three years probation in December 1987; that he thereafter violated probation by using illicit drugs and was continued on probation upon a condition that he complete a drug rehabilitation program at Delancey Street; that on January 18, 1990, his dental license was revoked, that revocation stayed, and was placed on five years probation contingent, *inter alia*, on his completion of additional dental training, a resident drug rehabilitation program, and other limitations; that Respondent satisfied the State Board of Dental Examiners' requirements as to training and rehabilitation by completing 160 hours in a clinical dentistry program, and the resident Delancey Street program; that during his rehabilitation he worked with the elderly and handicapped and taught CPR and first aid and tutored other residents; that he resumed the practice of dentistry after July of 1990; and that in his current practice he treats welfare and AIDS patients and has demonstrated proper and professional conduct.

Respondent has made reference to the fact that his actions involving controlled substances did not involve his DEA registration. The Administrator has held in the past that an unfavorable registration action may be based on criminal convictions involving controlled substances which are unrelated to the registrant's practice. Paul Stepak, M.D., 51 FR 17556 (1986); David E. Trawick, D.D.S., 53 FR 5326 (1988); see *Trawick* v. *Drug Enforcement Administration*, 861 F.2d 72 (4th Cir. 1988).

Although Respondent should be commended for his efforts toward rehabilitation, the Administrator is not convinced that his rehabilitation is complete. Respondent has satisfied his State Dental Board probation requirement that he complete a rehabilitation program, but he has provided the DEA with no information on the form, content, and extent of his rehabilitation or assessments on his potential for recovery. The Administrator finds that there is insufficient evidence on the record at this time to show that Respondent has been rehabilitated and that he will not succumb to the pressures of abusing controlled substances in the future. Furthermore, since Respondent ostensibly has not handled controlled substances since approximately 1986, the Administrator suggests that he will need to demonstrate that he has attended courses on the proper handling of controlled substances before again applying for DEA registration.

The Administrator finds that Respondent's registration would be inconsistent with the public interest at this time, and that his pending application for registration must be denied. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration of R. James Rucker, Jr., D.D.S., be, and it hereby is, denied. This order is effective May 13, 1993.

Dated: May 6, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-11377 Filed 5-12-93; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

[INS No. 1381N-93]

RIN 1115-AD32

Lifting of Expiration Date for the Validity of Form I-151, Alien Registration Receipt Card

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: Effective May 13, 1993 the Immigration and Naturalization Service (the Service) is lifting its previously published August 2, 1993 expiration date for the validity of Form I-151, Alien Registration Receipt Card.

EFFECTIVE DATE: May 13, 1993.

FOR FURTHER INFORMATION CONTACT: Gerald Casale, Senior Immigration Examiner, Immigration and Naturalization Service, room 7122, 425 I Street NW., Washington, DC 20536, telephone: (202) 514-5014.

SUPPLEMENTARY INFORMATION: On June 26, 1992 the Service published a notice in the **Federal Register**, at 57 FR 28700, announcing that the validity of Alien Registration Receipt Card Form I-151 and all prior resident alien registration documents such as Forms AR-3 and AR-103 would expire on August 2, 1993. The Service is hereby lifting that expiration date; until further notice, the Service will continue to recognize Form I-151 as a valid document.

Notwithstanding the lifting of the expiration date, resident aliens in possession of a Form I-151 or a previous alien registration card are strongly encouraged to apply voluntarily to replace their old card with the current Form I-551 Alien Registration Receipt Card, since acquiring one confers many benefits on the bearer. Use of the widely recognized present card with its updated identification features enables an employer or public agency to verify the bearer's lawful resident status more readily and minimizes the possibility of erroneous termination of employment or denial of public assistance. Machine-readable features of the current I-551 card can facilitate the bearer's processing when applying for admission at United States ports of entry or for other immigration benefits; the same features can prevent misuse of a legitimate resident alien's identity by an impostor or counterfeiter.

A resident alien who cannot afford the $70 application fee for replacing the Alien Registration Receipt Card may apply for a fee waiver pursuant to 8 CFR 103.7(c)(1). A resident alien who is unable to apply in person on account of advanced age or physical infirmity may request waiver of personal filing pursuant to 8 CFR 264.1(c)(2)(v)(B). In keeping with the original June 26, 1992, **Federal Register** notice, applicants under this voluntary program may retain their Form I-151 (or prior alien registration document) during the replacement process.

Dated: May 3, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93-11362 Filed 5-12-93; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL ADVISORY COUNCIL ON THE PUBLIC SERVICE

NACPS To Hold Public Hearing, Monday, June 7, 1993

SUMMARY: The National Advisory Council on the Public Service will hold a public hearing on motivation and excellence in the public sector. The hearing is scheduled for Monday, June 7, 1993, in the Lobby Hearing Room of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio from 9:30 a.m. to 1:00 p.m.

Invited witnesses will give testimony to the Council on such issues as: Methods of motivating the workforce, the identification and recognition of excellence, and the impact of cultural diversity on excellence.

The hearing will be open to the public. Time will be allotted to those

persons wishing to make comment to the Council concerning motivation and excellence. Any person or organization wishing to reserve time to make public comment during the hearing should pre-register by calling the Council at 202–724–0796 before June 2, 1993. Those persons who do not pre-register to make comments cannot be guaranteed an opportunity to do so. The Council also welcomes written comments on motivation and excellence, which should be sent to the Council office at Page 2 Original 420 National Press Building, 529 14th Street, N.W., Washington, D.C. 20045.

For more information contact Philip A. Canal and for media coverage, contact Rhea Farberman at 202–724–0796.

Issued May 10, 1993.

Certified to be a true copy of the original document.

Jean M. Curtis,

Executive Director, National Advisory Council on the Public Service.

[FR Doc. 93–11318 Filed 5–12–93; 8:45 am]

BILLING CODE 7525–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting

Notice is hereby given that an ad hoc group of representatives from the federal government and private sector with an interest in design advancement and federal design improvement will meet on June 9, 1993 from 8:50 a.m.–5:15 p.m., June 10 from 9 a.m.–5:30, and June 11 from 9 a.m. to 4:45 p.m. in the Board Room of the American Institute of Architects, 1735 New York Avenue, NW., Washington, DC 20006.

Any interested person may observe the meetings, or portions thereof, which are open to the public on a space available basis. The topics of discussion will be the formation of a U.S. Design Council and an Office of Federal Design Quality.

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, TTY202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Thomas Grooms, Design Arts Program, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5437.

Dated: May 6, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–11300 Filed 5–12–93; 8:45 am]

BILLING CODE 7537–01–M

Expansion Arts Advisory Panel; 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 Expansion Arts Advisory Panel (Capstone Project Section) to the National Council on the Arts will be held on June 2, 1993 from 9 a.m.–6 p.m. and June 3 from 9 a.m.–4:30 p.m. in room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 3 from 3 p.m.–4:30 p.m. for policy discussion.

The remaining portions of this meeting on June 2 from 9 a.m.–6 p.m. and June 3 from 9 a.m.–3 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 of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 4, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–11301 Filed 5–12–93; 8:45 am]

BILLING CODE 7537–01–M

Literary Advisory Panel; 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 (Translation Section) to the National Council on the Arts will be held on June 16–17, 1993 from 9 a.m.–5 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 17 from 1 p.m.–3:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 16 from 9 a.m.–5 p.m. and June 17 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 of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 4, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–11302 Filed 5–12–93; 8:45 am]

BILLING CODE 7537–01–M

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 Theater Advisory Panel (Special Projects for Organizations Section) to the National Council on the Arts will be held on June 4, 1993 from 9:30 a.m.–7 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m.–10 a.m. and 6 p.m.–7 p.m. for opening remarks, policy discussion and guidelines review.

The remaining portion of this meeting from 10 a.m.–6 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

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: May 10, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–11375 Filed 5–12–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors of the Advisory Committee for Design and Manufacturing Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Dates and Times: June 2, 1993, 8:30 a.m.–5 p.m.

Place: Room 1133, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. F. Hank Grant, Program Director, Division of Design & Manufacturing Systems, Rm 1126, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-7508.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Operations Research & Production Systems Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11350 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design & Manufacturing Systems; Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Design & Manufacturing Systems.

Date and Time: June 16, 1993–8:30 a.m. to 5:30 p.m.

Place: National Science Foundation, 1800 "G" St., NW., rm. 536, Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Dr. F. Stan Settles, Program Director, Design & Integration Engineering, rm. 1128, National Science Foundation, 1800 "G" St., NW., Washington, DC 20550. Telephone: (202) 357–5167.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Design & Integration Engineering Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11347 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design & Manufacturing Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–563, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Design and Manufacturing.

Date and Time: June 10, 1993–8:30 a.m. to 5:30 p.m.

Place: National Science Foundation, 1110 Vermont Avenue, rm. 500B, Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Dr. F. Hank Grant, Program Director, Operation Research & Production Systems, Rm 1128, National Science Foundation, 1800 "G" St., NW Washington, DC 20550. Telephone: (202) 357–5167.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Operations Research & Production Systems Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11346 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design and Manufacturing Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: June 16, 1993–8:30 A.M. to 5:30 P.M.

Place: National Science Foundation, 1110 Vermont Ave., rm 500A&B, Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Dr. Bruce Kramer and Dr. Cheena Srinavasan, Program Directors, Manufacturing & Processing Equipment, rm 1128, National Science Foundation, 1800 "G" St., NW., Washington, DC 20550. Telephone: (202) 357–5167.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Manufacturing & Processing Equipment Unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11345 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Education and Human Resources: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting .

Date and Time: June 23, 1993, 12:30 p.m.–5 p.m. June 24, 1993, 8:30 a.m.–5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 540, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Peter E. Yankwich, Executive Secretary, Directorate for Education and Human Resources, Room 516, Washington, DC 20550, (202) 357–9522.

Summary Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide advice and recommendations concerning NSF support for Education and Human Resources.

Agenda: Review of FY 1993 Programs and Initiatives Review of FY 1994 Programs and Initiatives Strategic Planning for FY 1995 and Beyond

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11352 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Industrial Innovation Interface; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and time: June 7 & 8, 1993; 8:30 a.m. to 5 p.m.

Place: Room 502–V, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Richard I. Schoen, Deputy Division Director of Industrial Innovation Interface, 1110 Vermont Avenue, NW., Rm. V–502, Washington, DC 20550. Telephone: (202) 653–5202.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Management of Technological Innovation Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11342 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: June 16, 1993, 8:15 am–5:30 pm.

Place: NSF Conference & Training Center, 1110 Vermont Avenue, NW., Rooms 500 C, D and E, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: John C. Hunt, National Science Foundation, 1800 G St. NW., Room 408, Washington, DC 20550. Telephone: (202) 357–9791.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support by the Materials Research Groups Program.

Agenda: To review and evaluate Advanced Materials Processing proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11348 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Dates and Times: June 16, 1993; 7:30 p.m. to 9 p.m., June 17, 1993; 8:30 a.m. to 5 p.m., June 18, 1993; 8:30 a.m. to 5 p.m.

Place: Arlington Renaissance Hotel, 950 North Stafford Street, Arlington, Va. 22203.

Type of Meeting: Closed.

Contact Person: Dr. George Peterson, Section Head, National Science Foundation, 1800 G Street, NW., rm 1210, Washington, DC 20550, Telephone: (202) 357–7051.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Undergraduate Faculty Enhancement Program.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11351 Filed 5–12–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR part 32—Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Reports are submitted as events occur. Applications for new licenses and amendments may be submitted at any time. Renewal applications are submitted every five years.

5. *Who will be required or asked to report:* Persons applying for or holding an NRC license to manufacture or initially transfer certain items containing byproduct material.

6. *An estimate of the number of responses:* 5,360.

7. *An estimate of the total number of hours needed annually to complete the requirement or request:* 24,240 (0.71 hours per response and 122.44 hours per recordkeeper).

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Not applicable.

9. *Abstract:* 10 CFR part 32 establishes requirements for specific licenses for the introduction of byproduct material into products or materials and initial transfer of the products or materials containing byproduct material to general licensees or persons exempt from licensing. Submission or retention of the information is mandatory for persons subject to the requirements. The information is used by NRC to make licensing and other regulatory determinations concerning the use of radioactive byproduct material in products and devices. The revision reflects an increase in burden primarily because of an increase in the number of general licensees and a resultant increase in the amount of documentation that specific licensees must distribute to general licensees.

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 (3150–0001), 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 29th day of April, 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–11329 Filed 5–12–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–331]

Iowa Electric Light and Power Co., Central Iowa Power Cooperative, Corn Belt Power Cooperative, Duane Arnold Energy Center; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a temporary exemption from certain requirements of 10 CFR part 50, appendix J, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors," in response to a request filed by the Iowa Electric Light and Power Company, the Central Iowa Power Cooperative, and the Corn Belt Power Cooperative (the licensee), for the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa.

Environmental Assessment

Identification of Proposed Action

The proposed temporary exemption would defer containment air lock testing in accordance with 10 CFR part 50, appendix J, section III.D.2(b) until the next outage (the next refuel outage is currently planned for July 29, 1993).

The proposed action is in accordance with the licensee's application for temporary exemption dated April 29, 1993.

The Need for the Proposed Action

The proposed temporary exemption is needed because the licensee has determined upon review of containment air lock testing requirements for DAEC that an additional air lock test should have been performed following the final drywell inspection entry performed on January 29, 1993, during the plant startup sequence. Previously, the licensee performed a successful containment air lock test on January 28, 1993. Performing the air lock test at full power would result in an estimated dose of 1.6 man-rem. Reducing power to conduct the test could jeopardize the leakage characteristics of the "B" recirculation pump seal, which is exhibiting slightly increased leakage, resulting in even greater leakage.

Environmental Impacts of the Proposed Action

The NRC staff has reviewed the potential environmental impact of the proposed temporary exemption. The containment air lock consists of two doors. Provided that at least one of the two doors is secured, the primary containment boundary is intact. Air lock construction incorporates a mechanical interlock which ensures that at least one of the doors is secured at all times. In addition, the last twenty air lock tests successfully met the acceptance criterion. Therefore, the NRC staff finds that based on the air lock performance history, and the procedural controls on air lock operation, containment air lock closure is reasonably assured. Accordingly, the NRC staff concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed deferral of the containment air lock test will not cause significant increase in the nonradiological impacts and will not change any conclusions reached by the staff in the "Final Environmental Statement Related to Operation of the Duane Arnold Energy Center," dated March 1973. Therefore, the staff concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Because the Commission's staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives would have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to Operation of the Duane Arnold Energy Center," dated March 1973.

Agencies and Persons Consulted

The NRC staff consulted with the State of Iowa regarding the environmental impact of the proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed temporary exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for temporary exemption dated April 29, 1993, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Cedar Rapids Public Library, 500 First St., SE., Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 6th day of May 1993.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–11328 Filed 5–12–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Co. Surry Power Station, Units 1 and 2; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to the Virginia Electric and Power Company (the licensee), for the Surry Power Station, Unit Nos. 1 and 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would modify Technical Specification (TS) Table 3.7–2, by adding Item 7, "RECIRCULATION MODE TRANSFER," to include operability requirements for actuation logic. Specifically, Item 7.a, "RWST Level-Low," is being added to indicate total number of channels, channels to trip, and Operation Action 25. The action statement will require an inoperable channel to be placed in bypass within 6 hours with the total number of operable channels one less than the total number of channels or be in HOT SHUTDOWN within the next 6 hours and allow one additional channel of the actuation logic to be bypassed for up to 4 hours for surveillance testing. In effect, this allows continued operation with a two-out-of-three recirculation mode transfer actuation logic versus the normal two-out-of-four logic.

The proposed action is in accordance with the licensee's application for amendment dated August 7, 1992.

The Need for the Proposed Action

The proposed changes to the TS permit an allowable outage time for surveillance testing of the recirculation mode transfer actuation logic and include operability requirements and an action statement for the actuation logic which provides for operational flexibility to avoid unnecessary plant transients.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the revisions to the TS. The proposed revisions would allow a 4-hour permissible bypass condition for the performance of the recirculation mode transfer actuation logic surveillance testing and include operability requirements for the actuation logic. Although continued operation with a level channel in bypass could be considered a decrease in the overall reliability of the automatic actuation and, therefore, of equipment important to safety, the difference in reliability between two-out-of-three logic and two-out-of-four logic is not considered to be significant to accomplish the recirculation mode transfer function. The proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed changes to the TS do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing was published in the Federal Register on December 10, 1992 (57 FR 58522). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts needs not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce the environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Surry Power Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated August 7, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 6th day of May 1993.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–11326 Filed 5–12–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–04632]

Interstate Nuclear Services, Inc., Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, has issued a decision concerning a Petition dated June, 29, 1992, submitted by Indian Orchard Citizens Council regarding Interstate Nuclear Services, Inc.'s (INS's) Indian Orchard, Massachusetts, facility.

By letter dated August 25, 1992, NRC staff formally acknowledged receipt of the Petition and informed Petitioners that their Petition would be treated as a

request under 10 CFR 2.206. The Petition requested U.S. Nuclear Regulatory Commission response or action on ten matters or requests and made four demands concerning INS's activities.

The Director of the Office of Nuclear Material Safety and Safeguards has determined to grant in part and to deny in part the Petition. The Petition is granted with respect of eight of the ten matters or requests and the Petition is denied with respect to the remaining two matters or requests. The Petition is denied with respect to three of the demands and the fourth demand was mooted by the voluntary action of the Licensee. The reasons for this Decision are explained in a "Director's Decision Under 10 CFR 2.206" (DD–93–09), which is available for public inspection in the Commission's Public Document Room located at 2120 L Street, NW, Washington, DC 20555.

A copy of this Decision will be filed with the Secretary of the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 7th day of May, 1993.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Officer of Nuclear Material Safety and Safeguards.

[FR Doc. 93–11327 Filed 5–12–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32280: File No. SR–CSE–93–03]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange Relating to The Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

May 7, 1993.

I. Introduction and Background

On March 29, 1993, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder.[2] The proposal extends for an additional year, ending May 7, 1994, the CSE's pilot program regarding preferencing.[3] This request was initially noticed on April 19, 1993.[4] However, the CSE now requests accelerated approval of the proposed rule change as the pilot is due to expire on May 7, 1993, ten days before the initial comment period ends.[5] The Commission is granting accelerated approval of the proposed rule.

II. Description

The preferencing rule modifies the Exchange's time priority rules to permit a market maker to act as a Dealer of the Day and have priority over same-priced market maker or professional agency interest entered prior in time to his or her bid or offer when the market maker is interacting with public agency market and marketable limit orders that he or she represents as agent. The rule is intended to provide market makers with the ability to retain and execute their internal order flow at the best bid or offer, provided the public limit orders on the book have been executed at that price. The time priority rule was designed to create incentives for a market maker/dealer to direct his or her own retail orders to the CSE, permitting the market maker/dealer to preference himself or herself over other professionals with respect to order flow that the market maker/dealer is directing to the Exchange.

The CSE originally received approval for a six-month pilot to study the new preferencing rule.[6] The pilot was subsequently extended on August 5, 1991, February 7, 1992, and August 7, 1992, respectively.[7]

The CSE is requesting another extension of the preferencing pilot so that the Exchange and the Commission can continue to evaluate the impact of preferencing on the national market system.

Originally, to prevent the use of preferencing to facilitate program trading, the CSE agreed to limit to 60 the number of issues that a Designated Dealer could preference.[8] On October 30, 1991 and June 15, 1992, the Commission issued orders granting CSE requests to increase the limit on the number of issues a Designated Dealer could preference from 60 to 125, and from 125 to 250.[9] As a condition, however, of granting these orders, the CSE agreed to provide the commission with the following information: (1) A list indicating how may Designated Dealers are preferencing in more than sixty issues: (2) a list identifying, in each such case, the issues being preferenced; and (3) reports indicating the volume of preferenced trades in each issue. Further, the CSE agreed that, if the Commission so requested, it would provide available information relating to specific time intervals, and it would not use dealer preferencing for index arbitrage purposes until permitted by the Commission.[10]

III. Discussion

The Commission finds that the proposal to extend the CSE's preferencing rule for one year is consistent with the provisions of section 6(b) of the Act in general, and in particular, furthers the objective of section 6(b)(5) because it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. Approval, however, is contingent upon the CSE abiding by the conditions set out above and to providing the information described above. Approval also is conditioned upon the CSE providing the Commission, for each month of the pilot program, with information on the total preferenced share and transaction volume and what percentage of total CSE share and transaction volume the preferenced volume represents.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication and notice of filing of the initial proposal.[11] The Commission believes that the accelerated approval will avoid an unnecessary interruption

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] See Securities Exchange Act Release No. 32170 (April 19, 1993), 58 FR 22006.

[4] *Id.*

[5] See letter from Robert Ackerman, Vice President, Regulation, The Cincinnati Stock Exchange, to Elizabeth MacGregor, Branch Chief, Division of Market Regulation, Office of the National Market System, Commission, dated April 29, 1993.

[6] See Securities Exchange Act Release No. 28866 (February 7, 1991), 56 FR 5854.

[7] See Securities Exchange Act Release No. 29524 (August 5, 1991), 56 FR 38160. See also Securities Exchange Act Release Nos. 30353 (February 7, 1992), 57 FR 5918; 31011 (August 7, 1992), 57 FR 38704.

[8] See Securities Exchange Act Release No. 28866 (February 7, 1991), 56 FR 5854.

[9] See Securities Exchange Act Release Nos. 29885 (October 30, 1991), 56 FR 56676; and 30809 (June 15, 1992), 57 FR 27990.

[10] *Id.* To date, the CSE has provided the Commission with confidential information regarding the number of Designated Dealers preferencing in more than sixty issues, the total preferenced share and transaction volume, and what percentage of total share and transaction volume the preferenced volume represents.

[11] Securities Exchange Act Release No. 32170 (April 19, 1993), 58 FR 22006.

to participating dealers while allowing the CSE and the Commission to continue to evaluate the impact of preferencing on the national market system.

IV. Conclusion

Based on the foregoing, the Commission has concluded that the proposal to extend the pilot for one year is consistent with the requirements of the Act and that it is appropriate to approve the proposal.

It is Therefore ordered, Pursuant to section 10(b)(2) of the Act, that the proposal to extend the pilot for a year until May 7, 1994, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 93–11340 Filed 5–12–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19462; File No. 812–8342]

Glenbrook Life and Annuity Company, et al.

May 6, 1993.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Glenbrook Life and Annuity Company (the "Company"), Glenbrook Life and Annuity Company Variable Annuity Account (the "Variable Account"), and Allstate Life Financial Services, Inc. ("Underwriter") (collectively, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27 (c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Company to deduct from the assets of the Variable Account a mortality and expense risk charge under certain flexible premium deferred variable annuity contracts (the "Contracts").

FILING DATE: The application was filed on April 9, 1993.

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 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 June 2, 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, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Glenbrook Life and Annuity Company, 3100 Sanders Road, Northbrook, Illinois 60062.

FOR FURTHER INFORMATION CONTACT: Kathleen Ujvari, Accountant, 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 Commission's Public Reference Branch.

Applicants' Representations

1. The Company is a stock life insurance company incorporated under the laws of Illinois in 1992, and originally organized under the laws of Indiana in 1965. The Company is a wholly owned subsidiary of All-state Life Insurance ("Allstate Life"), a stock life insurance company incorporated under the laws of Illinois. Allstate Life is a wholly owned subsidiary of All state Insurance Company ("Allstate"), a stock property-liability insurance company, also incorporated under the laws of Illinois. The Company's products, individual annuities and life insurance, have been approved by the various states where offered.

2. The Variable Account was established as a segregated investment account on December 15, 1992. The Variable Account is registered as a unit investment trust under the 1940 Act and functions as a facility through which to set aside and invest assets attributable to the Contracts. In accordance with Illinois law and the terms of the Contracts, the income, gains and losses of the Variable Account are credited to or charged against the amounts allocated to it in accordance with the Contracts, without regard to any other income, gains or losses of any other sub-account or arising out of any other business that the Company may conduct.

3. Purchase payments may be allocated to one or more of the sub-accounts of the Variable Account. Each sub-account invests solely in shares of a registered open-end management investment company. Shares of such investment company will be sold to the Variable Account at net asset value and will be issued under an open account arrangement without the use of stock certificates.

4. The Variable Account will offer Contracts that are designed for use by individuals in retirement plans which qualify for special federal income tax treatment under Sections 219, 401, 403, 408 or 457 of the Internal Revenue Code ("qualified" plans) and in retirement plans which do not qualify for special tax treatment under those Sections ("non-qualified" plans).

5. Allstate Life Financial Services, Inc. ("ALFS") is the principal underwriter of the Contracts. ALFS is a wholly owned subsidiary of Allstate Life. ALFS has an application for registration pending with both the Securities and Exchange Commission and the National Association of Securities Dealers, Inc. ALFS will be registered with the SEC and a member of the NASD prior to offering and selling any Contracts.

6. The Contracts have no front-end sales load deducted from premium payments. Surrenders in the first Contract year are subject to a contingent deferred sales load of 7% of the amounts withdrawn or surrendered. The applicable contingent deferred sales load decreases by 1% per year until after the sixth contract year when there is no contingent deferred sales load. Up to 10% of the Contract's accumulation value on the surrender date can be withdrawn in any contract year without charge.

7. The Company reserves the right to deduct state premium taxes or other similar policy-holder taxes relative to the Contract (collectively referred to as "premium taxes") (1) at the payout start date, or (2) when a total withdrawal occurs.

8. The Company will deduct annually a contract maintenance charge of $30.00 from each owner's contract value to reimburse the Company for its costs in maintaining each Contract and the Variable Account. The annual contract maintenance charge will be deducted on each contract anniversary date. After the payout start date, a pro rata share of the annual contract maintenance charge will be deducted from each income payment. The Company will also deduct an administrative expense charge which is an amount equal on an annual basis to .10% of the daily net assets in the Variable Account. This charge is designed to cover actual administrative expenses which exceed the revenues from the contract maintenance charge. The Company does not intend to profit

from either the contract maintenance charge nor administrative charge.

9. The Company will deduct a daily mortality and expense risk charge at an effective annual rate of 1.25% of the value of the Variable Account, of which .85% is attributable to the Company's assumption of mortality risks and .40% to the assumption of expense risks.

10. The mortality risk arises from the Company's guarantee to cover all death benefits and to make income payments in accordance with the income payment tables, thus, relieving the annuitants of the risk of outliving funds accumulated for retirement and for the risk that the contract value will be less than the death benefit prior to the payout start date. The expense risk arises from the possibility that the contract maintenance charge and the administrative expense charge, which are not guaranteed to increase, will be insufficient to cover actual administrative expenses.

Applicants Legal Analysis

1. Applicants are requesting relief from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act. Sections 26(a) and 27(c)(2) are intended to provide for the protection of the assets of investment companies that issue periodic payment plan certificates. Specifically, Section 26(a)(2)(C) prohibits any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services. Section 27(c)(2) prohibits the issuer of a periodic payment plan certificate, and any depositor or underwriter for the issuer, from selling periodic payment plan certificates under all proceeds of payments (other than sales load) are deposited with a qualified bank acting as trustee or custodian, and held under an indenture or agreement containing specified provisions.

2. Applicants represent that the mortality and expense risk charge under the Contracts is consistent with the protection of investors, and maintain that it is a reasonable and proper insurance charge. In return for this charge, the Company guarantees against certain risks in the Contracts. The Company represents that the mortality and expense risk charge is reasonable in amount as determined by industry practice with respect to comparable annuity products. This representation is based upon the Company's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, existence of charge level guarantees and guaranteed annuity rates. The Company will maintain at its home office, available to the Commission, a memorandum setting forth in detail, the products analyzed and the methodology and results underlying this representation.

3. If the charges deducted are insufficient to cover the Company's mortality costs and excess expenses, the Company will bear the loss; conversely, if the charges are more than sufficient, the Company will retain the balance as profit which would be available for any proper corporate purpose, including, but not limited to, payment of distribution expenses. The Company currently expects a profit from this charge.

4. Applicants acknowledge that the withdrawal charge may be insufficient to cover all costs related to distributing the Contracts. If a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses not reimbursed by the withdrawal charge. The Company has concluded, that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract Owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its administrative offices and will be available to the Commission upon request.

5. Applicants further represent that the Variable Account will only invest in investment management companies which undertake, in the event that it should adopt any plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Conclusion

Applicatants believe that the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct a mortality and expense risk charge under the Contracts meets the applicable statutory standards in section 6(c) of the 1940 Act. Applicants assert that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–11307 Filed 5–12–93; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–912]

Application and Opportunity for Hearing: Levi Strauss Associates Inc.

May 7, 1993.

Notice is hereby given that Levi Strauss Associates Inc. (the "Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting the Applicant from registration of its Class L stock and Class E stock under section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person, not later than June 7, 1993, may submit to the Commission in writing his or her views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasoning for such request, and the issues of fact or law raised by the application which he or she desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 93–11341 Filed 5–12–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25808]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 7, 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 June 1, 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.

Louisiana Power & Light Company (70–7822)

Louisiana Power & Light Company, 317 Baronne Street, New Orleans, Louisiana 70112 ("LP&L"), an electric public-utility subsidiary company of Entergy Corporation, a registered holding company, has filed a post-effective amendment under sections 6(a), 7, 9(a) and 10 of the Act and Rule 50(a)(5) thereunder to its application-declaration filed with this Commission under sections 6(a), 7, 9(a), 10, 12(c) and 12(d) of the Act and Rules 42, 44, 50 and 50(a)(5) thereunder.

By orders ("Orders") dated March 21, 1991, May 17, 1991, May 29, 1991, July 1, 1991, October 29, 1991, March 6, 1992, July 16, 1992 and December 29, 1992 (HCAR Nos. 25279, 25314, 25320, 25341, 25398, 25485, 25584 and 25725, respectively), the Commission authorized LP&L, among other things, and subject to certain reservations of jurisdiction, through December 31, 1994, to enter into arrangements ("Agreement") to reimburse LP&L for the costs of, or to finance, the acquisition, construction, installation and equipping of certain solid waste, sewage disposal and/or pollution control facilities ("Facilities") at Unit 3 of LP&L's Waterford Steam Electric Generating Station, whereby: (1) The Parish of St. Charles, Louisiana ("Parish") would issue and sell one or more series of its revenue bonds ("Parish Bonds"), on a tax-exempt basis, in an aggregate principal amount not to exceed $200 million; (2) the Parish would use the proceeds from the sale of the Parish Bonds to purchase the Facilities from LP&L; (3) LP&L would simultaneously repurchase the Facilities for a purchase price to be paid in installments sufficient to pay the principal of and premium, if any, and interest on the Parish Bonds; and (4) in order to secure the Parish Bonds, LP&L would issue and pledge up to $244 million aggregate principal amount of its first mortgage bonds ("Collateral Bonds"). The Orders reserved jurisdiction over LP&L's proposal to arrange for the issuance of an irrevocable letter of credit and/or secure an insurance policy, either or both in favor of the trustee, for the payments of the principal of and/or premium on the Parish Bonds.

As of March 31, 1993, there remained unissued and unsold: (1) $106 million aggregate principal amount of Parish Bonds ("Remaining Parish Bonds"); and (2) $145.44 million aggregate principal amount of Collateral Bonds ("Remaining Collateral Bonds").

LP&L has incurred at least $156 million of costs for the Facilities that qualify for tax-exempt financing under the Internal Revenue Code and have not yet been financed. In order to effect this financing on a tax-exempt basis, LP&L must receive an allocation from the State of Louisiana of a portion of the state's private activity bond volume cap ("Volume Cap"). LP&L does not expect to receive prior to July 1, 1993 Volume Cap in an amount sufficient to finance all of the costs it has incurred.

Under proposed regulations of the Internal Revenue Service, effective July 1, 1993, the applicable timing requirement under the Internal Revenue Code will change and the ability to obtain tax-exempt pollution control financing for the Facilities will be more limited than it has been in the past. However, the tax laws will permit tax-exempt *refinancing* of certain debt issued prior to July 1, 1993 to reimburse LP&L for the costs of the Facilities, without giving effect to the new restrictions.

In order to effect such tax-exempt refinancing, LP&L proposes: (1) To amend the Agreement to permit the Parish to (a) increase the amount of Remaining Parish Bonds to be issued by $50 million to a total of $156 million ("Total Parish Bonds"), (b) issue the Total Parish Bonds on either a tax-exempt basis or, at the option of LP&L at any time prior to July 1, 1993 (or such later effective date as may become applicable for regulations proposed by the Internal Revenue Service), on a taxable basis ("Taxable Parish Bonds"), (c) convert or refund Taxable Parish Bonds with tax-exempt Parish Bonds ("Refunding Parish Bonds") when LP&L receives additional Volume Cap and use the proceeds from the Refunding Parish Bonds to retire the Taxable Parish Bonds, and (d) purchase additional Facilities for repurchase by LP&L; (2) to increase the amount of Remaining Collateral Bonds to be issued by $70 million to a total of $215.44 million; and (3) to convert or refund and reissue Collateral Bonds as a pledge for the Total Parish Bonds subject to the same limitations, terms, parameters and conditions as described in this post-effective amendment and authorized by the Orders.

LP&L shall not enter into arrangements for the issuance of Refunding Parish Bonds (including the issuance of any related Collateral Bonds) to refund Taxable Parish Bonds (including any related Collateral Bonds) unless: (1) The estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and those securities refunded is, on an after tax basis, greater than the present value of all repurchasing, redemption, tendering and issuing costs, assuming an appropriate discount rate, determined on the basis of the then estimated after tax cost of capital of Entergy and its subsidiaries, consolidated; or (2) LP&L shall have notified the Commission of the proposed refinancing transaction (including the terms thereof) by post-effective amendment hereto and obtained appropriate supplemental authroization.

The Connecticut Light and Power Company (70–8078)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and electric public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application under sections 9(a) and 10 of the Act.

The proposed transactions relate to the financing of certain expenses of Great Bay Power Corporation ("Great

Bay") formerly known as EUA Power Corporation ("EUA Power")), a debtor-in-possession under Chapter 11 of the United States Bankruptcy Code, including its share of the costs relating to the operation of the Seabrook Nuclear Power Plant ("Seabrook"), a nuclear plant located in New Hampshire. Great Bay owns a 12.1324% joint interest in Seabrook.

By orders dated September 26, 1991 (HCAR No. 25386) and August 21, 1992 (HCAR No. 25609) ("1992 Order"), the Commission authorized certain financing transactions among EUA Power, CL&P, The United Illuminating Company ("United"), an exempt public utility holding company, and the Official Committee of Bondholders of EUA Power ("Bondholders Committee") (collectively, "Parties"). The 1992 Order approved a certain July 1992 Stipulation and Consent Order ("Second Stipulation") authorizing monthly advances by CL&P and United to EUA Power for an aggregate amount not to exceed $22 million; however, the Second Stipulation will never become effective because certain conditions to its effectiveness cannot be satisfied.

The Parties have entered into a Stipulation and Consent Order For 1993–1994 Financing By Participating Joint Owners ("Third Stipulation"), pursuant to which CL&P, United, and subject to further Commission authorization, additional joint owners of Seabrook ("Participating Joint Owners") will make monthly advances ("Third Advances") to the Seabrook disbursing agent in an aggregate amount not to exceed $20 million ("Third Commitment") outstanding at any one time. The Third Stipulation was approved by the United States Bankruptcy Court, District of New Hampshire on March 5, 1993. The participation of CL&P and United under the Third Stipulation will be 60% and 40%, respectively. The obligations of the Participating Joint Owners under the Third Stipulation are several and will not exceed such Participating Joint Owner's proportionate share of the Third Commitment. CL&P proposes and requests authority to make monthly advances, through March 31, 1995, up to $12 million.

Third Advances will be used by Great Bay first to repay any alternative debtor-in-possession financing, and to pay Great Bay's share of Seabrook expenses, and for certain other permitted expenses. Great Bay will repay all Third Advances, interest, fees, expenses and other obligations no later than 360 days after the date of the first advance (unless such date is extended upon the written consent of all Participating Joint Owners) or earlier upon the occurrence of certain events described in the Third Stipulation. All Third Advances will bear interest at a rate per annum equal to the sum of the base rate of the First National Bank of Boston, as in effect from time to time, plus 7 percent per annum ("Effective Interest Rate"). As of April 13, 1993, the Effective Interest Rate would be 13.0%. All obligations of Great Bay to reimburse the Third Advances and to pay interest, costs and expenses will be secured by a lien on all property of Great Bay's bankruptcy estate ranking prior to all other liens, and, except as otherwise provided in the Third Stipulation, entitled to a payment priority over any and all other claims, including administrative expenses.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–11342 Filed 5–12–93; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Technigen Corporation; Order Directing Suspension of Trading

May 7, 1993.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Technigen Corporation and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, certain contracts or agreements between Technigen Corporation and others; whether Technigen Corporation, its officers or affiliates have distributed and are distributing securities in violation of the registration provisions of the Securities Act of 1933; and the beneficial ownership of Technigen Corporation securities being distributed.

Therefore, *it is Ordered,* Pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Technigen Corporation, over-the-counter, on NASDAQ or otherwise, is suspended for the period from 5:15 p.m. EDT, May 7, 1993 through 5:15 p.m. EDT, on May 21, 1993.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–11343 Filed 5–12–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1806]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting May 27, 1993 in Building 44, room 212, at the Johnson Space Center, Houston, Texas. The meeting will commence at 8:30 a.m.

Study Group 7 deals with matters relating to the space research systems and standard frequency and time systems. The purpose of the meeting is to review the results of the recent meetings of each of the Study Group 7 Working Parties, plan for the Study Group meeting in October and develop plans for future work in the Working Parties.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Those planning to attend the meeting should contact Mr. Roger Andrews, (703) 834–5600 for further information.

Dated: May 4, 1993.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 93–11365 Filed 5–12–93; 8:45 am]

BILLING CODE 4710–45–M

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 1807]

Certifications Pursuant to Section 609 of Public Law 101–162

SUMMARY: On April 30, 1993, the Department of State certified pursuant to section 609 of Public Law 101–162, that 8 countries with commercial shrimp trawl fisheries in the Gulf of Mexico, Caribbean and Western Atlantic Ocean (Belize, Brazil, Colombia, Guyana, Mexico, Nicaragua, Panama, and Venezuela) have adopted programs to reduce the incidental capture of sea turtles in such fisheries comparable to the program in effect in the United States. The Department certified that the fishing environment in two other countries (Costa Rica and Guatemala) does not pose a threat of the incidental taking of sea turtles protected under Public Law 101–162. The Department was unable to issue certifications for four countries (Honduras, Suriname, Trinidad and Tobago, and French

Guiana) and, as a result, these four countries are subject to a ban on shrimp imports to the United States effective May 1, 1993, pursuant to Public Law 101–162.

EFFECTIVE DATE: May 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–7818; telephone: (202) 647–3940.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 prohibits imports of shrimp from certain nations unless the President certifies to the Congress by May 1 of each year either: (1) That the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States; or (2) that the fishing environment in the harvesting nations does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State. Revised State Department guidelines for making the required certifications were published in the **Federal Register** on February 18, 1993 (58 FR 9015).

The countries subject to the provisions of Public Law 101–162 include Belize, Brazil, Colombia, Costa Rica, French Guiana (EC), Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Suriname, Trinidad and Tobago, and Venezuela. On April 30, 1993, the Department of State certified that 10 of the 14 affected countries have met, for the current year, the requirements of the law. The countries that received a certification were Belize, Brazil, Colombia, Costa Rica, Guatemala, Guyana, Mexico, Nicaragua, Panama, and Venezuela. Of these, the Department certified that the fishing environment in Costa Rica and Guatemala does not pose a threat of the incidental taking of sea turtles protected in Public Law 101–162. (In both these countries, the commercial shrimp trawl fleet operates exclusively in the Pacific Ocean with no activity on the Caribbean side.) The Department certificated that the other eight countries have adopted a program to reduce the incidental capture of sea turtles in the commercial shrimp trawl fishery comparable to the U.S. program.

The Department was unable to provide a certification for the following countries: Honduras, Trinidad and Tobago, Suriname, and French Guiana. As a result, shrimp imports from Honduras, Trinidad and Tobago, and Suriname are prohibited pursuant to Public Law 101–162 effective May 1, 1993. The ban on shrimp imports from French Guiana which has been in effect since May 1, 1992, will remain in effect.

In implementing the ban on shrimp imports from Honduras, Trinidad and Tobago, and Suriname, any shipment with a recorded date of export prior to May 1, 1993, will be allowed entry into the United States even if it arrives on or after May 1, 1993. That is, shipments in transit prior to the effective date of the ban are not barred from entry. Second, the ban is not intended to apply to shrimp produced by aquaculture or to shrimp harvested in the Pacific Ocean since the harvesting of such shrimp does not pose a threat of the incidental taking of sea turtles protected by Public Law 101–162. Therefore, the Department has developed an Exporter's Declaration and Government Certification (Department of State form DSP–121) to allow continued entry into the U.S. of shrimp from any country that did not receive a certification if such shrimp was either produced by aquaculture or harvested in the Pacific Ocean. Shipments of such shrimp from any of the countries subject to this ban will be allowed entry into the United States provided that, in addition to meeting all other requirements for entry, they are accompanied by a completed DSP–121. Details of the Exporter's Declaration and Government Certification were published in the **Federal Register** on April 29, 1993 (58 FR 26025).

Dated: May 4, 1993.

David A. Colson,

Deputy Assistant Secretary, Oceans and Fisheries Affairs.

[FR Doc. 93–11289 Filed 5–12–93; 8:45 am]

BILLING CODE 4710–09–M

TENNESSEE VALLEY AUTHORITY

Chip Mill Terminals on the Tennessee River—Record of Decision

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of the Record of Decision for TVA's Environmental Impact Statement, "Chip Mill Terminals on the Tennessee River".

SUMMARY: Notice is hereby given in accordance with the National Environmental Policy Act (NEPA) and Section 5.4.9 of TVA's implementing procedures, 45 FR 54111–54115 (1980), that TVA has decided to adopt the preferred alternative identified in its final environmental impact statement (EIS), "Chip Mill Terminals on Tennessee River." This final EIS was made available to the public on March 4, 1993. TVA has decided to deny all requests associated with these proposed chip mill terminals.

FOR FURTHER INFORMATION CONTACT: Jon M. Loney, Project Director, Chip Mill Environmental Impact Statement, Tennessee Valley Authority, 601 Summit Hill Drive, OCH 1E, Knoxville, Tennessee 37902, or by calling (615) 632–3012. Copies of the final EIS may be obtained from M. Paul Schmierbach, Manager, Environmental Quality Staff, Tennessee Valley Authority, 400 Summit Hill Drive, WT 8B, Knoxville, Tennessee 37902–1499.

SUPPLEMENTARY INFORMATION: In 1990 and 1991, TVA received requests from three companies proposing to build barge terminals on a 12-mile stretch of the Tennessee River in Alabama and Tennessee. These terminals would serve adjacent wood chip mills. The requests, in order of receipt, were from Parker Towing Company, Donghae Pulp Company of Alabama, and Boise Cascade Corporation. Requests were also received from Canal Chip Corporation, but this company and Parker Towing decided to proceed jointly with the Parker Towing proposal.

In 1990, Parker Towing was selected by the Nickajack Port Authority to lease and operate the Port of Nickajack which is located within the city limits of New Hope, Tennessee, at Tennessee River Mile 424.0. Parker Towing proposed to build additional barge mooring facilities and a covered conveyor to load chips at the port. This requires TVA's approval under Section 26a of the TVA Act because it would be an obstruction affecting navigation, flood control, or public lands on the Tennessee River. In addition, Parker Towing proposed to build a chip mill on Nickajack Port Industrial Park property which was previously owned by the United States and under TVA's custody and control (TVA property). TVA approval is needed to locate in the industrial park under the terms of TVA's agreement with the Port Authority. In order for a chip mill to be located in the park, TVA would also have to waive small manufacturing development standards, which TVA and the Port Authority established for the industrial park when TVA transferred the property to the Port Authority.

Donghae applied for Section 26a approval for a barge terminal to be located near Bridgeport, Alabama, at Tennessee River Mile 412.5. In addition, Donghae requested an easement across 2.4 acres of TVA property to access the terminal from its chip mill facility. TVA was also asked to provide a new

electrical delivery point so that the North Alabama Electric Corporation could supply electricity to the facility. The chip mill facility itself would be located on private property and could be constructed without TVA approval. However, as configured, the facility would impact a jurisdictional wetland and would require the approval of the U.S. Army Corps of Engineers (Corps).

Boise Cascade requested Section 26a approval for a barge terminal to be located across the river from South Pittsburg, Tennessee, and within the city limits of New Hope, Tennessee, at Tennessee River Mile 418.4. In addition, Boise Cascade requested an easement across 1.25 acres of TVA property to access the terminal from its chip mill facility. This facility would also be located on private property and can be constructed without TVA's approval. However, an access road to the facility would impact a jurisdictional wetland and would require a Corps permit.

In addition to wetland-related approvals under Section 404 of the Clean Water Act (assuming Donghae and Boise Cascade do not avoid the wetlands on their property), Corps approval of the three proposed barge terminals is required under Section 10 of the Rivers and Harbors Act of 1899. The Corps chose to cooperate in the preparation of the EIS evaluating these requests because of its permit responsibilities. The U.S. Fish and Wildlife Service (Service) also decided to cooperate in the preparation of the EIS because of the potential impacts to fish and wildlife resources, including endangered and threatened species. The Service subsequently determined that because of increased timber harvesting, approval of any of the requests would likely jeopardize the continued existence of 16 or 17 listed species and would result in the destruction or adverse modification of designated critical habitat for three species (depending on the alternative).

Public Involvement and Review Process

Opportunities for public review of and involvement in TVA's consideration of the barge terminal and land use requests have been extensive. Prior to the decision to prepare an EIS evaluating all three proposals, TVA and the Corps had prepared and released for public comment an environmental assessment on the Donghae proposal. The agencies also held separate public meetings on the Donghae and Parker Towing proposals that were attended by a total of 430 people. (The Boise Cascade proposal had not yet been received.)

Initially very few people objected to the Donghae proposal. EPA voiced concerns about potential impacts to wetlands on Donghae's site, but these were resolved to EPA's satisfaction and were withdrawn. However, following the Parker Towing meeting, TVA received over 200 letters objecting to both the Parker Towing and Donghae proposal, largely because of potential impacts of timber harvesting to supply the chip mills. Letters were subsequently received from both EPA and the Service demanding that an EIS on all of the proposals be prepared and that this EIS evaluate timber harvesting impacts. The Service also asserted that the Endangered Species Act required consideration of timber harvesting impacts and that consultation was required under section 7 of that Act.

In light of the growing public interest, the comments received, and the desire to promote a better understanding of the potential impacts of the proposals and timber harvesting, TVA decided to prepare an EIS. A Notice of Intent to prepare the EIS and request for comments on the scope of the EIS was published in the **Federal Register** (56 FR 14410, April 9, 1991). Notice was also provided directly to almost 450 individuals. TVA, the Corps, and the Service held a public scoping meeting on May 4, 1991, in South Pittsburg, Tennessee. Seventy individuals attended this meeting, and the agencies received more than 100 letters providing comments on the scope of the EIS. Most of the comments focused on timber harvesting issues and the economic effects of the chip mills. However, a number of comments were also received on the potential truck traffic impacts of the proposals and on TVA's "authority" to prepare an EIS which considered timber harvesting issues.

A draft EIS was released for public comment on June 16, 1992, and notice of its availability was announced in the **Federal Register** by EPA on June 26, 1992 (57 FR 28664). The agencies provided an extended public review period (over 60 days) and held two day-long public hearings on the draft EIS in Chattanooga and South Pittsburg, Tennessee, respectively. The agencies received 1,200 written responses, and approximately 200 individuals made statements at the public hearings. All of the comments received were summarized and responded to in the final EIS. These comments were considered by TVA in its decision. Most of the comments addressed potential timber harvesting impacts. However, a large number of people commenting also objected to TVA's consideration of alternatives to the proposals which evaluated possible timber harvesting mitigation measures. These latter commenters asserted that TVA lacked the authority to consider or implement such mitigation measures. A limited number of comments raised concerns about localized impacts of the chip mills such as truck traffic and noise.

The final EIS was made available to the public on March 4, 1993, and notice of its availability was announced in the **Federal Register** by EPA on March 12, 1993 (58 FR 13597). As required by the Corps NEPA procedures, the public was provided 30 days to comment on the final EIS. These comments were considered by TVA before a decision was made but were not individually addressed.

Alternatives Considered

The following alternatives were evaluated in the EIS and were considered by TVA in reaching its decision:

(1) No action (denying all of the requests).

(2) Approving one or more of the requests with typical, "onsite" environmental protection conditions.

(3) Approving one or more of the requests with both onsite environmental conditions and conditions which would reduce the risk of adverse timber harvesting impacts. This latter alternative encompassed three variations.

(3a) Under Alternative 3a, the chip mill operators would be required to purchase timber exclusively from landowners which participated in existing federal and state forest management programs, and from logging operations which adhered to forestry best management practices (BMPs). TVA would commit additional resources to further enhance landowner participation in these programs with this alternative.

(3b) Under Alternative 3b, TVA would require the chip mill operators to use or to employ loggers who use specifically identified environmental protection measures when procuring timber for their mills. These include BMPs and the preparation of preharvest plans which identify potentially impacted sensitive resources such as endangered and threatened species, karst features, and wetlands and measures to protect such resources.

(3c) Under Alternative 3c, TVA proposed to approve only one of the requests for a limited 5-year term subject to certain minimum protection measures and such additional protection measures as each operator itself identified and agreed to meet. During this 5-year period, TVA and

other interested federal and state agencies would intensively monitor the timber procurement area to better ascertain the significance of the impacts associated with harvesting and the success of employed protection measures.

Preferred Alternative

TVA's preferred alternative in the final EIS was Alternative 1, no action. TVA identified this as preferred after weighing the potential benefits of the requests with the likelihood of substantial, cumulative localized impacts and the risk of significant timber harvesting impacts. During the EIS process, TVA staff made a strong effort to reach a consensus on an approach that would protect the environment while allowing expanded harvesting. However, positions among interested groups (the chip mill operators, forestry associations, state forest management, wildlife and environmental interest groups) were extremely polarized and TVA was unsuccessful.

The environmental organizations strongly opposed alternatives which would have facilitated the construction of any of the chip mills. The forest industry groups, as well as the state forest management agencies, which are critical to implementing any conditioned or mitigated alternative, objected to establishing any mandatory harvesting protection measures. A group of local forest industries also opposed chip mill operations because they considered them a threat to their economic viability. The chip mill operators either opposed special limitations on their timber procurement activities or indicated a willingness only to encourage the use of voluntary protection measures.

Environmentally-Preferred Alternative

TVA has determined that there is no clear environmentally preferable alternative here. Alternative 1, denying all requests, may avoid near-term intensified timber harvests by spreading these out over time and, from this standpoint, is environmentally preferable. However, denying all of the requests would not preclude chip mill operation and is not likely to prevent increased timber harvesting in the identified procurement area or the Tennessee Valley region over the longer term. TVA approval is not needed to construct and operate two of the chip mills (Boise Cascade and Donghae), and TVA has no regulatory control over or responsibility for timber harvesting activities If chip mills are constructed and they choose to truck their chips either to rail terminals, previously approved public ports, or to market, environmental impacts could be worse than one of the mitigated alternatives.

TVA believes that conceptually Alternative 3 promises to be the most environmentally acceptable approach. This alternative would heighten the protection of sensitive resources and could serve as a model for timber harvesting activities throughout the Tennessee Valley region. However, to be successful, the state forestry agencies, the mill operators, the forestry associations, and the timberland owners would have to support this approach. They do not. Without such support, Alternative 3 is not feasible. (The Service identified a variation of Alternative 3 that would require extensive TVA oversight of timber harvesting on private lands. We have concluded that this variation is not feasible or prudent.)

Basis for Decision

TVA, as a regional resource agency of the United States, has been given broad responsibilities for navigation, flood control, reforestation, improvement of marginal lands, and agricultural and industrial development in the Tennessee Valley and adjoining territories These responsibilities are all directed toward the development and conservation of the natural resources of the region in order to foster an orderly and proper physical, economic, and social development of the Tennessee Valley region.

TVA has sought to use its broad authorities and discretion in a manner which promotes the unified development of the Tennessee River and the natural resources of the Tennessee Valley region. In its 1936 report to Congress on "The Unified Development of the Tennessee River System," TVA stated that to succeed in its mission, it must approach the Tennessee Valley region as a whole, that "[w]ater control on the Tennessee River in a system of unified development can best begin where the rain falls" (i.e., the lands and watersheds of the Tennessee Valley region). As a harbinger of comprehensive planning statutes such as the National Environmental Policy Act, TVA in its 1936 report rejected an approach which considered the single ends of specific projects or activities without regard to the attendant impacts of those activities and to the possibility of realizing additional benefits through a more comprehensive understanding of all of the ramifications of an action.

In the context of this tradition and TVA's mission, determining the best course of action here has been very difficult. The potential benefits and impacts of increased timber harvesting have been the dominant focus of the EIS review process. However, timber harvesting activities depend on decisions to be made by the 100,000 private timberland owners in the projected timber procurement area of the chip mills and are beyond TVA's regulatory control. Timber harvesting is occurring and is expected to increase without TVA involvement. Consequently, projecting potential benefits and impacts is subject to substantial uncertainties and speculation.

Potential benefits are not as critically site-specific as potential impacts and can be projected with somewhat greater certainty. The more certain or direct economic benefits of the proposals are the chip mill and transportation jobs associated with the construction and operation of the chip mill barge terminals and chip mill facilities. Approximately 17 employees with annual earnings of $12,000 each would be hired to work at a single mill. The more important incidental benefits of mill operation are the harvesting-related jobs which could be created and the stumpage fees paid to timber owners. TVA estimates that an additional 182 harvesting jobs would be created with average annual incomes of $14,000 each. Total annual stumpage payments of about $750,000 would be paid to timber owners (stumpage payments would increase with more competition). Approximately 35 to 70 jobs would be associated with the barge transportation of chips produced at one mill. Based on an econometric model of the region, approximately 1.2 persons would eventually be hired for every new job created and there would be an additional $1 40 for every $1.00 of new income.

With three chip mills operating, a total of 636 mill and harvesting jobs could be created with total direct income of about $30 million. Application of the regional multipliers results in total jobs added of about 1,400 and income of approximately $71 million. Barge-related jobs would range from 80 to 160. These are important benefits in a region with relatively high unemployment, but should still be viewed as somewhat uncertain because they depend on the hiring and procurement practices of the chip mill operators and on the willingness of timber owners to sell their trees.

Another important potential benefit is the positive effect that chip mill timber procurements could have on the commercial quality of the area's forests. It has been TVA's experience that

providing timberland owners economic incentives to better manage their forests results in better forests. In the region, twice as much hardwood is being grown as is being currently harvested. However, high-grade timber is not increasing in volume, and the region's forests appear to be in a high-grading cycle in which the higher-grade trees are removed, leaving lower-grade hardwoods. Analysis show that if the current situation remains unchanged, high-grading practices will continue to diminish hardwood quality and threaten the long-term economic viability of many of the area's existing forest industries.

Providing a market for the area's low-grade hardwoods holds the promise of breaking the high-grading cycle and improving the commercial quality of the forests. Chip mills would provide such a market. Contrary to the perception of some commenters, TVA's evaluation indicates that most of the existing forest industry would be virtually unaffected by increased use of low-grade hardwoods in the short term (20 years). Because of the higher value of high-grade sawtimber, there is an economic incentive to market such sawtimber to the sawmills and other industries which need higher grades rather than chipping it. Stumpage prices may increase, and this may cause some marginally profitable operations to go out of business; but many of these businesses are already at risk due to the competition of larger, more efficient operations. In the long term, the effects are uncertain because of the projected harvesting intensity.

Improvements in the quality of the area's timber are projected because more harvesting would be done by clearcutting to supply the chip mills (sustainable yields would not, however, likely be exceeded assuming other users do not increase their removals). Clearcutting improves the likelihood that higher quality, commercially attractive hardwoods would regenerate naturally. The selective/high-grading harvesting which dominates now tends to promote the growth of shade-tolerant tree species at the expense of the more commercially attractive species such as oaks. The potential benefits of clearcutting are relatively clear albeit dependent on the decisions of others over whom TVA has no control. What is not clear, largely because of the substantial uncertainty here, are the potential environmental costs of clearcutting and more intensive harvesting.

Opinions on the likely impacts of more intensive harvesting vary widely BMPs are designed to protect water quality by reducing sediment runoff from harvested lands. TVA's EIS concludes that when adequately used, BMPs do substantially lessen potential water quality impacts. Water flows and sediment releases would increase from clearcut areas initially, but these would be relatively minimal if adequate BMPs are used and within two to five years would be within preharvest levels. TVA's analysis also indicate that nutrient losses, air quality impacts, and global temperature changes would not likely be meaningful (much less significant) even with the projected harvesting rates of all three chip mills.

However, this assumes adequate use of BMPs. BMP use in the three states, portions of which comprise the projected procurement area, is voluntary. The U.S. Forest Service, the Tennessee Department of Agriculture, the Alabama Forestry Commission, the Georgia Forestry Commission, national and regional forestry associations, and many timberland owners commented that voluntary BMPs are working well because silvicultural activities are contributing little to stream pollution and the impairment of water quality standards (only an estimated 6.6 percent of the impaired stream miles in the procurement area are affected by forestry activities). Although good data on BMP compliance rates are not available for the procurement area, compliance rates of 70 to 90 percent have been estimated in the few states which have compiled such estimates.

EPA, on the other hand, commented that BMP compliance cannot be realistically ensured as long as use remains voluntary. The U.S. Department of the Interior stated that Alabama's BMPs are inadequate to achieve the environmental protection it thinks is necessary. The Alabama Department of Environmental Management expressed concerns about water quality degradation associated with timber harvesting because of low compliance rates and the resistance of timber interests to use of BMPs. The Tennessee Wildlife Resources Agency recommended that the requests not be approved until a mandatory forest harvesting regulatory program is established. Environmental organizations and many individuals also opposed approving the requests, in part, because of the voluntary nature of forestry BMPs.

The lack of mandatory BMPs adds to the substantial uncertainties here TVA is confident that state forest management programs such as the Stewardship programs will increase BMP use. However, these programs are relatively new and will take some time to be implemented widely. In the interim, noncompliance with BMPs could result in significant water quality and related impacts at least in localized areas. TVA's technical analysis also suggest that even with adequate BMP use, there could be unusual site-specific situations, such as the presence of an endangered species, that could result in unacceptable impacts. TVA has also concluded that forestry BMPs do not protect (nor are they intended to protect) all possibly impacted resources. Aesthestics, biodiversity, ecologically sensitive areas, and archaeological sites are good examples. Also, hard mast production (acorns and other nuts), which is important to the health of many wildlife species, is likely to decrease as a result of increased timber harvesting although the significance of this is uncertain because of the lack of data on current mast use and production.

As stated, the Service has determined that increased harvesting is likely to jeopardize the continued existence of 16 or 17 threatened or endangered species and adversely impact the critical habitats of three of those species. The Service also concluded that significant impacts on listed species could still occur under Alternative 1 (would probably occur in some situations) but that these should not be attributable to TVA's denial of the requests because such impacts would result from the decisions of Boise Cascade or Donghae to build their chip mills anyway and to procure timber. Timber harvesting under the other two alternatives would also result from the possible decisions of third parties (the 100,000 timberland owners) over the TVA has no regulatory control and responsibility, and in TVA's opinion, should also not be attributable to any action it may take here.

Although TVA does not think that the Endangered Species Act precludes approving one or more of the requests, TVA has weighed heavily the Service's technical determination of likely impacts to listed species if harvesting occurs. TVA's own assessment of potential impacts to listed species concluded that some species could be significantly impacted depending on where and how timber harvesting may occur.

In addition to the potential risk of significant timber harvesting impacts, localized impacts in the vicinity of the chip mill facilities themselves are of concern to TVA. TVA estimates that the movement of logs into the three chip mills would add approximately 1,080 truck movements to the daily average traffic flows in and around South Pittsburg. On State Route 156,

approximately 93 trucks per hour (or more than one per minute) would be added. Of these, 43 (or almost one per minute) would proceed down State Route 156 to Parker Towing's chip mill. Because of the steep hills and sharp turns on this route, such a movement would be very noticeable to residents and likely to be very irritating since loaded log trucks would have difficulty maintaining speed on the highway. Although TVA's analysis concluded that minimally acceptable service levels could still be maintained, EPA commented that it viewed such impacts as significant. Regardless of one's perception of the significance of truck movement impacts, such movements would be a noticeable contribution to traffic congestion in the area. (These truck traffic impacts could be worsened if Boise Cascade and/or Donghae decide to proceed and truck out their chips despite denial of their requests.) TVA believes that potential noise impacts associated with operation of the chip mills can be mitigated to acceptable levels, but some residents near the facilities could still find resulting noise unacceptable.

Approving only one of the requests could lessen localized impacts in most cases (truck traffic increases would likely still be objectionable to some residents), but each of the proposals poses unique concerns. The Boise Cascade proposal is opposed by the City of South Pittsburg and some residents of New Hope. The Parker Towing facility would be sited in an industrial park which was established for small manufacturing uses. Applicable development standards are intended to promote such uses and to make the park attractive to high-quality small industry. A chip mill would not be compatible with the development standards. Although the park has yet to successfully attract the desired kind of manufacturing entities and users, the promise of its doing so remains. The Donghae facility would impact the most wetlands and truck movements associated with its facility would impact the historic districts of South Pittsburg. Alternative 3c was intended to improve TVA's means of choosing among the applicants, but none of the applicants endorsed this.

An additional factor which TVA considered is the substantial public opposition to and controversy over the pending requests. Although some of this opposition is undoubtably due to a misunderstanding of the potential impacts of increased timber harvesting and clearcutting, it is apparent that many people are philosophically opposed to the harvesting of trees, especially clearcutting.

In summary, TVA believes that there are real benefits associated with improved markets for the low-grade hardwoods in the region. Compared to other industries, the forest industry and timberland owners have done a good job from an environmental perspective. TVA believes that timber harvesting can be conducted in a manner which adequately safeguards the environment and its sensitive resources. However, harvesting can also severely impact the environment if conducted improperly and as generally conducted now does not adequately safeguard all sensitive resources. Society appears less willing to accept the risk of serious environmental impacts. Finally, the potential cumulative localized impacts, especially truck traffic impacts, are a serious concern.

Decision

With fewer applicants or stronger, more certain environmental safeguards, TVA's decision could easily have been different. But, in light of the above, the more detailed assessments in the EIS, and the comments received on the proposals, we have decided not to make TVA's lands available to Boise Cascade and Donghae to access their proposed barge terminals. Nor will we approve the siting of the proposed Parker Towing chip mill in the Nickajack Port Industrial Park or agree to waive the development standards of the park to permit such a use. Absent the ability to access their proposed barge facilities and for the other reasons stated above, TVA also disapproves all three applicants' requests for approval under Section 26a of the TVA Act. With these decisions (no action), there are no practicable environmental mitigation measures to be taken.

TVA views the forest products industry—including transportation of forest products on the Tennessee River system—as an important component of the Valley's economy. We will continue our efforts to promote good forest management practices. TVA believes that the environmental concerns which have been identified in this review process can be resolved and it remains willing to work with the forest industry, the environmental community, and other interest groups toward a common-sense solution to these concerns.

Norman A. Zigrossi,

President, Resource Group.

[FR Doc. 93–11368 Filed 5–12–93; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Denali Borough, AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the interior region of Alaska.

FOR FURTHER INFORMATION CONTACT: Phillip A. Smith, Field Operations Engineer, Federal Highway Administration, P.O. Box 21648, Juneau, Alaska, 99802–1648, Telephone (907) 586–7428; and Stephen C. Sisk, P.E., Director, Alaska Department of Transportation and Public Facilities, Division of Design and Construction, Northern Region, 2301 Peger Road, Fairbanks, Alaska, 99709–5316, Telephone (907) 451–2214.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities (ADOT&PF), will prepare an Environmental Impact Statement (EIS) for a proposal to construct a highway between the City of McGrath and the State of Alaska's Parks Highway. The project is considered necessary to provide overland access to the City of McGrath, the Kantishna area and other areas along the corridor. The new highway extends through a rural area and is approximately 200 to 300 miles in length.

Alternatives to be considered include: (1) No action, (2) various build alternatives, and (3) alternate modes of transportation. Consideration of the above item number two (2) includes alternatives that leave the Parks Highway from various locations between Denali Park Station (Milepost 237) and Nenana (Milepost 304) and proceed west to McGrath. Also to be considered is a connection to the Kantishna area.

Letters describing the proposed action and soliciting input will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Scoping activities will include meetings with the aforementioned agencies at a location convenient for the agencies. Public meetings will be held in potentially affected communities, including McGrath, Nenana, Anderson, Healy, Fairbanks, and Anchorage. In addition,

public hearings following publication of the Draft EIS will be held. Public notice will be given for the time and place of the meetings and hearings. The Draft EIS will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: May 4, 1993.

Robert E. Ruby,

Division Administrator, Juneau.

[FR Doc. 93–11366 Filed 5–12–93; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

Addendum to the Waiver Petition (FRA Docket Number SA–90–10); Canadian Pacific Limited (CP Rail)

In accordance with 49 CFR part 211, notice is hereby given that the Canadian Pacific Limited has requested an addendum to a previously granted conditional waiver of compliance with certain requirements of 49 CFR 231.2 (railroad safety appliance standards pertaining to hopper cars and high side gondolas with fixed ends) for their rotary "Bathtub" gondola cars. The rotary "Bathtub" gondola cars construction is similar to that of a high-side gondola with fixed ends and should conform to those requirements as defined in 49 CFR 231.2 "Hopper cars and high-side gondola cars with fixed ends."

The Federal Railroad Administration (FRA) has previously granted a conditional waiver of the following requirements of 49 CFR 231.2:

(1) Brake step specifications;

(2) Ladder specifications;

(3) Side handhold specifications; and

(4) Uncoupling specifications.

Relief was also granted from the requirements of § 231.1(i) pertaining to the number of horizontal end handholds. See 56 FR 1436, January 14, 1991, for the initial notice in this docket. FRA granted CP Rail's petition, conditioned upon, *inter alia* the "Bathtub" gondola cars are to be operated only in unit trains consisting of like cars.

CP Rail is requesting that this condition be amended to permit a three month test operation of a block of 10 to 20 "Bathtub" cars within trains consisting of 85 to 95–4000 cube triple hoppers. CP Rail indicates that three or four trains would be operated per month during this operational test.

These rotary "Bathtub" gondola cars and triple hopper cars will operate as a unit train from southeastern British Columbia to Gary, Indiana. USX does not release cars as a unit train.

In order to reduce inventories USX unloads only a portion of the cars each day over a five to six day period and the delivering carrier, the Elgin, Joliet and Eastern, moves the empty cars in blocks in regular train service to the Soo Line connection at Spaulding. Due to congestion at Spaulding the blocks of cars are then moved to the yard at Milwaukee where the unit trains are rebuilt. The initial empty movement is 86 miles to Spaulding and then 129 miles to Milwaukee.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate Docket Number (e.g., FRA Docket Number H–92–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC. 20590. Communications received before June 25, 1993 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on May 6, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–11296 Filed 5–12–93; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Petition for Exemption from the Vehicle Theft Prevention Standard; Volkswagen

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

ACTION: Grant of petitions for exemption.

SUMMARY: This notice grants the petitions by Volkswagen of America, Inc. (Volkswagen) for exemptions from the parts marking requirements of the vehicle theft prevention standard for three high theft care lines: The Jetta III; a separate line whose nameplate is confidential; and the Corrado.

DATES: The exemptions granted by this notice are effective for the Jetta III line and the line whose nameplate is confidential, beginning with the 1994 model year. The exemption granted by this notice is effective for the Corrado line beginning with the 1995 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740.

SUPPLEMENTARY INFORMATION: On January 11, 1993, the agency received three letters from Volkswagen of America, Inc. (Volkswagen) requesting exemptions from the theft prevention standard for three separate car lines. Volkswagen requested that the exemptions for the Jetta III line and a separate line (whose nameplate is confidential), begin from the 1994 model year, and that the exemption for the Corrado line begin from the 1995 model year. The letters were submitted pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard. For the three lines, Volkswagen requested an exemption from parts marking based on the installation of a theft deterrent system as standard equipment for the car lines that are the subject of this notice.

The information submitted by Volkswagen constitute three complete petitions, as required by 49 CFR 543.7, in that each petition meets the general requirements of § 543.6. In earlier correspondence between Volkswagen and the agency, confidential treatment was granted for certain information that appears in Volkswagen's petition. In a letter dated August 31, 1992 to Volkswagen, the agency granted the petitioner's request for confidential treatment of bracketed information in its petitions. In a subsequent letter dated October 20, 1992, the agency granted

confidential treatment for bracketed information in Volkswagen's letter to Mr. Barry Felrice, NHTSA Associate Administrator for Rulemaking, and "the entire information in the attachments." Confidential treatment was also granted for the nameplate of one car line.

In its petitions, Volkswagen provided a detailed description of the identity, design, and location of the components of the antitheft device for the car lines that are the subject of this notice, including electrical schematics of the device and diagrams of the components and their location in the vehicles. Volkswagen stated that its antitheft system incorporates both an audio and visual alarm function, and an engine starter interrupt function.

Volkswagen stated that the antitheft system is automatically activated by the normal locking of the vehicle door. In order to arm the system, the key must be removed from the ignition switch; all of the doors, trunk lid, hood lid, and storage compartments must be closed; and the driver's or front passenger's door must be locked with the ignition key. Locking any door ensures that all doors, the hood, and trunk are locked.

The blinking of an alarm system indicator light on the driver's side front door indicates that the device is armed. The alarm is not activated if the hood, any of the doors, or the trunk is not closed properly. In order to activate the alarm, the vehicle part that is ajar must be properly closed. The system monitors the vehicle's doors, hood, trunk, ignition switch, and radio.

If the system is armed and unauthorized entry is subsequently attempted, the antitheft device will be triggered, causing the alarm horn to sound and the vehicle's hazard warning flasher system to actuate. Any subsequent attempt to enter any of the vehicle's monitored areas will again cause the horn to blare and the hazard warning system to flash.

Additionally, the antitheft device will activate the starter-interrupt relay, preventing the starting of the engine from the ignition switch. Volkswagen stated that to prevent defeat of the antitheft system, all system components are in inaccessible locations. Volkswagen described further measures to prevent unauthorized operation of its car lines.

Volkswagen addressed the reliability and durability of its antitheft device by providing a description of the tests that were conducted on the device. Among these tests were tests for: Material requirements; operating voltages; temperature stability; mechanical properties; electrical requirements; electromagnetic compatibility; environmental compatibility; and service life. With its petitions, Volkswagen included a certification that the antitheft device was tested according to Volkswagen's standard, including those tests relating to electrical and mechanical durability, and passed all the performance requirements of the tests.

In discussing why it believes the antitheft device will be effective in reducing and deterring motor vehicle theft, Volkswagen compared its antitheft device with similar antitheft devices, primarily manufactured by other manufacturers, that have been previously granted exemptions from this agency.Volkswagen stated that the theft rates of these comparable lines decreased when the antitheft device was made standard equipment, and have remained, for the most part, below the 3.2712 median theft rate. Volkswagen cited the experiences of the: Nissan Maxima, that went from a theft rate of 4.18 (all figures provided are for thefts per thousand vehicles) in 1984 to a theft rate of 1.99 in 1985; the Mazda RX–7, that went from a theft rate of 12.11 in 1984 to a theft rate of 6.09 in 1989; the Toyota Cressida, that went from a theft rate of 10.3 in 1985 to a theft rate of 7.3 in 1988; and the Audi 5000, that went from a theft rate of 1.98 in 1987 to a theft rate of 1.26 in 1988. The agency concurs with Volkswagen that these antitheft devices manufactured by other manufacturers (and the device on the Audi 5000) are comparable to the system planned by Volkswagen for its three car lines.

NHTSA believes that there is substantial evidence indicating that the antitheft device to be installed as standard equipment in the three Volkswagen car lines that are the subject of this notice, will likely be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the theft prevention standard (49 CFR part 541). This determination is based on the information Volkswagen submitted with its petitions and on other available information. The agency believes that the device will provide all of the types of performance listed in § 543.6(a)(3): promoting activation; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by section 605(b) of the statute and 49 CFR 543.6(a)(4), the agency also finds that Volkswagen has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Volkswagen provided on its device. This information included a description of reliability and functional tests conducted by Volkswagen for the antitheft device and its components.

For the foregoing reasons, the agency hereby exempts the three Volkswagen car lines that are the subject of this notice, in whole from the requirements of 49 CFR part 541.

If Volkswagen decides not to use the exemption for any of the car lines that are the subject of this notice, it should formally notify the agency. If such a decision is made, each respective car line must be fully marked according to the requirements under 49 CFR 541.5 and § 541.6 (marking of major component parts and replacement parts).

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs continue to make it difficult to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly invites such a comparison, which the agency has made on the basis of the limited data available. With implementation of the requirements of the "Anti Car Theft Act of 1992," NHTSA anticipates more probative data upon which comparisons may be made.

NHTSA notes that if Volkswagen wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 15 U.S.C. 2025; delegation of authority at 49 CFR 1.50.

Dated: May 7, 1993.

Howard M. Smolkin,

Acting Administrator.

[FR Doc. 93–11295 Filed 5–12–93; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Notice No. 93–12]

Thermal Protection Systems That No Longer Need Test Verification

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; announcement of current list of thermal protection systems that no longer need test verification for use on certain DOT specification tank cars.

SUMMARY: This notice contains a current list of thermal protection systems that are capable of passing pool and torch fire tests specified in the Hazardous Materials Regulations (HMR). The intended effect of this action is to make persons aware that these thermal protection systems are acceptable for use, without further test verification, on certain class DOT 105, 111, 112 and 114 tank cars.

ADDRESSES: The Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, maintains a list of thermal protection systems that no longer need test verification. The current list of thermal protection systems and test results of each system are available for public review in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward Pritchard or James Rader, Federal Railroad Administration, Office of Safety Enforcement, Hazardous Materials Division, 400 Seventh Street, SW., room 8326–J, Washington, DC 20590–0001, Telephone (202) 366–9178.

SUPPLEMENTARY INFORMATION: The HMR, at 49 CFR 179.105–4, require that class DOT 105J, 111J, 112J, 112T, 114J and 114T tanks be equipped with thermal protection systems. As installed on the tank car, the thermal protection system must prevent release of any of the tank car's contents (except release through the safety relief valve) when subjected to a pool fire for 100 minutes and a torch fire for 30 minutes. Each material used as thermal protection must be verified by testing in accordance with procedures contained in § 179.105–4 (d) and (e). The Federal Railroad Administration (FRA) has received test data from certain manufacturers and applicators supporting that the thermal protection systems, identified in the following list, maintained back plate temperatures below 426 °C (800 °F) in both the pool and torch fire simulation tests. In addition, for certain materials identified in § 179.105–7 (c)(2) and (d)(2), tanks may be equipped with an optional safety relief valve having a smaller discharge capacity provided the tank is insulated and the thermal protection system maintains back plate temperatures below 288 °C (550 °F). These thermal protection systems are identified in the following list by the notation "(<288 °C)."

In applying any of these thermal protection systems, an applicator must first prepare surface areas neighboring the system by sandblasting, or by any other equivalent method, to remove all existing paint, primer, oil, grease, and loose material. For systems employing a thermal blanket, the interior of the tank jacket and the exterior of the tank shell must have a protective coating. For systems employing coatings (primers, subliming compounds, films, topcoats, etc.), the applicator shall measure the thickness of each coating when dry and cured, before proceeding to the next application process.

For further information on the use of these systems, persons may contact the FRA's Office of Safety Enforcement, Hazardous Materials Division, 400 Seventh Street SW., room 8326–J, Washington, DC 20590–0001. Telephone (202) 366–9178.

This list of thermal protection systems remains open for additional entries. To add a system to the list, persons may submit test data and technical specifications showing that the system successfully passes the pool and torch fire tests specified in 49 CFR 179.105–4, or 179.105–7 (c)(2) and (d)(2) to the FRA's Office of Safety Enforcement.

Thermal Protection Systems Excepted From Test Verification

In the current list, systems appearing in the 1986 list are identified by their old system application number shown in parentheses following the new system application number. The previous list of thermal protection systems excepted from test verification was published in the **Federal Register** on January 31, 1986 (51 FR 4063). The current list of thermal protection systems is as follows:

Carborundum Company, Niagara Falls, New York

Fiberfrax

System Application 01 (6): Apply 1.651 cm (0.65 inches) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m³ (4.5 lbs/ft³)), then an eleven gauge steel jacket.

System Application 02 (22): (<288 °C) Apply 1.27 cm (0.5 inch) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m³ (4.5 lbs/ft³)), compressed no less than 0.635 cm (0.25 inch) with froth-in-place rigid urethane foam, then an eleven gauge steel jacket. The total thickness of the Fiberfrax thermal protection and the urethane foam combination must be at least 5.08 cm (2.0 inches).

System Application 03 (23): (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m³ (4.5 lbs/ft³)), compressed no less than 1.372 cm (0.54 inches) with froth-in-place rigid urethane foam, then an eleven gauge steel jacket. The total thickness of the Fiberfrax thermal protection and the urethane foam combination must be at least 5.08 cm (2.0 inches).

System Application 04 (24): (<288 °C) Apply 1.27 cm (0.50 inch) minimum thickness Fiberfrax thermal protection (density ≥68.9 kg/m³ (4.3 lbs/ft³)), then apply 10.16 cm (4.0 inches) minimum thickness glass fiber insulation compressed to 8.89 cm (3.5 inches), and then an eleven gauge steel jacket.

System Application 05 (29): Apply 1.27 cm (0.50 inch) minimum thickness Fiberfrax thermal protection (density ≥72.1 kg/m³ (4.5 lbs/ft³)), then an eleven gauge steel jacket.

System Application 06: Persons may use this system provided the tank car is constructed from at least 1.905 cm (0.75 inch) carbon steel plate. Apply 1.27 cm (0.50 inch) minimum thickness Fiberfrax thermal protection (density ≥96.1 kg/m³ (6 lbs/ft³)), then apply 10.16 cm (4.0 inches) minimum thickness of glass fiber insulation, and then an eleven gauge steel jacket. The total thickness of the Fiberfrax thermal protection and the glass fiber insulation combination must be at least 8.89 cm (3.5 inches).

Courtaulds Aerospace, Incorporated, Des Plaines, Illinois

Thermal Shield Coating

System Application 01 (4): Apply 0.002 cm (7/10-mil) primer (a 2:1 ratio by volume of 513–003 base component and 9110x350 activator component). Next, apply 0.597 cm (235 mils) of Thermal Shield Coating (a nominal 5:1

ratio by volume of 821×359 base component and 9110×407 activator component) to the primed surface, then 0.005 cm (2 mils) of topcoat (a 2:1 ratio by volume of 821×317 base component and 9110×376 activator component).

Fibrex, Incorporated, Aurora, Illinois

Tank Wrap Insulation

System Application 01 (8): Apply 3.81 cm (1.5 inches) minimum thickness Tank Wrap Insulation (density ≥96.1 kg/m³ (6 lbs/ft³)), compressed to 2.54 cm (1.0 inch), then an eleven gauge steel jacket.

Tank Car Insulation

System Application 01 (25): (< 288 °C) Apply 3.81 cm (1.5 inches) minimum thickness Tank Car Insulation (density ≥96.1 kg/m³ (6 lbs/ft³)), and 7.62 cm (3.0 inches) minimum thickness glass fiber insulation compressed to 6.35 cm (2.5 inches), then an eleven gauge steel jacket.

Holmes, Insulation Limited, Ontario, Canada

HILBLOK 1212

System Application 01 (7): Apply 2.54 cm (1.0 inch) minimum thickness of HILBLOK 1212 (density ≥200.2 kg/m³ (12.5 lbs/ft³)), then an eleven gauge steel jacket.

Rock Wool Manufacturing, Leeds, Alabama

Delta Board

System Application 01 (1): Apply 2.54 cm (1.0 inch) minimum thickness of Delta Board (density ≥192.2 kg/m³ (12 lbs/ft³)), then an eleven gauge steel jacket.

Textron Specialty Materials, Lowell, Massachusetts

Chartek 59

System Application 01 (3): Apply 0.008 cm (3 mils) of primer (Military Standard MIL–P–5219B), then apply a 2.54 cm (1.0 inch) hexagonal, twenty-two gauge, wire mesh to the primed surface. Next, apply 0.457 cm (180 mils) Chartek 59 thermal protection, then 0.008 cm (3 mils) of AMERCOAT 383 (Brea, California) to the cured surface.

System Application 02 (18): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness polyurethane foam then an eleven gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. Next, apply 0.53 cm (210 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

System Application 03 (19): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness glass fiber then an eleven gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

System Application 04 (21): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness polyurethane foam then an eleven gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

System Application 05 (30): (<288 °C) Apply 0.008 cm (3 mils) of primer (Military Standard MIL–P–52192B) to the clean surface. The use of a primer is optional when facilities complete the surface preparation and coating operations within six hours and the atmosphere has a dew point above 3 °C (5 °F). When desired, applicators may place a 2.54 cm (1.0 inch) hexagonal 22 gauge wire mesh to the primed surface. Next apply 0.457 cm (180 mils) of Chartek 59 thermal protection to the cured surface, then apply 0.008 cm (3 mils) of a AMERCOAT 383 topcoat (Brea, California) to the Chartek 59 thermal protection to the cured surface.

System Application 06 (31): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness polyurethane foam then an eleven gauge steel jacket, then apply 0.005 cm (2 mils) minimum of primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. When desired, applicators may place a 2.54 cm (1.0 inch) hexagonal 22 gauge wire mesh to the primed surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

System Application 07 (34): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness glass fiber insulation then an eleven gauge steel jacket, then apply 0.005 cm (2 mils) minimum of a polyamide epoxy primer (Military Standard MIL–P–52192B, Mobile 13–R–56, or equivalent) to the clean surface. When desired, applicators may place a 2.54 cm (1.0 inch) hexagonal 22 gauge wire mesh to the primed surface. Next, apply 0.46 cm (180 mils) minimum thickness of Chartek 59 thermal protection to the cured surface.

System Application 08: Apply 0.008 cm (3 mils) of primer (Military Standard MIL–P–5219B), then apply a 2.54 cm (1.0 inch) hexagonal, twenty-two gauge, wire mesh to the primed surface. Next, apply 0.46 cm (180 mils) Chartek 59 thermal protection, then apply 0.008 cm (3 mils) of AMERCOAT (Brea, California) to the Chartek 59 thermal protection to the cured surface.

Thermal Ceramics, Augusta, Georgia

Kaowool Tank Car Blanket

System Application 01 (5): Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥32.7 kg/m³ (2.04 lbs/ft³)), then an eleven gauge steel jacket.

System Application 02 (10): Apply 1.32 cm (0.52 inches) minimum thickness of Kaowool Tank Car Blanket (density ≥76.9 kg/m³ (4.8 lbs/ft³)), then an eleven gauge steel jacket.

System Application 03 (32): (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥72.1 kg/m³ (4.5 lbs/ft³), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 7.62 cm (3.0 inches), then an eleven gauge steel jacket.

System Application 04 (33): (<288 °C) Apply 1.321 cm (0.52 inches) minimum thickness of Kaowool Tank Car Blanket (density ≥76.9 kg/m³ (4.8 lbs/ft³)), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 8.89 cm (3.5 inches), then an eleven gauge steel jacket.

System Application 05 (35): (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥72.1 kg/m³ (4.5 lbs/ft³), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 7.62 cm (3.0 inches), then an eleven gauge steel jacket.

System Application 06 (36): (<288 °C) Apply 1.321 cm (0.52 inches) minimum thickness of Kaowool Tank Car Blanket (density ≥76.9 kg/m³ (4.8 lbs/ft³)), then apply 10.16 cm (4.0 inches) of glass fiber insulation compressed to 8.89 cm (3.5 inches), and then an eleven gauge steel jacket.

System Application 07: Apply 2.54 cm (1.0 inch) minimum thickness of Kaowool Tank Car Blanket (density ≥64.1 kg/m³ (4 lbs/ft³)), then an eleven gauge steel jacket having an annular space of 1.016 cm (0.4 inches) between the thermal protection and the steel jacket.

Cerawool Tank Car Blanket

System Application 01 (9): Apply 1.524 cm (0.6 inch) minimum thickness of Cerawool Tank Car Blanket (density ≥64.1 kg/m³ (4 lbs/ft³)), then an eleven gauge steel jacket having an annular space of 1.016 cm (0.4 inches) between the thermal protection and the jacket.

System Application 02: Apply 2.54 cm (1.0 inch) minimum thickness of Cerawool Tank Car Blanket (density ≥54.9 kg/m³ (3.43 lbs/ft³)), and 5.08 cm (2.0 inches) minimum thickness polyurethane foam, then an eleven gauge steel jacket.

Thermal Sciences, Incorporated, St. Louis, Missouri

Thermo-lag 330–1 Subliming Material System

System Application 01 (2): Apply 0.005 cm (2 mils) of Thermo-lag Primer 351, 0.127 cm (5 mils) Thermo-lag 351–EX176 Primer, or 0.02 cm (8 mils) of PLASITE 7156 Primer, then apply 0.419 cm (165 mils) of Thermo-lag 330–1 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350. Thermo-lag 330–CA cure accelerator may be added to the above components.

System Application 02: Apply 0.020 cm (8 mils) of Wisconsin Protective Coatings' Plasite 7156 (Green Bay, Wisconsin), then apply 0.419 cm (165 mils) of Thermo-lag 330–1 Subliming Compound. Next, apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350.

Thermo-lag 330–3 Subliming Material System

System Application 01 (12): Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket. Next, apply 0.32 cm (125 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound, and then apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

System Application 02 (13): Apply 5.08 cm (2.0 inches) minimum thickness of polyurethane, then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket, and then apply 0.32 cm (125 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

System Application 03 (14): Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the exterior tank jacket, and then apply 0.34 cm (135 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

System Application 04 (16): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum film thickness of Thermo-lag Primer 351–3 primer to the tank jacket, and then apply 0.48 cm (188 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

System Application 05 (17): (<288 °C) Apply 5.08 cm (2.0 inches) minimum thickness of polyurethane then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket. Next, apply 0.48 cm (188 mils) minimum thickness of Thermo-lag 330–3 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

Thermo-lag 330–30 Subliming Material System

System Application 01 (15): Apply 5.08 cm (2.0 inches) minimum thickness of polyurethane foam then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 to the tank jacket, and then apply 0.343 cm (135 mils) minimum thickness of Thermo-lag 330–30 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

System Application 02 (27): Apply 5.08 cm (2.0 inches) minimum thickness of glass fiber then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 primer to the tank jacket, and then apply 0.46 cm (180 mils) minimum thickness of Thermo-lag 330–30 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

System Application 03 (28): Apply 2.54 cm (1.0 inches) minimum thickness of polyurethane foam then an eleven gauge steel jacket, then apply 0.010 cm (4 mils) minimum thickness of Thermo-lag Primer 351–3 to the tank jacket, and then apply 0.457 cm (180 mils) minimum thickness of Thermo-lag 330–30 Subliming Compound. Next apply 0.013 cm (5 mils) of Thermo-lag Topcoat 350–3.

Thermo-Lag 440 Subliming Material System

System Application 01: Apply 0.013 cm (5 mils) of THERMO-LAG 351–176 Primer to the tank surface, then apply 0.419 cm (165 mils) of THERMO-LAG 440 Subliming Material to the surface. Next, apply 0.005 cm (2 mils) of THERMO-LAG 350–31 Topcoat.

United States Gypsum Company, Chicago, Illinois

Thermafiber Tank Car Fire Proofing

System Application 01 (11): Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density ≥112.1 kg/m³ (7 lbs/ft³)), then an eleven gauge steel jacket.

System Application 02 (20): (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fireproofing (density >112.1 kg/m³ (7 lbs/ft³)), with a foil scrim polyethylene facing, then apply 10.16 cm (4.0 inches) of glass fiber compressed to 7.62 cm (3.0 inches), and then an eleven gauge steel jacket.

System Application 03 (26): (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density >112.1 kg/m³ (7 lbs/ft³)), with a foil scrim polyethylene facing, then apply 2.54 cm (1.0 inch) minimum thickness polyurethane facing followed by 2.54 cm (1.0 inch) minimum thickness polyurethane foam, and then an eleven gauge steel jacket.

System Application 04: (<288 °C) Apply 2.54 cm (1.0 inch) minimum thickness of Thermafiber Tank Car Fire proofing (density ≥112.1 kg/m³ (7 lbs/ft³)), then apply 8.89 cm (3.5 inches) glass fiber insulation compressed to 7.62 cm (3.0 inches) and then an eleven gauge steel jacket.

Inswool HP

System Application 01: (<288 °C) Apply 3.81 cm (1.5 inch) minimum thickness of INSWOOL HP ceramic fiber blanket (density ≥80.1 kg/m³ (5 lbs/ft³)), then an eleven gauge steel jacket.

Issued in Washington, DC on May 10, 1993 under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–11393 Filed 5–12–93; 8:45 am]

BILLING CODE 4910–60–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the items to be included in the exhibit, "The Birth of

Athenian Democracy" imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. The items are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the item at the National Archives, Washington, DC, beginning on or about June 15, 1993, to on or about January 2, 1994, is in the National interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: May 7, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93-11395 Filed 5-12-93; 8:45 am]

BILLING CODE 8230-01-M

Samantha Smith Memorial Exchange Program—Youth Exchanges

ACTION: Notice—request for proposals.

SUMMARY: The United States Information Agency (USIA) invites applications from U.S. educational, cultural, and other not-for-profit institutions to conduct exchanges of youth under the age of 21 with Central and Eastern Europe: Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and the following former republics of Yugoslavia: Bosnia-Hercegovina, Croatia, Macedonia, and Slovenia or the Newly Independent States (NIS) of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Proposals may address more than one country in each area but cannot combine NIS countries with those of Central and Eastern Europe. However, organizations may submit two different proposals for these two geographic areas. These exchanges represent part of the activities of the Samantha Smith Memorial Exchange Program and are subject to the availability of funding for the Fiscal Year 1994 program. A request for proposals in support of exchanges of college and university undergraduate students under the aegis of the Samantha Smith Program will be published separately by the Office of Academic Exchanges.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, August 13, 1993. Faxed documents will not be accepted, nor will documents postmarked on August 13 but received at a later date. It is the responsibility of each grant applicant to ensure that complete proposals are received by the above deadline. Grant funds should be available on or after February 1, 1994.

ANNOUNCEMENT NUMBER: This Announcement number is E/P-94-1. Please refer to his number and the title given in all correspondence or telephone calls to USIA.

ADDRESSES: The original and 12 copies of the completed application (STAPLED, not bound), including required forms, should be submitted by the deadline to: U.S. Information Agency, Ref: Samantha Smith Program—E/P-94-1, Office of Grants Management, E/XE, room 357, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should write or fax: U.S. Information Agency, Office of Citizen Exchanges, E/P, room 216, 301 4th Street, SW., Washington, DC 20547.

FAX (202) 519-4350 (NIS)/5311 (Central/Eastern Europe) to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information. Questions may be directed to E/PN, (202) 619-5319 (NIS) or E/PE (202) 619-6299 (Central and Eastern Europe).

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Overview

Grant funding is intended to promote the exchange of young people 21 years of age or younger between the U.S. and the Newly Independent States (NIS) of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan and the Central and Eastern European countries of Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and the following former republics of Yugoslavia: Bosnia-Hercegovina, Croatia, Macedonia, and Slovenia. Proposals may address more than one country in each area, for example a project with Bulgaria, Latvia, and Slovenia, or Belarus, Moldova, and Kyrgyzstan. Proposals cannot combine NIS countries with those of Central and Eastern Europe. The Agency's main objective is to foster interaction between American and foreign youth. Consequently, extensive interaction is a requirement. Proposals should demonstrate how American and foreign youth will interact in a way that encourages the exchange of ideas, values and information.

Twenty-five percent (25%) of the available funds will be reserved for organizations that have not received Samantha Smith grants in the past three years. Grants are awarded to expand or enhance existing exchange programs or to encourage the development of new exchanges. Programs may involve the U.S. organization in a partnership with organizations in one or more countries. The minimum length of stay in country for any project is three weeks. Three categories of grants are being offered.

Category A—School-to-School Exchanges

A school-to-school exchange is one that involves a direct linkage between an U.S. and a Central and Eastern European or NIS elementary, middle, or high school. An applicant must be a school or school district. The maximum grant for this category is $10,000. The exchange program activity should be reciprocal and permit students to live in each other's countries during the academic year when schools are in session. The proposal should provide detailed information on the classroom and other activities in both the U.S. and the partner country. The duration of projects may be one academic year, semester or short-term (generally understood to mean three to eight weeks). Schools receiving funding under other grants awarded by USIA for youth exchanges may not apply under this category.

Category B—Multiple School Partnership Programs

This category is reserved only for Central and Eastern European countries, to include the Baltic Republics. See other announcements for multiple school partnership programs with the NIS.

A maximum of $150,000 is available for grants generally in the range of $50,000 to $75,000 in support of programs of exchanges between the U.S. and the Central and Eastern European countries, to include the three Baltic Republics based on multiple school linkages, i.e., one-to-one matches of two or more schools in the U.S. to two or more schools in Central and Eastern Europe and/or the Baltic Republics. At its most basic level, the typical project involves the annual exchange of groups of students and teachers among several school linkages for short-term stays during the academic year. Semester and

year-long exchanges of individual students are also possible. The grants are intended only to partially subsidize the costs of the programs, which will be funded on the American side primarily by contributions from the participating students, their schools and communities. Applicants for these grants should furnish written evidence of a commitment from Central and Eastern European or Baltic entity(ies) describing the nature of the services and source of funding that will be provided in the participating NIS schools and communities. Consortia will also be eligible for this grant.

Category C—General Youth Exchanges

This category includes all other projects, which will be eligible for grants of up to $50,000. Semester and year-long high school study programs conducted by exchange organizations fall within this category. For short-term (3–8 weeks) exchanges, preference is given for projects with a thematic focus. Eligible foci may include, but are not limited to: the arts (theater, dance, music, fine arts, literature, folklore, and film/video); language and culture; science, technology, and mathematics; conservation and the environment; historic preservation; museum training; social, political, and economic issues; agriculture; business and administration/management (including enterprise promotion).

Projects requesting support for tours of performing arts groups or sports teams are eligible if the primary purpose of the program is interaction between international participants and their hosts. Tours of performing arts groups or sports groups where the primary activity is performance or competition are not eligible.

Organizations other than schools that seek funds for an academic high school exchange of six months duration or more must be designated as a Secondary School Exchange Visitor Program Sponsor by USIA's Exchange Visitor Program Services.

Reciprocity is not a requirement for this category, but in general, USIA gives preference to proposals for reciprocal exchanges. The proposal should provide detailed information on the activities in both the U.S. and the partner country. The number of U.S. and foreign participants should be roughly equal. Such proposals must provide written evidence of the commitment of a counterpart organization in the partner country willing and able to engage in the proposed activities. In most cases the counterpart organization should assume responsibility for the cost of hosting the American participants in the reciprocal portion of the program.

Guidelines

All categories of proposals must include:

—Participant selection criteria and a description of the selection process. All participants must be under age 21 at the time they begin the program. Participants should be chosen for their actual or potential leadership qualities. The proposal should describe in detail the selection process for both U.S. and foreign participants. The ratio of adult escorts to youth participants should be as low as possible.

—Description of orientation programs. There should be ample introduction to the program theme, administrative procedures, basic historical, cultural and social information, and substantive issues likely to be raised by their U.S. or foreign counterparts.

—Information concerning stays in the host country. Preference is generally given to longer stays in-country. The proposal should describe in detail the selection process for both U.S. and host families/institutions. Consideration will be given to those projects which for reasons or requirements of the partner country(ies) are of short duration, but the length of stay in country must be a minimum of three weeks.

—Information concerning language qualifications. Speaking ability in the language of the host country for both American and foreign participants is preferred, but not required. Ideally some participants in each incoming delegation should be conversant in English, and some participants in each outgoing delegation should be conversant in the host country language.

—Details on planning. Proposal should show evidence of adequate lead/planning time to ensure a successful exchange.

Proposed Budget

Organizations must submit a comprehensive line item budget for which specific details are available in the application packet.

Allowable costs: Grant-funded expenditures will generally be limited to the following categories:

—In-country travel and per diem, i.e., lodging, meals, clothing maintenance, and incidentals, or stipends.

—Orientation, honoraria, or preparation costs; briefing materials. Honoraria is limited to $150/day/speaker.

—Educational and cultural enrichment activities at a limit of $150 per each program youth participant.

—Tuitions, conference/seminar registration fees, and other program admission fees.

—International travel, normally limited to partial support for Americans traveling to the NIS, Baltic Republics or Central and East Europe, and Central and East Europeans traveling to the U.S. NIS partner organizations should be encouraged to cover international travel.

—Applications should demonstrate substantial cost sharing in both program and administrative expenses.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with the USIA's contracting officer.

Review Criteria

Technically eligible applications will be reviewed according to the following criteria in addition to what has been outlined already in this RFP:

1. Quality of the program plan and adherence of proposed activities to the criteria and conditions described above.

2. Reasonable, Feasible, and Flexible Objectives. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. Multiplier Effect/Impact. Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual linkages.

4. Value to U.S.-Partner Country Relations. Assessments by USIA's geographic area desk, and overseas officers of the need, potential, impact and significance in the partner country(ies).

5. Cost Effectiveness. The overhead and administrative components of grants, as well as salaries and honoraria, should be kept as low as possible. Proposals which utilize grant funds for program rather than administrative costs

will, in general, be more favorably reviewed. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

6. Institutional Capacity. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. Institution's Track Record/Ability. Proposals should demonstrate potential for program excellence and/or track record of applicant institution. The Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants.

8. Follow-on Activities. Proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA supported programs are not isolated events.

9. Evaluation Plan. Proposals should provide a plan for evaluation by the grantee institution.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final awards cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about January 10, 1994. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: May 7, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92–11394 Filed 5–12–93; 8:45 am]

BILLING CODE 8230–01–M

Regional Scholar Exchange Program; Request for Proposals

AGENCY: United States Information Agency.

ACTION: Notice; request for proposals.

SUMMARY: The United States Information Agency (USIA) invites applications for academic exchanges from U.S. not-for-profit organizations engaged in international exchange programs to conduct research exchanges in the humanities and social sciences of pre- and/or post-doctoral students and scholars with Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Both existing and new projects are eligible. Only organizations with at least four years of experience in international exchange activities are eligible to apply. These exchanges are subject to the availability of funding for Fiscal Year 1994.

Support is offered for two categories: Category A, Short-term (defined as being less than six months or the equivalent of one academic semester) and/or Long-term (defined as being at least six months or the equivalent of one academic year) Research Exchanges in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and Category B, Short-term (defined as being less than six months or the equivalent of one academic semester) and/or Long-term (the equivalent of at least six months or one academic year) Research Exchanges in Estonia, Latvia and Lithuania.

Each category has separate conditions and requirements which are stated in this announcement. Institutions may address one or both categories, but must submit a separate proposal for each category. Proposals for Category A may include all 12 countries, or a regional grouping of countries. Proposals for Category B may include one, two or three of the listed countries. The goal of the program is to ensure the broadest geographic distribution in the Newly Independent States, the Baltics, and the U.S. Programs should be for two-way exchanges, although they do not need to be evenly reciprocal. Organizations may request funding for one or both sides of the exchange. Proposals for programs that do not fit into either Category A or B will be considered technically ineligible.

DATES: *Deadline for proposals:* One original and 14 copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, July 30, 1993. Faxed documents will not be accepted, nor will documents postmarked on July 30, 1993, but received at a later date. It is the responsibility of each grant applicant to ensure that its proposals are received by the above deadline.

Grant-funded activity may not begin prior to October 1, 1993. Grants awarded to organizations through this competition should be completed by December 31, 1995. Proposals for exchanges ending after December 31, 1995 will be considered technically ineligible. The Agency reserves the right to extend exchanges after December 31, 1995 for awards granted under the Regional Scholars program.

Duration: Proposals for both categories must provide for at least three-month programs for participants, but must not exceed one year.

ADDRESSES: The original and 14 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, Reference: Regional Scholar Exchange Program, Office of Grants Management, E/XE, room 336, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested U.S. organizations should write or call: Mr. Ted Kniker or Ms. Gina Lemley at the U.S. Information Agency, 301 4th Street, SW., Academic Exchanges Division, European Branch, E/AEE, room 208, Washington, DC 20547; telephone (202) 619–5341, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: Overall authority for these exchanges is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256 (Fulbright-Hays Act). The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and other countries of the world." Pursuant to the Bureau of Educational and Cultural Affairs' authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life. Programs shall also "maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement."

Overview

The Regional Scholar Exchange Program is intended to promote

scholarly research by funding U.S. academic exchanges of pre- and post-doctoral students and scholars (including graduate students, junior faculty, and senior scholars) with Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan; Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Participants must be citizens of the United States, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, or Uzbekistan (Category A) or citizens of the United States, Estonia, Latvia, or Lithuania (Category B). Within the spirit of the Mutual Education and Cultural Exchange Act of 1961, the purposes of the Regional Scholar Exchange Program are (1) to provide access by U.S. scholars to research sources in the countries listed above, (2) to provide access by scholars from these countries to research sources in the United States, and (3) to encourage scholarly cooperation in the humanities and social sciences.

Guidelines

Language Qualifications

For both categories, foreign participants must have sufficient fluency in English and U.S. participants must have sufficient fluency in the language of the host country to be able to conduct research. Escort-interpreters will not be provided, or funded by USIA.

Institutional Commitment

Proposals must include documentation of institutional support for the proposed program in the form of signed letters of endorsement from the U.S. and foreign partners' directors, or in the form of a signed agreement by the same persons. Letters of endorsement must describe each institution's or organization's commitment and make specific reference to the proposed program, each institution's activities in support of that program, and each institution's ability to provide access to archival or manuscript repositories. Documentation of support from governmental ministries or academies will be acceptable when appropriate, replacing individual documentation from each foreign educational institution involved. Applicants must submit this documentation as part of the completed application. Applying institutions are expected to make their own arrangements with the appropriate foreign institutions. National ministries of education and culture and academies of science are included as eligible foreign partner institutions.

Authorization to work in archives, manuscript repositories, and to use research materials is critical for U.S. scholars. Proposals should include evidence of such authorization.

Proposal Narrative

The proposal narrative describing the program must conform to the Guidelines (E/AEE–94–01) and must include any subgrants to be issued. All narratives must describe in detail the abilities of the participating organizations to adapt to the changing exchanges environments in the countries eligible for participation in this program.

Participant Selection

The proposal must include detailed descriptions of the selection processes of participants, both foreign and American. This must include procedures by which selecting officials are named. A goal for this program is to select students and scholars from geographically diverse backgrounds in the home country and place them in wide geographic distribution in the host country.

Categories A and B (Short- and Long-term Research Exchange): All scholars, at a minimum, must be Ph.D. candidates and currently enrolled at a university.

Applying organizations must demonstrate the ability to conduct competitive award programs that are national in scope. Programs must be based on an open, nationwide competition, incorporating peer group review mechanisms. The selection process for U.S. participants must be merit based. Selection criteria for the U.S. participants must be based on: (1) Academic rigor of the participant's proposed project, including a demonstration of the need to study abroad; (2) feasibility of the participant's proposed project, including time-frame and methodology; (3) language proficiency in the language of the host country by the participant; and (4) a solid foundation of background knowledge and research through general literature available in Western repositories.

The selection process for foreign researchers should be merit based and the result of a country-wide or multi-country wide competition. Selection criteria for the foreign participants should be based on: (1) Academic rigor of the participant's proposed project, including a demonstration of the need to study abroad; (2) feasibility of the participant's proposed project, including time-frame and methodology: (3) English language proficiency by the participant; and (4) a solid foundation of background knowledge and research through general literature available in the repositories of the foreign region.

General Requirements

Programs must comply with J visa regulations and should reference this adherence in the proposal narrative. Proposals must comply with reporting and withholding regulations for federal, state and local taxes as applicable. Applicants should demonstrate tax regulation adherence in the proposal narrative and budget notes.

Orientation Programs

Participants should be provided with a substantive and comprehensive orientation to the countries of their visits, and proposals should describe these orientation programs, including costs, in detail.

Proposed Budget

Funding anticipated for Category A is estimated at $1,300,000, which includes all program and administrative costs. Funding anticipated for Category B is estimated at $240,000, which includes all program and administrative costs. The following budgetary guidance applies to both Categories A and B: Project awards to U.S. organizations will be made in a wide range of amounts. The Agency reserves the right to reduce, revise or increase proposal budgets in accordance with the needs of the program. All organizations must submit a comprehensive line-item budget, the details and format of which are contained in the application packet. The budget should list all sources of support for the program for fiscal year 1994, including both cash and in-kind contributions.

Allowable Costs

Grant-funded items of expenditure may include the following categories: Categories A and B:

—International Travel (via American flag carrier);
—Domestic travel;
—Maintenance (lodging, meals, incidental expenses, etc.);
—Stipend (not to exceed $250 per month);
—Academic program costs (e.g. book allowance);
—Orientation costs (speaker honoraria are not to exceed $150 per day per speaker);
—Cultural enrichment expenses (admissions, tickets, etc.; limited to $150 per participant);
—Excursionary travel and lodging for cultural enrichment (not to exceed $200.00 per participant);

—In-country administrative costs (e.g., publicity, recruitment and selection costs)

Medical insurance for the participants will be covered by the U.S. Information Agency, if the Agency funds 50% or more of the total project costs.

*Administrative Costs—Not to Exceed 20% of the Requested Budget**

—Administration (salaries, benefits, communications, other direct costs and indirect costs), including administration of tax withholding and reporting as required by federal, state and local authorities and in accordance with relevant tax treaties.*;

—Taxes and visa fees

Application should demonstrate substantial cost-sharing (dollar and in-kind) in both program and administrative expenses, including tuition waivers and overseas partner contributions.

No grants funded under this program will include profit or fee.

*Please Note: It is required that requested administrative funds, including indirect costs and direct domestic administrative expenses, not exceed 20% of the total amount requested from USIA; administrative expenses should be cost-shared.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet, including the Guidelines for Preparing Proposals (E/AEE–94–01).

It is the responsibility of the applicant to ensure it has a copy of these Guidelines.

Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

a. Quality of program plan, including academic rigor, thorough conception of project, demonstration of meeting participant needs, contributions to understanding the partner country, proposed follow-on, and qualifications of program staff and participants.

b. Feasibility of the program plan and the capacity of the organization to conduct the exchange. Proposals should clearly demonstrate how the institution will meet the program objectives and plan.

c. Track record—relevant Agency and outside assessments of the organization's experience with international exchanges; for organizations that have not worked with USIA before, the demonstrated potential to achieve program goals will be evaluated.

d. Multiplier effect/impact—the impact of the exchange activity on the wider community and on the development of continuing ties, as well as the contribution of the proposed activity in promoting mutual understanding.

e. Value of U.S.—partner country relations—the assessment by USIA's geographic area office of the need, potential impact, and significance of the project with the partner country.

f. Cost-effectiveness—greatest return on each grant dollar. A key measure of cost-effectiveness is the unit cost to the Agency. This is the total request of USIA monies divided by the number of exchangees (people moved). The Agency also reviews the ratio of cost-sharing exhibited. Cost-sharing through other financial support as well as institutional direct and in kind funding contributions is strongly encouraged.

g. Diversity and pluralism (for student programs)—perference will be given to proposals that demonstrate efforts to provide for the participation of students with a variety of major disciplines, from diverse regions, and of different socio-economic and ethnic backgrounds, to the extent feasible for the applicant institutions.

h. Adherence of proposed activities to the criteria and conditions described above.

i. Institutional commitment as demonstrated by financial and other support to the program, including the provision for adequate and appropriate personnel and institutional resources to achieve the program goals.

j. Follow-on Activities—proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA-supported programs are not isolated events.

k. Evaluation plan—proposals should provide a plan for evaluation by the grantee institution to determine the success of the project.

l. Geographic diversity—the Agency will seek to achieve maximum geographic diversity in selection and placement of participants through its award of grants.

Options for Renewal

Subject to the availability of funding and the satisfactory performance of grant programs, USIA may invite grantees to submit proposals for renewals of awarded grants.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative Explanatory information provided by the Agency that contradicts published language will not be binding.

Issuance of this request for proposals does not constitute an award commitment on the part of the government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified in writing of the results of the review process on or about September 30, 1993 All funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: May 6, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–11135 Filed 5–12–93; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development; Meetings

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Public Law 92–463 that an advisory committee meeting of the Scientific Review and Evaluation Board for Health Services Research and Development will be held at The Inn at Childrens, 342 Longwood Avenue, Boston, Massachusetts, on June 7–9, 1993. The meeting scheduled for June 7 will convene at 3 p.m. and adjourn at 6:45 p.m. Meetings scheduled for June 8 and 9 will convene at 8:30 a.m. and adjourn at 5:15 p.m. on June 8 and on June 9 at 3 p.m. The purpose of the meetings will be to review research and development applications concerned with the measurement and evaluation of

health care systems and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit and recommendations regarding their funding are prepared for the Associate Chief Medical Director for Research and Development.

The meeting will be open to the public (to the seating capacity of the room) at the start of the June 7th session for approximately one hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meetings involves: Discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mrs. Carolyn Smith, Program Analyst, Health Services Research and Development Service, 810 Vermont Avenue, NW., Washington, DC 20420, (phone: 202/535–7158) at least 5 days before the meetings.

Dated: May 4, 1993.

Heyward Bannister,

Committee Management Officer

[FR Doc. 93–11314 Filed 5–12–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 91
Thursday, May 13, 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 ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 93–10910.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 13, 1993, 10:00 a.m., Meeting Open to the Public.
This Meeting Has Been Canceled.

DATE AND TIME: Tuesday, May 18, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 20, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
FY 1993 Management Plan Reallocation.
Report from FEC Press Office.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,
Administrative Assistant.

[FR Doc. 93–11553 Filed 5–11–93; 3:21 p.m.]
BILLING CODE 6715–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 27771, May 11, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12:00 noon, Monday, May 17, 1993.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Proposed acquisition of currency authentication equipment.

CONTACT PERSON FOR MORE INFORMATION:. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: May 11, 1993.

William W. Wiles,
Secretary of the Board.

[FR Doc. 93–11499 Filed 5–11–93; 12:13 pm]
BILLING CODE 6210–01–P

Corrections

Federal Register
Vol. 58, No. 91
Thursday, May 13, 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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560-AC70

Grain and Similarly Handled Commodities: Farmer-Owned Reserve Program for Wheat

Correction

In rule document 92-31846 beginning on page 62473 in the issue of Thursday, December 31, 1992 make the following correction:

§ 1421.217 [Corrected]

On page 62474, in the first column, in amendatory instruction 3., in the next to last line, "1412.740" should read "1421.740".

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-344]

Certain Cutting Tools for Flexible Plastic Conduit and Components Thereof; Notice of Commission Determination Not to Review and Initial Determination Amending the Complaint and Notice of Investigation To Delete a Claim

Correction

In notice document 93-9646 appearing on page 21994 in the issue of Monday, April 26, 1993, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8470]
RIN 1545-AR21

Intercompany Transfer Pricing Regulations Under Section 482

Correction

In rule document 93-1109 beginning on page 5263 in the issue of Thursday, January 21, 1993, make the following corrections:

1. On page 5267, in the first column, in the second full paragraph, in the seventh line from the bottom, "Sections 1.842-1T(d)(1)" should read "Sections 1.482-1T(d)(1)".

2. On page 5269, in the third column, in the last paragraph, in the third line, "Section 1.4824T(e)(1)" should read "Section 1.482-4T(e)(1)".

3. On page 5270, in the third column, in the second full paragraph, in the second line, "§ 1.4825T(d)(ii)" should read "§ 1.482-5T(d)(ii)", and in the ninth line, "§ 1.4825T(c)(2)" should read "§ 1.482-5T(c)(2)".

4. On the same page, in the same column, in the third full paragraph, in the eighth line, "grass" should read "gross".

§ 1.482-1T [Corrected]

5. On page 5274, in the 2d column, in § 1.482-1T(c)(2)(iv), in the 11th line, "§§ 1.482-T" should read "§§ 1.482-2T".

6. On page 5276, in the 3d column, in § 1.482-1T(d)(1)(ii)(A), in the 14th line, "appreciate" should read "appropriate".

7. On page 5277, in the 1st column, in § 1.482-1T(d)(2)(i)(A), in the 16th line, "fails" should read "falls".

8. On page 5280, in the second column, in § 1.482-1T(e)(3)(iii)(B), in the fourth line, insert "and" after "Tax".

§ 1.482-3T [Corrected]

9. On page 5285, in the first column, in § 1.482-3T(c)(4), in Example 6., (ii), in the table, under the heading "A", in the second entry, "(2)" should read "(2)", and in the fourth entry, "(3)" should read "(3)". In addition, under the heading "B", in the third entry, "(1)" should read "(1)"; in the fifth entry, "(3)" should read "(3)"; and in the sixth entry, "(1)" should read "(1)". Finally, under the heading "C", in the fifth and sixth entries, "(1)" should read "(1)".

10. On the same page, in the second column, in the same section, in Example 8., (ii), in the table, under the heading "A", in the second entry, "(2)" should read "(2)". In addition, under the heading "B", in the third entry, "(1)" should read "(1)"; in the fifth entry, "(3)" should read "(3)"; and in the sixth entry, "(1)" should read "(1)". Finally, under the heading "C", in the fifth and sixth entries, "(1)" should read "(1)".

11. On the same page, in the third column, in the same section, in Example 11., (i), in the fifth line, "significant systems engineering" " should read "significant "systems engineering" ", and in the ninth line, "to diskette" should read "the diskette".

§ 1.482-5T [Corrected]

12. On page 5290, in the 3d column, in § 1.482-5T(d)(1), in the 15th line, "comparable profits," should read "comparable profits method,".

BILLING CODE 1505-01-D

federal register

Thursday
May 13, 1993

Part II

Department of Education

34 CFR Part 378

Projects for Initiating Special Recreational Programs for Individuals With Disabilities; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 378

RIN 1820–AB22

Projects for Initiating Special Recreational Programs for Individuals With Disabilities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations implementing the Projects for Initiating Special Recreational Programs for Individuals with Disabilities program in order to implement changes made by the Rehabilitation Act Amendments of 1992. The proposed regulations would add new application requirements, provide for increasing matching requirements during the period of grant assistance, expand the types and purpose of activities that may be carried out, require that grantees advise applicants for and recipients of project services of the availability of assistance under the State Client Assistance Program, and add reporting requirements as a condition for continuation funding.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Ann Queen, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3038, Switzer Building, Washington, DC 20202–2575.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Thomas E. Finch, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3315, Switzer Building, Washington, D.C. 20202–2650. Telephone: (202) 205–9796. Deaf and hearing impaired individuals may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These proposed regulations would implement changes in statutory provisions of the special recreational discretionary grant program as authorized in Title III, section 316 of the Rehabilitation Act of 1973 (Act), as amended by the Rehabilitation Act Amendments of 1992 (Pub. L. 102–569), enacted October 29, 1992.

The purpose of this program is to initiate special programs to provide individuals with disabilities with recreational activities and related experiences that can be expected to aid in their employment, mobility, socialization, independence, and community integration. Whenever possible and appropriate, these programs and activities are to be provided in settings with peers who are not individuals with disabilities.

This program supports the National Educational Goals. Specifically, the program addresses Goal Five, which calls for every adult American to be literate and to possess the skills necessary to compete in a global economy, by providing improved vocational rehabilitation opportunities for an increased number of people with disabilities.

Summary of Major Statutory Provisions

The following is a summary of the major statutory revisions related to this program.

- Section 21(b)(5) of the Act authorizes the Secretary to require applicants for grant assistance under the Act, if appropriate, to demonstrate how they will address the needs of individuals with disabilities from minority backgrounds. The proposed regulations address this provision in § 378.3(a)(4).
- Section 316(a)(1) of the Act includes "employment" as an outcome of the program and "vocational skills development" as an authorized activity of the program. The proposed regulations would implement these changes in §§ 378.1 and 378.6(b).
- Section 316(a)(2) limits the grant period to not more than three years without renewability, but provides an exception if the Secretary determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.

The proposed regulations incorporate this provision in § 378.30.

The Secretary is not proposing regulations at this time to implement the renewal authority. Renewal awards would be made, at the earliest, in fiscal year 1996, three years after fiscal year 1993 new awards under this program. The Secretary is considering the development of separate selection criteria to govern the review of renewal applications. The Secretary is particularly interested in soliciting public comment on the best way to implement in selection criteria the renewal standards set forth in the statute. For example, what should be the standard for assessing whether a project's recreational program is innovative and of exceptional merit?

- Section 316(a)(4)(A) and (B) requires that each applicant provide in its application a description of the manner in which it will disseminate project findings and results and the means by which it will continue the service program after Federal assistance ends. These application requirements are added to the regulations in proposed § 378.3(a) (1) and (3).
- Section 316(a)(3) of the Act requires that each grant agreement contain provisions to assure that, to the greatest extent possible, existing resources be used to carry out activities under the grant. The proposed regulation would implement this requirement as an application assurance in § 378.3(b). The Secretary considers existing resources to include existing equipment or supplies that are already available to the grantee and that could be used to assist in carrying out project activities. The intent of this provision is to prevent grant funds, irrespective of the percentage of project costs they are paying for in a given year, from duplicating existing resources.
- Section 316(a)(5) requires grantees to maintain at a minimum the same level of services over a three-year project period notwithstanding an incremental decline in the Federal share of project costs. This requirement is implemented in proposed § 378.32(a).
- Section 316(a)(7) provides that the Secretary requires each recipient of a grant to annually prepare and submit a report on the results of grant activities as a condition of continuation assistance. This requirement is added to the regulations in proposed § 378.32(b).
- Section 316(a)(9) requires the grantee to share in the costs of the program; the Federal share is set at 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year. This requirement is implemented in § 378.31 of the proposed regulations.

Summary of Major Regulatory Provisions

The following is a summary of the major provisions of the proposed regulations that interpret statutory text or provide rules and procedures for the operation of the program that were not included in the statutory text. Commenters are encouraged to focus their comments on these provisions of the proposed regulations.

- Section 378.20 contains the selection criteria the Secretary proposes to use to evaluate each application. The

criteria and point assignments reflect programmatic changes made by the Rehabilitation Act Amendments of 1992.

The criterion entitled "Relevance to State-Federal service programs funded under the Rehabilitation Act" has been eliminated, and a revised criterion on "Impact of the project" has been added, which assesses the extent to which, and the manner in which, the project's recreational program will improve the employment, mobility, socialization, independence, and community integration skills of the individuals it proposes to serve.

The criteria on "Plan for sustaining the program after the project period" and the "Plan for dissemination of findings and results of the project" have been added to evaluate the extent to which these new statutory program application requirements are satisfactorily addressed by the applicant.

• Proposed § 378.32(c) incorporates the provision in section 20 of the Act requiring service programs under the Act to advise individuals with disabilities, or their families or authorized representatives, of the availability and purposes of the Client Assistance Program (CAP). Although the statute is not clear as to whether applicants for services, as well as recipients, are covered by this provision, since CAP provides assistance to applicants for and recipients of services under the Act, the Secretary proposes to require grantees to advise both applicants and recipients of the purposes and availability of CAP.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small private nonprofit agencies receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small private nonprofit agencies affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 378.3, 378.20, and 378.32 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

States and other public agencies and private nonprofit agencies and organizations are eligible to apply for grants under these regulations. The Department needs the information about the grantee's plan to disseminate the findings and results of the project in order to ensure maximum accountability for the purposes of this grant program and to make most effective use of grant funds. The Department needs and uses the information about a current year's grant results to enable the Secretary to determine whether financial assistance is to be made available for a subsequent year and to prepare the annual report of findings and results of projects funded under the program.

Annual public reporting and recordkeeping burden for this collection of information is estimated to average 35 hours for 30 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3315 Switzer Building, 330 "C" Street, SW., Washington, DC, between the hours of 8:30 a.m., and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 378

Education, Grant programs—recreation, Recreation, Disability or individuals with disabilities, Reporting and recordkeeping requirements.

Dated: May 7, 1993.

(Catalog of Federal Domestic Assistance Number 84.128J, Projects for Initiating Special Recreational Programs for Individuals with Disabilities)

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 378 to read as follows:

PART 378—PROJECTS FOR INITIATING SPECIAL RECREATIONAL PROGRAMS FOR INDIVIDUALS WITH DISABILITIES

Subpart A—General

Sec.

378.1 What is the Projects for Initiating Special Recreational Programs for Individuals with Disabilities program?
378.2 Who is eligible for an award?
378.3 What are the application requirements?
378.4 What regulations apply?
378.5 What definitions apply?
378.6 What types of projects may the Secretary fund?

Subpart B—How Does the Secretary Make an Award?

378.20 What selection criteria does the Secretary use?

Subpart C—What Conditions Must Be Met After an Award?

378.30 What is the duration of grants?
378.31 What are the matching requirements?
378.32 What are the additional requirements for grantees?

Authority: 29 U.S.C. 711(c) and 777(f), unless otherwise noted.

Subpart A—General

§ 378.1 What is the Projects for Initiating Special Recreational Programs for Individuals with Disabilities program?

This program is designed to initiate special programs to provide individuals with disabilities with recreational activities and related experiences that can be expected to aid in their employment, mobility, socialization, independence, and community integration. If possible and appropriate, these programs and activities are to be provided in settings with peers who are not individuals with disabilities.

(Authority: Sec. 316 of the Act; 29 U.S.C. 711(c) and 777(f))

§ 378.2 Who is eligible for an award?

States and other public agencies and private nonprofit organizations are eligible to receive a grant under this program.

(Authority: Secs. 12(e) and 316 of the Act; 29 U.S.C. 711(c) and 777(f))

§ 378.3 What are the application requirements?

Each grant application must include—

(a) A description of—

(1) The manner in which the findings and results of the project will be disseminated to the interested public, especially to State and private rehabilitation agencies and organizations, to university-based leisure and recreation programs, to community recreation providers, and to related professional associations. The methods of dissemination may include, but are not limited to, videos, presentations, manuals, and newsletters;

(2) If applicable, the extent to which any service program for which the applicant has received funding previously under this part has been continued or will be continued after Federal funding ends;

(3) The means by which the service program proposed in the application will be continued after Federal funding ends; and

(4) The manner in which the applicant will address the needs of individuals with disabilities from minority backgrounds.

(b) An assurance that each project, to the greatest extent possible, will use existing resources and facilities to carry out the recreational activities provided by the project.

(Authority: Secs. 21(b)(5) and 316(a)(4) of the Act; 29 U.S.C 718b and 777(f))

§ 378.4 What regulations apply?

The following regulations apply to the Projects for Initiating Special Recreational Programs for Individuals with Disabilities program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 378.

(c) The regulations in 34 CFR part 369.

(Authority: Sec. 316 of the Act; 29 U.S.C. 777(f))

§ 378.5 What definitions apply?

The definitions in 34 CFR part 369 apply to this program.

(Authority: Sec 12(c) of the Act; 29 U.S.C. 777(c))

§ 378.6 What types of projects may the Secretary fund?

(a) This program supports projects that initiate programs of recreational services and related experiences for individuals with disabilities.

(b) Activities carried out under this program may include, but are not limited to, arts, music, handicrafts, homemaking, camping, dance, 4–H activities, scouting, physical education and sports, vocational skills development, leisure education, leisure networking, leisure resource development, and related recreational activities designed—

(1) To aid in employment; and

(2) To maximize mobility, socialization, independence and community integration.

(Authority: Sec. 316 of the Act; 29 U.S.C. 777(f))

Subpart B—How Does the Secretary Make an Award?

§ 378.20 What selection criteria does the Secretary use?

(a) *Impact of the project* (15 points).

(1) The Secretary reviews each application to determine the extent to which the proposed project provides individuals with disabilities with recreational activities and related experiences that will enhance their employment, mobility, socialization, independence, and community integration skills.

(2) The Secretary looks for information that shows—

(i) The number of individuals with disabilities expected to be served;

(ii) The types of individuals with disabilities expected to be served;

(iii) The types of recreational activities expected to be available; and

(iv) How the proposed recreational activities and related experiences will improve the employment, mobility, socialization, independence, and community integration skills of the individuals with disabilities to be served.

(b) *Plan of operation* (25 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purposes of the program to initiate special programs to provide individuals with disabilities with recreational activities and related experiences that can be expected to aid in their employment, mobility, socialization, independence, and community integration;

(ii) Are attainable within the project period given the project's budget and other resources;

(iii) Are objective and measurable for purposes of evaluation; and

(iv) Include specific objectives to be met during each budget period that can be used to determine the progress of the project toward meeting its intended outcomes;

(3) The extent to which the plan of management is effective and ensures

proper and efficient administration of the project;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective and intended outcome during the period of Federal funding;

(5) The extent to which the applicant's plan identifies the numbers of eligible clients by type of disability and the numbers of clients with severe disabilities available to participate in the project;

(6) The extent to which the applicant plans to conduct outreach activities to recruit participants;

(7) The extent to which the applicant's plan ensures that individuals who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disabling condition; and,

(8) The extent to which project activities are provided in settings with peers who are not individuals with disabilities.

(c) *Quality of key personnel* (10 points). The Secretary reviews each application to determine the quality of the key personnel proposed for the project, including—

(1) The relevant experience and training of the project director;

(2) The relevant experience and training of each of the other key personnel to be used on the project;

(3) The amount of time that each key person will commit to the project; and

(4) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(i) Persons with disabilities;

(ii) The elderly;

(iii) Women; and

(iv) Members of racial or ethnic minority groups.

(d) *Budget and cost effectiveness* (10 points). The Secretary reviews each application to determine whether—

(1) The budget for the project is adequate to support the project activities and the Federal matching requirements;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) The application contains sufficient information on how the project will meet its matching requirement and increase its share of project costs during the project period, including an identification of the sources and amounts of matching funds.

(e) *Evaluation plan* (15 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project;

(2) Will determine how successful the project is in meeting its intended outcomes; and

(3) Are objective and produce data that are quantifiable.

(f) *Adequacy of resources* (5 points). The Secretary reviews each application for information to determine that the applicant plans to devote adequate resources to the project, including—

(1) The facilities that the applicant plans to use;

(2) The equipment and supplies that the applicant plans to use; and

(3) The recordkeeping capabilities of the applicant for financial and evaluation purposes.

(g) *Plan for dissemination of findings and results of the project* (10 points). The Secretary reviews each application to determine the quality of its plan to disseminate the findings and results of the project to the interested public to facilitate replication in other locations.

(h) *Plan for sustaining the program after the project period* (10 points). The Secretary reviews each application to determine the quality of its plan to sustain the project after the termination of Federal grant support.

(Authority: Secs. 12(c), 306(h), and 316 of the Act; 29 U.S.C. 711(c) and 777(f))

Subpart C—What Conditions Must Be Met After an Award?

§ 378.30 What is the duration of grants?

Grants under this program shall be for a maximum period of three years unless renewed in accordance with the criteria in section 316(a)(2) of the Act.

(Authority: Secs. 12(c) and 316 of the Act; 29 U.S.C. 711(c) and 777(f))

§ 378.31 What are the matching requirements?

The Federal share of the costs of activities under this program is 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.

(Authority: Secs. 12(c) and 316 of the Act; 29 U.S.C. 711(c) and 777(f))

§ 378.32 What are the additional requirements for grantees?

(a) Recreational projects funded under this program must maintain, at a minimum, the same level of services over a three-year project period.

(b) Each grantee under this program shall prepare and submit annually to the Secretary a report on the results of its grant activities, including any other information the Secretary may require, as part of its application for continuation assistance.

(c) Each grantee shall advise applicants for and recipients of services under its project or, as appropriate, the parents, family members, guardians, advocates, or authorized representatives of these individuals, of the availability and purposes of the State Client Assistance Program, including information on seeking assistance from that program.

(Authority: Secs. 12(c) and 316 of the Act; 29 U.S.C. 711(c) and 777(f))

[FR Doc. 93–11287 Filed 5–12–93; 8:45 am]

BILLING CODE 4000–01–U

federal register

Thursday
May 13, 1993

Part III

Department of Labor

Office of the Secretary

Grant Applications for the Nontraditional Employment for Women Demonstration Programs; Notice

DEPARTMENT OF LABOR

Office of the Secretary

Women's Bureau: Announcement of Competition for Grant Applications for the Nontraditional Employment for Women (NEW) Act Demonstration Programs for Fiscal Year 1993

AGENCY: Office of the Secretary, Women's Bureau, Labor.

ACTION: Notice.

SUMMARY: The National Office (Washington, DC) of the Women's Bureau, U.S. Department of Labor, announces the second year (Fiscal Year 1993) of competition to award up to six (6) grants to States for conducting demonstration projects which provide women with a wider range of training opportunities in nontraditional fields.

The Act established a four-year, $6 million demonstration program to assist States in the development of exemplary programs that train and place women in nontraditional occupations, with special emphasis on growth occupations with increased wage potential. Funded by the Job Training Partnership Act (JTPA), the intent of the demonstration grant program is to make the JTPA system more responsive to women in its broad array of training and job placement nontraditional to women. The Women's Bureau will encourage the institutionalization of such training and placement in the JTPA system. The Bureau further encourages State applicants to seek the assistance of experienced service providers of nontraditional training and job placement to women, particularly women service providers. Finally in developing the State plan or application for grant, that the State should consider bringing together related employment and training support agencies and groups—i.e., education, transportation, child care and welfare—to promote the coordination and linkages with the JTPA system both required by the demonstration grants and important to the continuity and success of women in nontraditional training and job placement.

The Department of Labor, the Women's Bureau, is to award from funds available under title IV of JTPA, $1.5 million per year for Fiscal Years 1992, 1993, 1994 and 1995; as stated in the opening paragraph, up to six grants per year may be awarded to States. Six grants were awarded in Fiscal 1992. Therefore, the Bureau expects the individual grant awards for fiscal year 1993 to average $250,000 and to range approximately between $200,000 and $300,000. The State is the eligible applicant for a NEW demonstration grant award. The Governor of each State, as is the case with JTPA titles II and III, is the recipient of awards under the NEW Act. Governors in turn designate an agency at the State level to administer JTPA for the State; that agency can apply for the NEW grants on behalf of the Governor and the State.

DATES: Grant applications which request funding in FY 1993 must be received by close of business (4:45 p.m., Eastern Daylight Savings Time) Thursday, August 12, 1993, or be postmarked by the U.S. Postal Service on or before that date. Applications received after the deadline will be considered to be nonresponsive and will not be reviewed.

ADDRESSES: A State's operating entity for JTPA (as described above) interested in submitting a grant application for review under this competition must request in writing a copy of Solicitation for Grant Application (SGA) #93–03 from the Office of Procurement Services, U.S. Department of Labor, 200 Constitution Avenue NW., room S–5220, Washington, DC 20210, Attention: Ms. Phyllis McMeekin.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis McMeekin, at the above address or on 202–219–6445.

SUPPLEMENTARY INFORMATION:

I. Background

The Women's Bureau and the Employment and Training Administration are the co-administering agencies in the Department of Labor for the Nontraditional Employment for Women (NEW) Act, Public Law 102–235. NEW amended the Job Training Partnership Act (JTPA) to promote a wider range of training opportunities for women under existing JTPA programs; to provide incentives for the establishment of programs that train, place and retain women in nontraditional fields; and to facilitate coordination of JTPA and vocational education resources available for training and placing women in nontraditional employment.

The Women's Bureau has direct responsibility for administering the Demonstration Program established by the NEW Act. The Act established a four-year, $6 million demonstration program to assist States in the development of exemplary programs that train and place women in nontraditional occupations, with special emphasis on growth occupations with increased wage potential. From funds available under title IV of JTPA, the Department is to award $1.5 million per year for Fiscal Years 1992, 1993, 1994 and 1995; as stated in the opening paragraph, up to six grants per year may be awarded to States.

The Demonstration Program will illustrate and test how the JTPA System can be made more responsive to women over a broad array of training and employment opportunities available under JTPA. While there is a wide array of nontraditional training programs for women across the country, such programs have often closed because of unstable funding problems. Thus, the impetus of the demonstration program grants is an attempt to integrate these employment programs and policies into the ongoing JTPA system to ensure that JTPA-eligible women will be adequately served in all JTPA programs, particularly high-skill nontraditional training programs and placements that have the potential of high-paying employment. The NEW Act Demonstration Program provides States with an opportunity to develop exemplary programs to place women in nontraditional employment. These programs also provide for coordination, dissemination of information, and the institutionalization of nontraditional training and placement in the JTPA system through replication of exemplary model programs and technical assistance.

The first year of competition (Fiscal Year 1992) began in September 1992 with the publication in the **Federal Register** of Solicitation for Grant Application (SGA) #92–01. Thirty-eight proposals were received in response to the SGA. A technical review panel evaluated all proposals and made funding recommendations to the Secretary based on those evaluations. On January 19, 1993, grants were awarded to the States of Washington, Maryland, Wyoming, Texas and Louisiana, and to the District of Columbia. All six of the demonstration programs became operational by March 1, 1993.

II. Eligible Applicants

The State is the eligible applicant for a NEW demonstration grant award. The Governor of each State, as is the case with JTPA titles II and III, is the recipient of awards under the NEW Act. Governors in turn designate an agency at the State level to administer JTPA for the State; that agency can apply for the NEW grants on behalf of the Governor and the State.

III. Funding Levels

The Department expects to make six awards to States, the maximum allowed under the NEW Act. Proposal (i.e., grant

application) funding requests should average $250,000 and may range between $200,000 and $300,000. The total funding level is $1.5 million.

IV. Program Design—Key Features

The grants for which States are competing shall have the following principal features:

1. State's Involvement in Development of the Proposal and Implementation of the Demonstration Program

The Women's Bureau intends for the State to be an active participant in the development of the proposed program activities and in the implementation of the demonstration program once a grant has been awarded. Therefore, applicants should describe the activities conducted by the State, whether through the State JTPA liaison, the State JTPA agency, or both for proposal development and program implementation and how the proposal is expected to impact, enhance and/or expand the training and employment opportunities for women under the existing JTPA program and system.

2. Linkages and Coordination

The NEW Act calls for coordination between JTPA and other resources available (Federal and/or State) for training women in nontraditional employment, both in the Governor's Coordination and Special Services Plan (GCSSP) developed for title IIA and for the demonstration grants. Therefore, any linkages and collaborative efforts that exist (a) between JTPA and other programs, such as registered apprenticeship programs or the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins); (b) between JTPA and other entities, such as federal and/or state contractors or state agencies responsible for work that is nontraditional for women (such as highway construction); of (c) other linkages established specifically for purposes of this demonstration, which must be clearly identified and defined, including those articulated in the GCSSP for title IIA. In addition, the Department expects that the private sector, in their roles as members of Private Industry Councils (PICs), employers or members of Apprenticeship Committees will be called upon to play a strategic role in the design and/or delivery of training, and certainly in the placement of participants. For this reason, the level of private sector involvement in the development and implementation of training programs under NEW must also be clearly identified.

3. Existing Efforts and/or New Initiatives

Program activities funded under this grant may consist of new initiatives, further development of existing programs, or a combination. Therefore, proposals shall describe any new initiatives to be implemented through this grant; the demonstrated effectiveness of existing programs in achieving the goals of the NEW Act and the enhancements to be undertaken under this grant; and, in cases where the programmatic approach calls for a combination of new and existing programs, a description of how the new activities and existing programs will complement each other and enhance the JTPA System.

4. Measurable and Attainable Goals

Proposals shall describe expected impacts on participants as a result of the training programs. These impacts shall be measurable and attainable and may include awareness/orientation sessions to increase women's knowledge of opportunities in nontraditional occupations, attainment of training competencies, placement in registered apprenticeship training, completion of training, wage at placement, occupation at placement, and retention in employment. The discussion shall also include information on whether the proposed grant amount is sufficient to accomplish measurable goals; if, in linking with other programs, additional financial resources are expected, the proposal shall identify the source(s) of funds and their intended use.

5. Initiatives Continued Beyond Grant Period

As previously mentioned, it is the Department's intent that activities funded under the NEW Act lead to systemic changes that institutionalize nontraditional training within JTPA and a specified geographic area. Proposals shall indicate the strategies to be used to encourage and promote the continuation of activities once the NEW demonstration grant support has ended.

6. Replication and Dissemination

The Department believes that one way of encouraging and promoting institutionalization of nontraditional training within a grantee's area is to plan for replication of successful programs and to disseminate information about both the demonstration and existing model programs. For that reason, proposals shall include a discussion on the extent to which the State is prepared to accomplish dissemination of information and the extent to which they are prepared to produce materials for replication of the demonstration programs.

A State's operating entity for JTPA (as described above in II. Eligible Applicants) interested in submitting a grant application for review under the FY 1993 competition should request a copy of SGA #93–03 from the Office of Procurement Services, U.S. Department of Labor, 200 Constitution Avenue NW., room S–5220, Washington, DC 20210, Attention: Ms. Phyllis McMeekin.

Signed at Washington, DC, this 7th day of May 1993.

Delores L. Crockett,

Acting Deputy Director, Women's Bureau.

[FR Doc. 93–11320 Filed 5–12–93; 8:45 am]

BILLING CODE 4510–23–M

federal register

Thursday
May 13, 1993

Part IV

Department of Defense

48 CFR Parts 201, 206, et al.
Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments; Interim and Final Rules

DEPARTMENT OF DEFENSE

48 CFR Parts 201, 206, 207, 209, 215, 217, 219, 222, 223, 225, 227, 228, 231, 233, 235, 237, 239, 252, and 253

[Defense Acquisition Circular (DAC) 91–5]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Interim rules with request for comment and final rules.

SUMMARY: Defense Acquisition Circular (DAC) 91–5 amends the Defense FAR Supplement (DFARS) to revise or add language on contracting officer qualifications, convicted felons, authority for other than full and open competition, competitive prototyping of major weapon systems, acquisition plans for major defense acquisition programs, award to foreign controlled contractors, made in America labels, multiyear contracts, certificate of competency, Subcontracting Plan Test Program, nonprofit agencies for blind or other severely disabled, small business subcontracting plan, bond waiver for 8(a) contractors, Small Business Competitiveness Demonstration Program, Pilot Mentor Protege Program, listing of employment openings, closure of military installations, hazardous waste disposal, storage and disposal of toxic and hazardous materials, Examination of Records clause, restrictions on food, clothing, fabrics, and specialty metals, restriction on manual typewriters, carbonyl iron powders, night vision image intensifier tubes, carbon, alloy, or armor steel plate, four ton dolly jacks, antifriction bearings, performance outside the United States, Small Business Innovative Research Program, environmental surety bonds, overseas severance costs, legislative lobbying costs, penalties for unallowable costs, contracting officer final decisions, certification of contract claims, contracting with universities and other institutions of higher learning, fixed price research and development, federally funded research and development centers (FFRDCs), master agreements, major automated information systems, and contracting responsibility for industrial plant equipment.

DATES: Effective date April 30, 1993.

Comment Date: Comments on the Interim Rules should be submitted in writing to the address shown below on or before June 14, 1993

Item VII, Award to Foreign Controlled Contractors, subpart 209.1 and sections 225.702 and 252.209–7002;

Item VIII, Made in America Labels, sections 209.406–2 and 209.406–4;

Item X, Certificate of Competency, sections 219.602–1 and 252.219–7009;

Item XIII, Small Business Subcontracting Plan, sections 209.106–2, 215.605, and 219.705–2(d);

Item XV, Small Business Competitiveness Demonstration Program, sections 219.501–1, 219.502–2, and 219.1006;

Item XX, Storage and Disposal of Toxic and Hazardous Materials, subpart 223.71 and section 252.223–7006;

Item XXVII, Four Ton Dolly Jacks, sections 225.7018 and 252.225–7033;

Item XXVIII, Antifriction Bearings, subpart 225.71 and sections 225.7019, 252.225–7016, and 252.225–7025;

Item XXIX, Performance Outside the United States, subpart 225.72 and section 252.225–7026;

Item XXX, Small Business Innovative Research Program, sections 227.405–79 and 252.227–7013;

Item XXXII, Overseas Severance Costs, sections 231.205–6, 237.171, 252.237–7020, and 252.237–7021;

Item XXXIII, Legislative Lobbying Costs, section 231.205–22(a);

Item XXXIV, Penalties for Unallowable Costs, subpart 231.70; and

Item XXXVI, Certification of Contract Claims, subpart 233.70 and 252.233–7000.

ADDRESSES: To be considered in formulating the final rules, comments should be submitted to: Defense Acquisition Regulations Directorate, ATTN: Michele Peterson, Items VII, XX, and XXIX; Valorie Lee, Item VIII; Alyce Sullivan, Items X, XIII, XV, XXVII, and XXVIII; Linda Neilson, Item XXX; Eric Mens, Items XXXII, XXXIII, XXXIV, and XXXVI; 3062 Defense Pentagon, Washington, DC 20301–3062. Please include the appropriate DFARS case number in all correspondence as follows:

Item	DFARS case
VII	92–D349
VIII	92–D329
X	92–D334
XIII	92–D333
XV	93–D302
XX	92–D361
XXVII	92–D328
XXVIII	92–D366
XXIX	92–D349
XXX	93–301
XXXII	92–D359
XXXIII	92–D316
XXXIV	92–D343
XXXVI	92–D339

FOR FURTHER INFORMATION CONTACT: Ms. Lucile Martin, or the above individuals, telephone (703) 697–7266.

SUPPLEMENTARY INFORMATION

A. Determination to Issue Interim Rules

A determination has been made under authority of the Secretary of Defense to issue the rules in Items VII, VIII, X, XIII, XV, XX, XXVII, XXVIII, XXIX, XXX, XXXII, XXXIII, XXXIV, and XXXVI of DAC 91–5 as interim rules. Compelling reasons exist to promulgate these rules without prior opportunity for public comment. However, public comments received in response to publication of these rules will be considered in formulating the final rules.

B. Background

One of the rules in DAC 91–5 (Item XLII, Recoupment of Nonrecurring Costs) was published in the **Federal Register** on March 31, 1993 (58 FR 16782), with correction on April 8, 1993 (58 FR 18448). This Item is being published in the DAC to revise the looseleaf edition of DFARS to conform to the previously published revisions.

C. Regulatory Flexibility Act

DAC 91–5, Items I, II, III, IV, V, VI, IX, XI, XII, XVII, XIX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXXV, XXXVII, XXXVIII, XXXIX, XL, XLI, XLIII, XLIV

The Regulatory Flexibility Act does not apply because these rules are not significant revisions within the meaning of Public Law 98–577. However, comments from small entities will be considered in accordance with section 810 of the Act. Such comments must be submitted separately. Please cite DFARS Case 93–610 in correspondence.

DAC 91–5, Items XIV, XVI, XVIII

DoD certifies that these rules will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because:

Item XIV—the number of small disadvantaged businesses unable to obtain security bonds is not significant in terms of all small businesses.

Item XVI—it does not diminish any preference accorded small businesses, but instead increases incentives for mentor firms to provide assistance to small businesses.

Item XVIII—the rule will benefit contractors by providing a pool of qualified personnel to fill job openings.

DAC 91–5, Item XXXI

The Regulatory Flexibility Act applies. A final regulatory flexibility analysis has been performed and is

available by writing the Defense Acquisition Regulations Directorate, ATTN: Ms. Valorie Lee, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301–3062.

DAC 91–5, Item XXXVI

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, applies because the interim rule may have a significant economic impact on a substantial number of small entities. However, an initial regulatory flexibility analysis has not been prepared because the interim rule is expected to significantly benefit small entities by clarifying existing policies and procedures for contractor certification of claims, thereby reducing the need for costly litigation which has arisen under the current regulations. Moreover, the regulatory impact on small entities flows directly from section 813(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484), which sets forth minimum criteria for certification requirements under 10 U.S.C. 2410e. Comments from small entities concerning the affected DFARS subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 610 (DFARS Case 92–D339) in correspondence.

DAC 91–5, Items VII, VIII, X, XIII, XV, XX, XXVII, XXVIII, XXIX, XXX, XXXII, XXXIII, XXXIV, XXXVI

The Regulatory Flexibility Act applies but is not expected to have a significant impact on a substantial number of small entities. Moreover, the regulatory impact flows directly from statute for these rules. However, all comments received in response to this notice will be considered in formulating the final rules.

D. Paperwork Reduction Act

DAC 91–5, Items I through VI, VIII through XXVIII, XXX through XLI, XLIII and XLIV

The Paperwork Reduction Act does not apply because the revisions in this rulemaking notice do not contain and/or affect information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

DAC 91–5, Items VII and XXIX

The Paperwork Reduction Act applies. A request for clearance has been submitted to OMB.

List of Subjects in 48 CFR Parts 201, 206, 207, 209, 215, 217, 219, 222, 223, 225, 227, 228, 231, 233, 235, 237, 239, 252, and 253

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulations Council.

Defense Acquisition Circular (DAC) 91–5 amends the Defense FAR Supplement (DFARS) 1991 edition, prescribes procedures to be followed, and provides informational interest items. The amendments, procedures, and information are summarized as follows:

Item I—Contracting Officer Qualifications

DFARS 201.603–2 is revised to correct the grandfather provisions for contracting officer qualifications and to add information on waivers.

Item II—Convicted Felons

A new paragraph (h) is added to the clause at DFARS 252.203–7001 to provide a telephone number at the U.S. Department of Justice to enable defense contractors or subcontractors to obtain information as to whether a particular person has been convicted of fraud or other felony arising out of a contract with the DoD. This implements section 815 of the Fiscal Year 1993 Defense Authorization Act.

Item III—Authority for Other Than Full and Open Competition

DFARS 206.302–1(a)(2)(i) is amended to include language indicating that subsequent DoD Appropriation Acts have continued the prohibition on awarding certain service contracts on the basis of an unsolicited proposal, first promulgated under section 8059 of Public law 101–511.

Item IV—Limitation on Authority for Other Than Full and Open Competition

DFARS 206.302–5(c) is revised to correct an inappropriate exception to the limitation on use of the FAR 6.302–5 exception to full and open competition for awards to college or universities for research and development or construction of a facility.

Item V—Competitive Prototyping of Major Weapon Systems

DFARS 207.105(b)(2) is added in implementation of section 821 of the Fiscal Year 1993 Defense Authorization Act. Section 821 requires that the acquisition strategy for major defense acquisition programs provide for competitive prototyping of the major weapon systems and subsystems unless an exception is justified as not practicable.

Item VI—Acquisition Plans for Major Defense Acquisition Programs

DFARS 207.105(b)(17) is revised to implement section 4220 of the Fiscal Year 1993 Defense Authorization Act. Section 4220 requires that each major defense program acquisition plan include certain provisions regarding the national technology and industrial base.

Item VII—Award to Foreign Controlled Contractors

DFARS subpart 209.1 and 225.702 are revised and a new provision is added at 252.209–7002 as an interim rule to implement section 836 of the Fiscal Year 1993 Defense Authorization Act. Section 836 prohibits award of a contract under a national security program to an entity controlled by a foreign government if that entity requires access to a proscribed category of information to perform the contract.

Item VIII—Made in America Labels

This is an interim rule that implements section 834 of the Fiscal Year 1993 Defense Authorization Act and section 9117 of the Fiscal Year 1993 Defense Appropriations Act. DFARS 209.406–2 is added to require debarment consideration for anyone convicted of fraudulently affixing "Made in America" labels to foreign made goods. DFARS 209.406–4 is added to specify the period of debarment.

Item IX—Multiyear Contracts

DFARS 217.103–1(a)(iii) is amended to implement section 9013 of the Fiscal Year 1993 Defense Appropriations Act which imposed the same restrictions on multiyear contracting that were in previous Defense appropriations acts.

Item X—Certificate of Competency

This is an interim rule that implements section 804 of the Fiscal Year 1993 Defense Authorization Act. DFARS 219.602–1 is amended and the provision at 252.219–7009 is added to require contracting officers to notify a small business concern, in writing, of a determination of nonresponsibility and of the concern's right to request the Small Business Administration (SBA) to make a determination of the concern's responsibility. The contracting officer must withhold award and wait for a reply for the concern or 14 calendar days, whichever is earlier. If the concern replies within the 14 days and wants an SBA determination, the contracting officer must continue to withhold award and refer the matter to SBA.

Item XI—Subcontracting Plan Test Program

DFARS 219.702(a)(i)(A)(1) is revised as a result of section 805 of the Fiscal Year 1993 Defense Authorization Act, to extend the period of the test program for comprehensive small business subcontracting plans through September 30, 1994.

Item XII—Nonprofit Agencies for Blind or Other Severely Disabled

DFARS 219.703 is revised to extend the period of eligibility for qualified nonprofit agencies for the blind and other severely disabled as participants in the small business subcontracting program and to update the statutory references. The clause at 252.219–7003 has been revised to clarify that subcontracts awarded to qualified nonprofit agencies for the blind and other severely disabled may be counted toward the prime contractor's small business subcontracting goal.

Item XIII—Small Business Subcontracting Plan

This is an interim rule that implements section 902 of the Fiscal Year 1993 Defense Authorization Act. DFARS 209.106–2, 215.605 and 219.705–2(d) are amended to ensure that contractors are complying with subcontracting plan requirements and that the subcontracting plan is a factor in evaluation.

Item XIV—Bond Waiver for 8(a) Contractors

This item revises and converts the interim rule published as Item V of DAC 91–4 to a final rule. DFARS 219.808–1(b) and ALTERNATES B and C at 252.219–7007 have minor editorial changes.

Item XV—Small Business Competitiveness Demonstration Program

This is an interim rule that implements title II of Public Law 102–366, which extends the Small Business Competitiveness Demonstration Program through September 30, 1996. DFARS 219.501–1, 219.502–2, and 219.1006 are revised: (1) To state that A–E services in support of military construction projects or military family housing are exempt from the Program, except for the emerging small business set-aside requirements; and (2) to address responsibility for reinstatement of small business set-asides.

Item XVI—Pilot Mentor Protege Program

This finalizes the interim rule issued as Item VI of DAC 91–4 and revises DFARS 219.7106 and the clause at 252.219–7003, Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts), as a result of public comments. The revisions incorporate the provision in sections 831 of Public Law 101–510 that permits credit toward the mentor's small disadvantaged business subcontracting goal for subcontract awards to certain former protege firms and to protege firms that are qualified organizations employing the severely handicapped.

As a matter of information, included as an attachment in this DAC is a copy of the current program policy statement entitled "Final Policy and Procedures for the DoD Pilot Mentor-Protege Program."

Item XVII—Listing of Employment Openings

This final rule implements sections 4470 of the Fiscal Year 1993 Defense Authorization Act, which added section 2410d to title 10. Section 2410d requires that any DoD contract of $500,000 or more contain a clause requiring the contractor to list its suitable employment openings with the appropriate local employment service office. A new section is added at DFARS 222.1308(a)(1) to state that use of the clause at FAR 52.222–35, Affirmative Action for Special Disabled and Vietnam Era Veterans, with its paragraph (c), Listing Openings, satisfies the requirement of 10 U.S.C. 2410d.

Item XVIII—Closure of Military Installations

This finalizes the interim rule issued by Departmental Letter 91–011 on October 26, 1992. The interim rule added DFARS subpart 222.71 and the clause at 252.222–7001. The clause provides employment rights to Government employees adversely affected by the closure of a military installation. The only change between the interim and final rule is the insertion of the words "who have been or will be" in the first sentence of the clause.

Item XIX—Hazardous Waste Disposal

DFARS subpart 223.70 is revised to include a reference to the statutory basis for the clause at 252.223–7005, Hazardous Waste Liability, and to extend use of the clause beyond Fiscal Year 1992.

Item XX—Storage and Disposal of Toxic and Hazardous Materials

DFARS subpart 223.71 and the clause at 252.223–7006 are added as an interim rule to incorporate the requirements of 10 U.S.C. 2692, as amended by section 2852 of the Fiscal Year 1993 Defense Authorization Act. 10 U.S.C. 2692 prohibits storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations, with certain exceptions. Section 2852 adds an eighth exception to the prohibition of 10 U.S.C. 2692.

Item XXI—Examination of Records Clause

DFARS subpart 225.9 is deleted in its entirety. The Department of Defense is no longer required to forward a written report to Congress when authority is exercised to omit the Examination of Records clause. This revision is based on section 1301(9) of the Fiscal Year 1991 Defense Authorization Act, which amended section 2313 of title 10, U.S.C. A corresponding revision to FAR 25.901(c) is currently in process.

Item XXII—Restrictions on Food, Clothing, Fabrics, and Specialty Metals

References to $25,000 in DFARS 225.7002–2, 225.7002–4, and 225.7003–2 are revised to refer to the small purchase threshold in FAR part 13. These revisions were prompted by section 9005 of the Fiscal Year 1993 Defense Appropriations Act.

Item XXIII—Restriction on Manual Typewriters

DFARS 225.7005 is deleted in its entirety to implement section 831 of the Fiscal Year 1993 Defense Authorization Act which repeals the restriction on acquisition of manual typewriters from Warsaw Pact member countries.

Item XXIV—Carbonyl Iron Powders

DFARS 225.7014 is revised to update the statutory reference and delete the sunset date for the restriction of carbonyl iron powders, as implementation of section 9151 of the Fiscal Year 1993 Defense Appropriations Act.

Item XXV—Night Vision Image Intensifier Tubes

DFARS 225.7015–1 and 225.7015–3 are revised to make the restriction on acquisition of night vision image intensifier tubes and devices applicable only to fiscal year 1990 or 1991 funds. This restriction was not included in subsequent DoD appropriations acts.

Item XXVI—Carbon, Alloy, or Armor Steel Plate

DFARS 225.7017 is revised to extend the restriction on carbon, alloy, and armor steel plate as a result of section 9092 of the Fiscal Year 1993 Defense Appropriations Act.

Item XXVII—Four Ton Dolly Jacks

This is an interim rule that implements section 9108 of the Fiscal Year 1993 Defense Appropriations Act. DFARS 225.7018 and the clause at 252.225–7033 are added to restrict purchases of four ton dolly jacks to United States manufacturers.

Item XXVIII—Antifriction Bearings

DFARS 225.7019 and a clause at 252.225–7016 are added as an interim rule implementing section 832 of the Fiscal Year 1993 Defense Authorization Act. Section 832 restricts acquisition of antifriction bearings through Fiscal Year 1995. This restriction originally was imposed by a Secretarial Justification and approval to protect the mobilization base. This interim rule moves the restriction on antifriction bearings from DFARS subpart 225.71 to DFARS subpart 225.70 because it is now a statutory restriction. The waiver authority is revised to permit delegation below the head of the contracting activity level for small purchases.

Item XXIX—Performance Outside the United States

DFARS subpart 225.72 and the clause at 252.225–7026 are revised as an interim rule to implement section 840 of the Fiscal Year 1993 Defense Authorization Act. Section 840 requires offerors and contractors to provide the Government with advance notification of contract performance outside the United States and Canada. This advance notification requirement applies to DoD solicitations and contracts valued in excess of $10 million, when any part that exceeds $500,000 will be performed outside the United States and Canada, and could be performed inside the United States or Canada. DD Form 2139 is deleted, as the revised clause at 252.225–7026 includes the reporting requirements previously contained in DD Form 2139.

Item XXX—Small Business Innovative Research Program

This is an interim rule that implements section 103 of Public Law 102–564. DFARS 227.405–79 and Alternate II of the clause at 252.227–7013 are revised to increase the period of nondisclosure for data and computer software generated under a Small Business Innovative Research Program contract.

Item XXXI—Environmental Surety Bonds

This item revises and converts the interim rule published as Item XIV of DAC 91–3 to a final rule. DFARS 228.102–1 is revised to make a minor editorial revision as a result of public comments on the interim rule and to extend the bond liability and indemnification provisions of the rule through December 31, 1995 as implementation of section 331 of the Fiscal Year 1993 Defense Authorization Act.

Item XXXII—Overseas Severance Costs

This interim rule implements sections 1351 and 1352 of the Fiscal Year 1993 Defense Authorization Act. It limits the cost allowability of severance payments to foreign nationals under certain DoD service contracts. Criteria and conditions for agency waiver of the cost limitations at 231.205–6(g)(2)(i) are set forth in a new section 237.171 and two new clauses at 252.237–7020 and 252.237–7021.

Item XXXIII—Legislative Lobbying Costs

This interim rule implements section 9048 of the Fiscal Year 1993 Defense Appropriations Act. DFARS 231.205–22(a) is added to make unallowable, the costs of preparing any material, report, list, or analysis on the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

Item XXXIV—Penalties for Unallowable Costs

This interim rule implements section 818 of the Fiscal Year 1993 Defense Authorization Act and supersedes OUSD(A)DP memorandum of November 18, 1992, which provided initial notice of changes in the DFARS guidance on penalties for contractor inclusion of unallowable costs in indirect cost rate proposals. The interim rule is effective for all contractor indirect cost rate proposals for which DCAA had not formally initiated an audit prior to October 12, 1992 (see DFARS 231.7000 and 231.7002).

The following summarizes major changes to DFARS subpart 231.70 as a result of section 818 of Public Law 102–484. Similar changes were made to the clause at 252.231–7001.

1. DFARS 231.7000, 231.7001, and 231.7002

The status of the Government's audit of the indirect cost rate proposal will determine whether penalties will be assessed in accordance with section 911(a) of Public Law 99–145 or section 818 of Public Law 102–484.

2. DFARS 231.7002–1(a)(2)

Penalties will only be charged if a cost is expressly unallowable under a FAR or DFARS cost principle. The penalty is an amount equal to the amount of the disallowed cost allocated to DoD contracts subject to subpart 31.70, plus interest on any paid portion.

3. DFARS 231.7002–1(a)(2)

If the amount was determined to be unallowable for the contractor before submission of the proposal (e.g. DCAA issued Form 1, etc.), the penalty amount is limited to twice the amount of the disallowed cost. Agency authority to assess an additional $10,000 penalty has been removed.

4. DFARS 231.7002–2(a)

The requirement for agency review of ACO determinations concerning the assessment of penalties has been removed. The ACO is now authorized to waive the penalty amount in accordance with specific guidelines established in a new section 231.7002–5.

5 DFARS 231.7000–5

Waiver of the penalty amount is now authorized when the contractor has withdrawn the proposal before initiation of a audit and submits a revised proposal; or the amount of unallowable costs subject to the penalty is $10,000 or less; or the contractor demonstrates that it has taken corrective action to preclude the inclusion of the specifically identified unallowable costs in subsequent proposals and the original inclusion of such costs was inadvertent.

Item XXXV—Contracting Officer Final Decisions

DFARS 233.211 is deleted in its entirety to implement section 907(b) of Public Law 102–572. Section 907(b) countermanded the Circuit Court decision which affected a contractor's choice of forum for appeal of a contracting officer's final decision (*Overall Roofing and Construction, Inc.* v. *United States*, 929 F2d 687 (Fed. Cir. 1991)).

Item XXXVI—Certification of Contract Claims

This interim rule implements section 813 of the Fiscal Year 1993 Defense Authorization Act. Section 813(a) adds a new section 2410e to title 10, chapter 141, addressing the certification of contract claims, requests for equitable adjustment, and requests for relief under Public Law 85–804. Upon issuance of regulations pursuant to 10 U.S.C. 2410e, section 813(b) repeals 10 U.S.C. 2410 which currently contains requirements for certifying such claims. The following

changes have been made to DFARS subpart 233.70 as a result of section 813(a). Similar changes were made to the clause at 252.233–7000.

1. DFARS 233.7000(a)

Requires contractors to provide the certification required by the Contract Disputes Act (CDA), at the time of the claim or request is submitted. The person executing the certification must be authorized to bind the contractor and have knowledge of the claim or request, its basis, and the completeness and accuracy of supporting data.

2. DFARS 233.7000(b)

Permits certification by individuals who may have gained the required knowledge from a review of records or report of individuals more directly involved with the claim.

3. DFARS 233.7000(c)

Makes it clear that the certification pursuant to FAR part 33 and the CDA will not satisfy the requirements to 10 U.S.C. 2410e unless the individual executing the certification meets the "knowledge" requirements of 10 U.S.C. 2410e.

4. DFARS 233.7000(e)

Permits contractors to correct an improper certification.

Item XXXVII—Contracting With Universities and Other Institutions of Higher Learning

Title VIII, section 8106 of the Fiscal Year 1992 Defense Appropriations Act and section 9089 of the Fiscal Year 1993 Defense Appropriations Act state that "None of the funds appropriated in this Act may be obligated or expended for any contract or grant with a university or other institution of higher learning unless such contract or grant is audited in accordance with the Federal Acquisition Regulation and the Department of Defense Federal Acquisition Regulation Supplement or any other applicable auditing standards and requirements and the institution receiving the contract or grant fully responds to all formal requests for financial information made by responsible Department of Defense officials: Provided, that if any institution does not provide an adequate financial response within 12 months, the Secretary of Defense shall terminate that and all other Department of Defense contracts or grants with the institution."

If a university or other institution of higher learning persists in refusing to provide an adequate response to a request for financial information, in addition to taking appropriate contractual actions within the terms of the contract, the matter should be referred through channels to the Under Secretary of Defense (Acquisition) to determine whether that contract and all other Department of Defense contracts and grants with that institution should be terminated.

Item XXXVIII—Fixed Price Research and Development

DFARS 235.006(b) is amended to extend the requirement for a determination by the Under Secretary of Defense for Acquisition to fixed-price research and development contracts over $10 million that use fiscal year 1993 funds.

Item XXXIX—Federally Funded Research and Development Centers (FFRDCs)

DFARS 235.017 is amended to limit obligation and expenditure of Fiscal Year 1993 funds for DoD FFRDCs if a member of the Board of Directors or Trustees simultaneously serves on the board of a profitmaking company under contract to DoD, unless the FFRDC has a DoD-approved conflict of interest policy. This implements section 9090 of the Fiscal Year 1993 Defense Appropriations Act.

Item XL—Master Agreements

DFARS 237.270 is revised, as a result of section 816 of the Fiscal Year 1993 Defense Authorization Act, to extend the period during which DoD is authorized to use master agreements through September 30, 1994.

Item XLI—Major Automated Information Systems

DFARS 239.7501–2 is revised to extend the prior prohibition on use of DoD appropriations for acquisition of major automated information systems, unless the systems have successfully completed oversight reviews required by DoD regulations. This implements section 9028 of the Fiscal Year 1993 Defense Appropriations Act.

Item XLII—Recoupment of Nonrecurring Costs

Through a series of actions, the Department of Defense has eliminated the requirement for reporting and recoupment for all sales or binding agreements to sell that were entered into on or after October 7, 1992, except for sales of major defense equipment for which recoupment is required by the Arms Export Control Act.

Departmental Letter 92–008, issued as an interim rule on September 1, 1992, replaced DFARS part 270 and the clause at 252.270–7000 with a new DFARS subpart 215.70 and the clause at 252.15–7004, Recoupment of Nonrecurring Costs. The interim rule revised recoupment requirements for new contracts by eliminating recoupment on derivative items and items other than Major Defense Equipment. Subsequently, on October 7, 1992, the Deputy Secretary of Defense (DEPSECDEF), determined that the national defense would be facilitated by the elimination of the recoupment requirement from existing DoD contracts, except as expressly required by statute. Accordingly, pursuant to the authority of Public Law 85–804, the DEPSECDEF directed that existing DoD contracts be amended or modified as necessary to delete any requirement for the recoupment of nonrecurring costs on sales or binding agreements to sell, that were executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 21(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs. On January 13, 1993, the DEPSECDEF extended the application of his October 7, 1992, memorandum to cover all contracts entered into from October 7, 1992 through January 13, 1993. At the same time, the DEPSECDEF approved a revision of DoD 2140.2 that eliminated the requirement for recoupment on all sales entered into after January 13, 1993, except for recoupment required by Act of Congress.

Departmental Letter 93–002, issued as a final rule on March 24, 1993, eliminated DFARS subpart 215.70 and the clause at 252.215–7004, effective March 24, 1993. Recoupment required by the Arms Export Control Act will be handled between the DoD and its foreign military sale customer.

Item XLIII—Contracting Responsibility for Industrial Plant Equipment

DFARS Appendix B is amended to reflect the integrated material management assignment of industrial plant equipment to the Defense Logistics Agency.

Item XLIV—Editorial

DFARS 225.770–1 is amended to provide the codified reference for the restriction on entering into a prime contract with a foreign person, company, or entity unless it has certified that it does not comply with the secondary Arab boycott of Israel.

Amendments to Defense FAR Supplement

The Defense FAR Supplement is amended as set forth below.

1. The authority for 48 CFR parts 201, 206, 207, 209, 215, 217, 219, 222, 223,

225, 227, 228, 231, 233, 235, 237, 239, 252, and 253 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, and FAR subpart 1.3.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 201.603–2 is revised to read as follows:

201.603–2 Selection.

(1) Pursuant to 10 U.S.C. 1724, beginning October 1, 1993, in order to qualify to serve as a contracting officer with authority to award or administer contracts for amounts above the small purchase threshold in FAR 13.000, a person must—

(i) Have completed all mandatory contracting courses required for a contracting officer at the grade level, or in the position within the grade of the General Schedule in which the person is serving;

(ii) Have at least two years experience in a contracting position;

(iii) Have—

(A) Received a baccalaureate degree from an accredited educational institution;

(B) Completed at least 24 semester credit hours, or equivalent, of study from an accredited institution of higher education in any of the following disciplines: Accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; or

(C) Passed an examination considered to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours, or equivalent, of study from an accredited institution of higher education in any of the disciplines in paragraph (1)(iii)(B) of this subsection; and

(iv) Meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position as may be established by the Secretary of Defense.

(2) The requirements in 201.603–2(1)(iii) do not apply to any employee who, as of October 1, 1991, had at least 10 years experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which the individual obtained experience directly relevant to the field of contracting.

(3) The requirements in 201.603–2(1) do not apply to any employee for purposes of qualifying to serve in the position in which the employee is serving on October 1, 1993, or any other position in the same grade and involving the same level of responsibilities as the position in which the employee is serving on that date.

(4) Waivers may be authorized. Information on waivers is contained in DoD Manual 5000.52–M, Career Development Program for Acquisition Personnel.

PART 206—COMPETITION REQUIREMENTS

3. Section 206.302–1 is amended by revising paragraph (a)(2)(i) introductory text to read as follows:

206.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) *Authority.*

(2)(i) Section 8059 of Pub. L. 101–511 and similar sections in subsequent defense appropriations acts prohibit departments and agencies from entering into contracts for studies, analyses, or consulting services (see FAR subpart 37.2) on the basis of an unsolicited proposal without providing for full and open competition, unless—

* * * * *

4. Section 206.302–5 is amended by revising paragraph (c)(ii) and by adding a new paragraph (c)(iii) to read as follows:

206.302–5 Authorized or required by statute.

* * * * *

(c) * * *

(ii) The limitation in paragraph (c)(i) of this subsection applies only if the statute authorizing or requiring award was enacted after September 30, 1989.

(iii) Subsequent statutes may provide different or additional constraints on the award of contracts to specified colleges and universities. Contracting officers should consult legal counsel on a case-by-case basis.

PART 207—ACQUISITION PLANNING

5. Section 207.105 is amended by adding a new paragraph (b)(2)(v); by revising paragraph (b)(17)(A); by redesignating paragraph (b)(17)(B) as paragraph (b)(17)(C); and by adding a new paragraph (b)(17)(B) to read as follows:

* * * * *

(b) * * *

(2) *Competition.*

(v) 10 U.S.C. 2438 requires that the acquisition strategy for major defense acquisition programs provide for the competitive prototyping of the major weapon system under the program, and any major subsystems, unless an exception is provided. (See DoDD 5000.2, Defense Acquisition Management Policies and Procedures.)

* * * * *

(17) *Other considerations.*

(A) National Technology and Industrial Base. For major defense acquisition programs, address the following (Pub. L. 102–484, section 4220)—

(*1*) An analysis of the capabilities of the national technology and industrial base to develop, produce, maintain, and support such program, including consideration of the following factors related to foreign dependency (Pub. L. 102–484, section 4219(h))—

(*i*) The availability of essential raw materials, special alloys, composite materials, components, tooling, and production test equipment for the sustained production of systems fully capable of meeting the performance objectives established for those systems; the uninterrupted maintenance and repair of such systems; and the sustained operation of such systems.

(*ii*) The identification of items specified in paragraph (b)(17)(A)*(1)(i)* of this section that are available only from sources outside the national technology and industrial base.

(*iii*) The availability of alternatives for obtaining such items from within the national technology and industrial base if such items become unavailable from sources outside the national technology industrial base; and an analysis of any military vulnerability that could result from the lack of reasonable alternatives.

(*iv*) The effects on the national technology and industrial base that result from foreign acquisition of firms in the United States.

(*2*) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

(*3*) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

(*4*) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce the life-cycle costs.

(*5*) Methods to encourage investment by U.S. domestic sources in advanced manufacturing technology production equipment and processes through—

(*i*) Recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

(*ii*) Increased emphasis in source selection on the efficiency of production.

(*6*) Expanded use of commercial manufacturing processes rather than processes specified by DoD.

(*7*) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under DoD contracts.

(*8*) Expanded use of nondevelopmental items (See 210.002–70).

(B) *Industrial preparedness (IP).*

(*1*) Provide the program's IP strategy that assesses the capability of the U.S. industrial base to achieve identified surge and mobilization goals. If no IP strategy has been developed, provide supporting rationale for this position.

(*2*) If in the IP strategy, the development of a detailed IP plan was determined to be applicable, include the plan by text or by reference. If the development of the IP plan was determined not to be applicable, summarize the details of the analysis forming the basis of this decision.

(*3*) If the program involves peacetime and wartime hardware configurations which are supported by logistics support plans, identify their impact on the IP plan.

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

6. Section 209.101 is added to read as follows:

209.101 Definitions.

Entity controlled by a foreign government, foreign government, national security program, and *proscribed information* are defined in the provision at 252.209–7002, Disclosure of Ownership or Control by a Foreign Government.

7. Section 209.104–1 is revised to read as follows:

209.104–1 General standards.

(e) Also, have the necessary safety programs on contractor or subcontractor materials or services.

(g)(i) *Ownership or control by a foreign government that supports terrorism.*

(A) Under 10 U.S.C. 2327(b), a contracting officer shall not award a contract to a firm or to a subsidiary of a firm when a foreign government—

(*1*) Either directly or indirectly, has a significant interest—

(*i*) In the firm; or

(*ii*) In the subsidiary; and

(*2*) Has been determined by the Secretary of State under 50 U.S.C. App. 2405(j)(1)(A) to be a government of a country that has repeatedly provided support for acts of international terrorism.

(B) The Secretary of Defense may waive the prohibition in paragraph (g)(i)(A) of this subsection in accordance with 10 U.S.C. 2327(c). This waiver authority may not be delegated.

(ii) *Ownership or control by a foreign government when access to proscribed information is required to perform the contract.*

(A) Under 10 U.S.C. 2536(a), no DoD contract under a national security program may be awarded to a company owned by an entity controlled by a foreign government if that company requires access to proscribed information to perform the contract.

(B) Whenever the contracting officer has a question about application of the provision at 252.209–7002, the contracting officer may seek advice from the Director, Defense Security Programs, Office of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence.

(C) In accordance with 10 U.S.C. 2536(b), the Secretary of Defense may waive the prohibition in subparagraph (g)(ii)(A) of this subsection upon determining that the waiver is essential to the national security interests of the United States. The Secretary has delegated authority to grant this waiver to the Assistant Secretary of Defense Command, Control, Communications and Intelligence. Waiver requests, prepared by the requiring activity in coordination with the contracting officer, shall be processed through the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition, and shall include a proposed national interest determination. The proposed national interest determination, prepared by the requiring activity in coordination with the contracting officer, shall include:

(*1*) Identification of the proposed awardee, with a synopsis of its foreign ownership (include solicitation and other reference numbers to identify the action);

(*2*) General description of the acquisition and performance requirements;

(*3*) Identification of the national security interests involved and the ways award of the contract helps advance those interests;

(*4*) The availability of another entity with the capacity, capability and technical expertise to satisfy defense acquisition, technology base, or industrial base requirements; and

(*5*) A description of any alternate means available to satisfy the requirement, e.g., use of substitute products or technology or alternate approaches to accomplish the program objectives.

8. Section 209.104–70 is revised to read as follows:

209.104–70 Solicitation provisions.

(a) Use the provision at 252.209–7001, Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism, in solicitations expected to result in contracts of $100,000 or more.

(b) Use the provision at 252.209–7002, Disclosure of Ownership or Control by a Foreign Government, in all solicitations, including those subject to the procedures in FAR part 13, when access to proscribed information is necessary to perform a DoD contract under a national security program.

9. Section 209.106–2 is amended by adding a new paragraph (a)(iii) to read as follows:

209.106–2 Requests for preaward surveys.

* * * * *

(a) * * *

(iii) Evaluation of the prospective contractor's performance against small business subcontracting plans.

* * * * *

10. Section 209.406–2 is added to read as follows:

209.406–2 Causes for debarment.

(a) Any person shall be considered for debarment if criminally convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that was not made in America (10 U.S.C. 2410f).

(i) The debarring official will make a determination concerning debarment not later than 90 days after determining that a person has been so convicted.

(ii) In cases where the debarring official decides not to debar, the debarring official will report that decision to the Director of Defense Procurement who will notify Congress within 30 days after the decision is made.

11. Section 209.406–4 is added to read as follows:

209.406–4 Period of debarment.

(a) In accordance with section 9117 of the Fiscal Year 1993 Defense

Appropriations Act, Pub. L. 102–396, in cases where the debarring official decides to debar a person who has been criminally convicted of intentionally affixing a label bearing a fraudulent "Made in America" inscription, the period of debarment shall be not less than 3 years and not more than 5 years.

PART 215—CONTRACTING BY NEGOTIATION

12. Section 215.605 is amended by revising paragraph (a) and adding a new paragraph (b) to read as follows:

215.605 Evaluation factors.

(a) For acquisitions involving technical evaluations, formal or alternative source selection procedures, see 219.705–2(d).

(b) Extent of participation of small and small disadvantaged business in performance of the contract shall be evaluated in every source selection.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

13. Section 217.103–1 is amended by revising paragraph (a)(iii) to read as follows:

217.103–1 General.

(a) * * *

(iii) Any advance economic order quantity acquisition (see FAR 17.101) is funded at least to the limits of the Government's liability. Recurring costs for such economic order quantities shall not be included in the unfunded cancellation ceiling. (Section 9021, Pub. L. 101–165 and similar sections in subsequent Defense appropriations acts).

* * * * *

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

14. Section 219.502–1 is revised to read as follows:

219.502–1 Requirements for setting aside acquisitions.

Do not set aside acquisitions for—

(1) Supplies which were developed and financed, in whole or in part, by Canadian sources under the U.S.-Canadian Defense Development Sharing Program; or

(2) Architect-engineer services for military construction or family housing projects of $85,000 or more (10 U.S.C. 2855), including indefinite delivery and indefinite quantity contracts if the value of all anticipated orders is expected to total $85,000 or more.

15. Section 219.502–2 is revised to read as follows:

219.502–2 Total set-asides.

(a) Unless the contracting officer determines that the criteria for set-aside cannot be met, set aside for small business concerns acquisitions for—

(i) Construction, including maintenance and repairs, under $2 million;

(ii) Dredging under $1 million; and

(iii) Architect-engineer services for military construction or family housing projects of under $85,000.

16. Section 219.602–1 is revised to read as follows:

219.602–1 Referral.

When making a nonresponsibility determination on a small business concern, the contracting officer shall notify the contracting activity's small business specialist.

(a) In accordance with section 804 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, upon determining that a responsive small business concern lacks certain elements of responsibility, a contracting officer shall notify the concern, in writing, of the nonresponsibility determination and of the concern's right, under section 8(b)(7) of the Small Business Act, to request that the SBA make a determination of the concern's responsibility under Certificate of Competency (CoC) procedures. The contracting officer shall withhold award until—

(i) Fourteen calendar days after the small business concern receives the notice; or

(ii) The contracting officer receives written notification from the concern stating that it—

(A) Wishes to request a determination of responsibility from the SBA, in which case, the contracting officer shall continue to withhold award and shall refer the matter to the SBA in accordance with FAR 19.602; or

(B) Does not wish to request such a determination from the SBA, in which case, the contracting officer shall proceed with award of the contract to another offeror.

17. Section 219.602–70 is added to read as follows:

219.602–70 Solicitation provision.

Use the provision at 252.219–7009, Certificate of Competency, in all solicitations other than those using simplified small purchase procedures. When using simplified small purchase procedures, the requirements of 219.602–1(a) apply, but the provision is not required.

18. Section 219.702 is amended by revising paragraph (a)(i)(A)(*1*) to read as follows:

219.702 Statutory requirements.

(a) * * *

(c) * * *

(*1*) (A) * * * Over a four year period, beginning October 1, 1990;

* * * * *

19. Section 219.703 is amended by revising paragraph (a) introductory text to read as follows:

219.703 Eligibility requirements for participating in the program.

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Committee for Purchase from People Who Are Blind or Severely Disabled under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48), are eligible as a result of sections 9077 of Pub. L. 102-395 and 808 of Pub. L. 102–484 through September 30, 1994, to participate in the program. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal through fiscal year 1994.

* * * *

20. Section 219.705–2 is revised to read as follows:

219.705–2 Determining the need for a subcontracting plan.

(d) The extent to which offerors identify and commit to small business and to small disadvantaged business, historically black college and university, or minority institution performance of the contract, whether as joint venture, teaming arrangement, or subcontractor, shall be evaluated in acquisitions which use technical evaluations, formal or alternative source selection procedures.

21. Section 219.808–1 is amended by revising paragraph (b)(i) to read as follows:

219.808–1 Sole source.

(b) Section 813 of Pub. L. 102–190 authorizes DoD to waive Miller Act requirements for performance and payment bonds under 8(a) construction contracts awarded before October 1, 1994. Section 813 requires for each of fiscal years 1992, 1993, and 1994, that DoD make every reasonable effort to award no fewer than 30 contracts using this bond waiver authority.

(i) A determination to waive bonds shall be approved at a level above the contracting officer. The contracting officer may consider waiver of bonding when—

(A) The contractor is unable to obtain the requisite bonds from a surety. The

contracting officer will verify with surety companies, SBA, and other appropriate sources that the contractor cannot obtain the required bonding.

(B) The contractor has received less than five bond waivers while a participant in the 8(a) program.

(C) The contractor is otherwise responsible as determined in accordance with FAR 9.104. Also, see 232.172.

* * * * *

22. Section 219.1005 is amended by revising paragraph (a) to read as follows:

219.1005 Applicability.

(a) Dredging (SIC 1629, FPDS Y216–Z216) applies only to the Army Corps of Engineers.

(3)(A) Architect-engineering services in support of military construction projects or military family housing projects are exempt from the Small Business competitiveness Demonstration Program, except for the emerging small business (ESB) set-aside requirements. Accordingly, these shall—

(*1*) Be reviewed for possible award under the 8(a) program regardless of dollar value.

(*2*) Not be set-aside for small business or small disadvantaged business if the estimated value is $85,000 or more (including indefinite delivery-indefinite quantity contracts if the value of all anticipated orders exceeds $85,000).

(*3*) Be considered for ESB set-aside if the estimated value is both less than the emerging small business reserve amount and less than $85,000.

(*4*) Be considered for small business set-aside (but not SDB set-aside) if the estimated value is less than $85,000, regardless of whether small business set-asides for other architect-engineer services are prohibited under the Small Business Competitiveness Demonstration Program, when an ESB set-aside is not appropriate.

(B) All requirements of the Small Business Competitiveness Demonstration Program apply to architect-engineer services in support of other than military construction projects or military housing objects, which otherwise meet criteria at FAR 19.1005(a)(3).

* * * * *

23. Section 219.1006 is revised to read as follows:

219.1006 Procedures.

(b)(1) During the period when small business set-asides cannot be considered for acquisitions in the four designated industry groups—

(A) The restrictions at 219.502–2–70(b) (1) and (2) do not apply and the acquisitions shall be considered for small disadvantaged business set-asides; and

(B) The evaluation preference at 219.70 shall not be used.

(2) The Director, Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition), will determine whether reinstatement of small business set-asides are necessary to meet the agency goal and will recommend reinstatement to the Director, Defense Procurement. Military departments and defense agencies shall not reinstate small business set-asides unless directed by the Director, Defense Procurement.

(d) Reporting requirements are at 204.670–9.

219.7102 [Amended]

24. Section 219.7102 is amended by revising the introductory statement to read "The Program includes—" in lieu of "The Program consists of:".

(25) Section 219.7106 is amended by adding in paragraph (a)(1)(ii) the words "Section I.C. of" immediately before the words "the DoD policy statement"; by redesignating paragraph (c) as paragraph (d); and by adding a new paragraph (c) to read as follows:

219.7106 Reporting.

* * * * *

(c) A mentor firm may receive credit toward meeting its small disadvantaged business subcontracting goal for subcontract awards to—

(1) Protege firms which are qualified organizations employing the severely handicapped; and

(2) Former protege firms that meet the criteria in section 831(g)(4) of the FY 1991 Defense Authorization Act (Pub. L. 101–510).

* * * * *

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

26. Section 222.1308 is added to read as follows:

222.1308 Contract clauses.

(a)(1) Use of the clause at FAR 52.222–35, Affirmative Action for Special Disabled and Vietnam Era Veterans, with its paragraph (c), Listing Openings, also satisfies the requirement of 10 U.S.C. 2410d.

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

27. Section 223.7000 is added to read as follows:

223.7000 Scope of subpart.

This subpart implements section 331 of the Defense Authorization Act for Fiscal Year 1992 (Pub. L. 102–190) and similar sections in subsequent Defense authorization acts.

28. Section 223.7002 is amended by revising paragraph (a)(1) to read as follows:

223.7002 Contract clause.

(a) * * *

(1) Entered into during or after fiscal year 1992;

* * * * *

29. A new subpart 223.71 is added to read as follows:

Subpart 223.71—Storage and Disposal of Toxic and Hazardous Materials

Sec.

223.7100 Policy.
223.7101 Procedures.
223.7102 Exceptions.
223.7103 Contract clause.

Subpart 223.71—Storage and Disposal of Toxic and Hazardous Materials

223.7100 Policy.

10 U.S.C. 2692 prohibits storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations, except as provided in 223.7102. DoD Directive 6050.8, Storage and Disposal of Non-DoD-Owned Hazardous or Toxic Materials on DoD Installations, implements 10 U.S.C. 2692.

223.7101 Procedures.

(a) If the contracting officer is uncertain as to whether particular activities constitute prohibited storage, the contracting officer should seek advice from the cognizant office of counsel.

(b) When storage of toxic or hazardous materials is authorized in accordance with this subpart, the contract should specify the types, conditions, and quantities of hazardous or toxic materials that may be temporarily accumulated or stored in connection with the contract.

223.7102 Exceptions.

(a) The prohibition of 10 U.S.C. 2692 does not apply to—

(1) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services Administration;

(2) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such

storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal agency concerned;

(3) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities;

(4) The disposal of excess explosives produced under a DoD contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements;

(5) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy;

(6) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable DoD regulations;

(7) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency; or

(8) The storage of any material that is not owned by DoD, if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible use by that person of an industrial-type DoD facility.

(b) The Secretary of Defense, where DoD Directive 6050.8 applies, may grant exceptions to the prohibition of 10 U.S.C. 2692 when essential to protect the health and safety of the public from imminent danger.

223.7103 Contract clause.

Use the clause at 252.223–7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials, in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

PART 225—FOREIGN ACQUISITION

30. Section 225.702 is amended by revising paragraph (1) to read as follows:

225.702 Restrictions.

(1) See 209.104–1(g)(i) for restrictions on contracting with firms owned or controlled by foreign governments that support terrorism. See 209.104–1(g)(ii) for prohibition on award of a DoD contract under a national security program to a company owned by an entity controlled by a foreign government when access to proscribed information is required to perform the contract.

* * * * *

31. Section 225.770–1 is revised to read as follows:

225.770–1 Restriction.

In accordance with 10 U.S.C. 2410i, do not enter into a prime contract with a foreign person, company, or entity unless it has certified that is does not comply with the secondary Arab boycott of Israel.

225.9 [Removed]

32. Subpart 225.9 is removed in its entirety.

33. Section 225.7002–2 is amended by revising paragraphs (e) and (f) to read as follows:

225.7002–2 Exceptions.

* * * * *

(e) Small purchases as defined in FAR 13.101 (for the purpose of this exception, a small purchase means the contract action, as distinguished from a single line item).

(f) Acquisitions of end items incidentally incorporating cotton or wool, for which the estimated value of the cotton or wool is not more than ten percent of the total price of the end item; provided the estimated value of the cotton or wool does not exceed the threshold in FAR 13.000.

* * * * *

34. Section 225.7002–4 is amended by revising paragraphs (a) and (c) introductory text to read as follows:

225.7002–4 Contract clauses.

(a) Use the clause at 252.225–7012, Preference for Certain Domestic Commodities, in all solicitations and contracts which meet or exceed the threshold in FAR 13.000.

(b) * * *

(c) Use the clause at 252.225–7014, Preference for Domestic Specialty Metals, in all solicitations and contracts over the threshold in FAR 13.000 that require delivery of an article containing specialty metals. Use the clause with its Alternate I in all solicitations and contracts over the threshold in FAR 13.000 requiring delivery, for one of the following major programs, of an article containing specialty metals—

* * * * *

35. Section 225.7003–2 is revised to read as follows:

225.7003–2 Contract clause.

Use the clause at 252.225–7015, Preference for Domestic Hand or Measuring Tools, in all solicitations and contracts over the threshold in FAR 13.000 calling for delivery of hand or measuring tools.

225.7005 [Removed and Reserved]

36. Section 225.7005 is removed and reserved.

36a. Section 225.7014–1 is revised to read as follows:

225.7014–1 Restriction.

In accordance with section 9151 of Pub. L. 102–396, all carbonyl iron powders contained in supplies acquired by DoD shall be manufactured in a facility located in the United States or Canada.

37. Section 225.7014–2 is revised to read as follows:

225.7014–2 Waiver.

The restriction may be waived by the Secretaries of the military departments or the directors of defense agencies if waiver is determined to be in the national interest. The service secretaries may delegate this authority to civilian officers appointed by the President by and with the advice and consent of the Senate. This authority shall not be redelegated.

38. Section 225.7014–3 is revised to read as follows:

225.7014–3 Clause

Unless a waiver has been granted in accordance with 225.7014–2, use the clause at 252.225–7023, Restriction on Acquisition of Carbonyl Iron Powders, in all contracts and solicitations which anticipate the acquisition of supplies that contain carbonyl iron powders.

39. Section 225.7015–1 is revised to read as follows:

225.7015–1 Restriction.

In accordance with Pub. L. 101–165 and 101–511, fiscal years 1990 and 1991 funds may not be used to acquire second and third generation night vision image intensifier tubes and devices unless they are manufactured in the United States or Canada.

39a. Section 225.7015–3 is revised to read as follows:

225.7015–3 Contract clause.

Use the clause at 252.225–7024, Restriction on Acquisition of Night Vision Image Intensifier Tubes and Devices, in all solicitations and contracts which—

(a) Use fiscal year 1990 or 1991 funds; and

(b) Require second and third generation night vision image intensifier tubes and devices.

40. Section 225.7017–1 is revised to read as follows:

225.7017–1 Restriction.

In accordance with Section 8111 of Pub. L. 102–172, and similar sections in subsequent appropriations acts, all carbon, alloy, and armor steel plate in Federal stock class 9515 or described by American Society for Testing Materials (ASTM) or American Iron and Steel Institute (AISI) specifications, purchased by the Government or a contractor for use in a Government-owned facility or in a facility controlled (e.g., leased) by DoD, shall be melted and rolled in the United States or Canada.

41. Section 225.7017–2 is revised to read as follows:

225.7017–2 Exceptions.

This restriction does not apply to—

(a) Contracts in effect as of November 26, 1991;

(b) Direct purchases by DoD using other than fiscal year 1992 or subsequent year funds; or

(c) Purchases by contractors unless the prime contract uses fiscal year 1992 or subsequent year funds.

42. Sections 225.7018, 225.7018–1, 225.7018–2, 225.7018–3 are added to read as follows:

225.7018 Restriction on four ton dolly jacks.

225.7018–1 Restriction.

In accordance with section 9108 of Pub. L. 102–396, do not purchase four ton dolly jacks manufactured outside the United States.

225.7018–2 Waiver.

The restriction is 225.7018–1 may be waived on a case-by-case basis where the Secretary of the Military Department or the Under Secretary of Defense (Acquisition) certifies to the Committees on Appropriations of the House and Senate that—

(a) Adequate domestic supplies are available to meet requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

225.7018–3 Contract clause.

Use the clause at 252.225–7033, Restriction on Acquisition of Four Ton Dolly Jacks, in all solicitations and contracts for the acquisition of four ton dolly jacks.

43. Sections 225.7019, 225,7019–1, 225.7019–2, 225.7019–3, 225.7019–4 are added to read as follows:

225.7019 Restriction on antifriction bearings.

225.7019–1 Restriction.

In accordance with section 832 of Pub. L. 102–484, during fiscal years 1993 through 1995, do not acquire antifriction bearings or bearing components which are not manufactured in the United States or Canada.

225.7019–2 Exceptions.

The restriction in 225.7019–1 does not apply to—

(a) Small purchases, unless antifriction bearings or bearing components are the end items being purchased.

(b) Purchases of commercial products incorporating antifriction bearings.

(c) Miniature and instrument ball bearings restricted under 225.71.

(d) Items acquired overseas for use overseas.

(e) Antifriction bearings or bearing components or items containing bearings for use in a cooperative or co-production project under an international agreement.

225.7019–3 Waiver.

The head of the contracting activity, without power of redelegation except for small purchases, may waive the restriction in 225.7019–1—

(a) Upon execution of a determination and findings that—

(1) No domestic bearing manufacturer meets the requirement; or

(2) It is not in the best interests of the United States to qualify a domestic bearing to replace a qualified nondomestic bearing. This determination must be based on a finding that the qualification of a domestically manufactured bearing would cause unreasonable costs or delay. A finding that a cost is unreasonable should take into consideration DoD policy to assist the domestic industrial mobilization base. Contracts should be awarded to domestic manufacturers to increase their capability to reinvest and become more competitive.

(b) For multiyear contracts or contracts exceeding 12 months, only if—

(1) The head of the contracting activity executes a D&F in accordance with paragraph (a) of this section;

(2) The contractor submits a written plan for transitioning from the use of nondomestic to domestically manufactured bearings;

(3) The plan—

(i) States whether a domestically manufactured bearing can be qualified, at a reasonable cost, for use during the course of the contract period;

(ii) Identifies any bearings that are not domestically manufactured, their application, and source of supply; and

(iii) Describes, including cost and timetable, the transition to a domestically manufactured bearing. (The timetable for the transition should normally take no longer than 24 months from the date the waiver is granted); and

(4) The contracting officer accepts the plan and incorporates it in the contract.

225.7019–4 Contract clause.

Use the clause at 252.225–7016 in all solicitations and contracts, except—

(a) Where an exception applies or a waiver has been granted; or

(b) Where the contracting officer knows that the items being acquired do not contain antifriction bearings.

225.7102 [Amended]

44. Section 225.7102 is amended by removing paragraph (e) and redesignating paragraph (f) as paragraph (e).

225.7103 [Amended]

45. Section 225.7103 is amended by removing paragraph (g) and paragraph (h); by adding at the end of paragraph (e)(2) the word "or"; and by removing at the end of paragraph (f) the semicolon and the word "or" and adding a period in its place.

46. Section 225.7104 is revised to read as follows:

225.7104 Waivers.

(a) Upon request from a prime contractor, the contracting officer may waive the requirement for domestic manufacture of the items covered by the policy in 225.7102, provided in the case of (a), (b), and (c) that—

(1) The contractor has on hand subassemblies or end items containing the restricted items;

(2) The waiver is only to the extent and for the period of time necessary to permit the contractor to acquire and use domestic components; and either

(3) The delivery schedule is such that use of other than domestic items is necessary; or

(4) Use of domestic items would interfere with economical or normal production scheduling.

(b) If the waiver is for miniature and instrument ball bearings or precision components for mechanical time devices, the contractor must agree to acquire a like quantity and type for non-Government use.

47. Subpart 225.72 is revised to read as follows:

Subpart 225.72—Reporting Contract Performance Outside the United States

Sec.
225.7200 Scope of subpart.
225.7201 Exception.
225.7202 Distribution of reports.
225.7203 Contract clause.

Subpart 225.72—Reporting Contract Performance Outside the United States

225.7200 Scope of subpart.

This subpart prescribes procedures for contractor reporting and DoD monitoring of the volume, type, and nature of contract performance outside the United States, to include subcontracts, purchases, and intracompany transfers. It implements 10 U.S.C. 2410g which requires advance notification of contract performance outside the United States and Canada when the contract could have been performed inside the United States or Canada.

225.7201 Exception.

This subpart does not apply to contracts for commercial items as defined at 211.7001, construction, ores, natural gas, utilities, petroleum products and crudes, timber (logs), or subsistence.

225.7202 Distribution of reports.

The contracting officer shall forward a copy of reports submitted by successful offerors as required by the clause at 252.225–7026, Reporting of Contract Performance Outside the United States, to the Deputy Director of Defense Procurement (Foreign Contracting), OUSD(A)DP(FC), Washington, DC 20301–3060. This is necessary to satisfy the requirement of 10 U.S.C. 2410g that the notifications (or copies) be maintained in compiled form for five years after the date of submission.

225.7203 Contract clause.

Except for acquisitions in 225.7201, use the clause at 252.225–7026, Reporting of Contract Performance Outside the United States, in all solicitations and contracts with an estimated or actual value exceeding $500,000, including those modified to exceed $500,000.

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.405–79 [Amended]

48. Section 227.405–79 is amended by revising in paragraph (b)(1) introductory text the words "two years" to read "four years."

PART 228—BONDS AND INSURANCE

49. Section 228.102–1 is amended by revising the introductory text and by revising paragraph (4) to read as follows:

228.102–1 General.

For Defense Environmental Restoration Program construction contracts entered into pursuant to 10 U.S.C. 2701 and executed between December 5, 1991, and December 31, 1995—

* * * * *

(4) Once it has taken action to meet its obligations under the bond, the surety is entitled to any indemnification and identical standard of liability to which the contractor was entitled under the contract or applicable laws and regulations.

* * * * *

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

231.205–6 [Amended]

50. Section 231.205–6 is amended by adding a new sentence at the end of paragraph (g)(2)(i) to read "10 U.S.C. 2324(e)(3) permits the head of the agency to waive these cost allowability limitations under certain circumstances (see 237.171 and the clause at 252.237–7020)."

51. Section 231.205–22 is added to read as follows:

231.205–22 Legislative lobbying costs.

(a) Preparing any material, report, list, or analysis on the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed (Section 9048 of Pub. L. 102–396).

52. Subpart 231.70 is revised to read as follows:

Subpart 231.70—Penalties for Unallowable Costs

Sec.
231.7000 Scope of subpart.
231.7001 Audits initiated before October 23, 1992.
231.7002 Audits initiated on or after October 23, 1992.
231.7002–1 General.
231.7002–2 Responsibilities.
231.7002–3 Assessing the penalty.
231.7002–4 Computing interest.
231.7002–5 Waiver of the penalty.
231.7002–6 Contract clause.

Subpart 231.70—Penalties for Unallowable Costs

231.7000 Scope of subpart.

(a) This subpart implements 10 U.S.C. 2324(a) through (d). It covers the assessment of penalties against contractors which include unallowable costs in final indirect cost rate proposals or in the final statement of costs incurred or estimated to be incurred under a fixed-price incentive contract.

(b) This subpart applies to all DoD contracts awarded after February 26, 1987, in excess of $100,000, except fixed-price contracts without cost incentives.

(c) The status of the Government's audit of the final indirect cost rate proposal will determine whether penalties should be assessed under 231.7001 or 231.7002. An audit will be deemed to be formally initiated when the Government provides the contractor with written notice that audit work on a specific final indirect cost rate proposal has begun, the Government holds an audit entrance conference with the contractor, or there is other verifiable evidence that the contractor is aware the Government has begun auditing its proposal.

231.7001 Audits initiated before October 23, 1992.

If the Government formally initiates an audit before October 23, 1992, penalties shall be assessed under 10 U.S.C. 2324(a) through (d), as added by section 911(a) of the National Defense Authorization Act for Fiscal Year 1986 (Pub. L. 99–145). Under section 911(a) of Pub. L. 99–145, these penalties may total up to three times the amount of unallowable costs and include an additional penalty of $10,000.

231.7002 Audits initiated on or after October 23, 1992.

If the Government initiates an audit on or after October 23, 1992, penalties shall be assessed under 10 U.S.C. 2324(a) through (d), as amended by section 818 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484).

231.7002–1 General.

(a) Under 10 U.S.C. 2324 (a) through (d), as amended by section 818 of Pub. L. 102–484, the following penalties apply:

(1) If the cost is expressly unallowable under a FAR or DFARS cost principle that defines the allowability of specific selected costs, the penalty is equal to—

(i) The amount of the disallowed costs allocated to the contract for which an indirect cost rate proposal has been submitted, plus

(ii) Interest on the paid portion, if any, of the disallowance.

(2) If the cost was determined to be unallowable for that contractor before proposal submission, the penalty is two

times the amount in paragraph (a)(1)(i) of this section.

(b) These penalties are in addition to other civil and criminal penalties provided by law.

(c) It is not necessary for unallowable costs to have been paid to the contractor in order to assess a penalty.

231.7002–2 Responsibilities.

(a) The cognizant ACO is responsible for—

(1) Determining whether the penalties in 231.7002–1(a) should be assessed.

(2) Determining whether such penalties should be waived pursuant to 231.7002–5.

(3) If there is evidence that the contractor knowingly submitted unallowable costs—

(i) Referring the matter to the appropriate defense criminal investigative organization for review; and

(ii) Taking the actions indicated in DoDD 7050.5, Coordination of Remedies for Fraud and Corruption Relating to Procurement Activities.

(c) The contract auditor, in the review and/or the determination of final indirect cost rate proposals for contracts subject to this Subpart, is responsible for—

(1) Recommending to the ACO which costs may be unallowable and subject to the penalties in 231.7002–1(a).

(2) Providing rationale and supporting documentation for any recommendation.

231.7002–3 Assessing the penalty.

Unless a waiver is granted pursuant to 231.7002–5, the cognizant ACO shall—

(a) Assess the penalty in 231.7002–1(a)(1), when the submitted cost is expressly unallowable under a FAR or DFARS cost principle that defines the allowability of specific selected costs; or

(b) Assess the penalty in 231.7002–1(a)(2), when the submitted cost was determined to be unallowable for that contractor prior to submission of the proposal. Prior determinations of unallowability may be evidenced by—

(1) A DCAA Form 1, Notice of Contract Costs Suspended and/or Disapproved, (see FAR 42.705–2) which the contractor elected not to appeal and was not withdrawn by DCAA.

(2) A contracting officer final decision which was not appealed.

(3) Prior ASBCA or court decision involving the contractor, which upheld the cost disallowance.

(4) Any determination of unallowability under FAR 31.201–6.

(c) Issue a final decision (see FAR 33.211) which includes a demand for payment of any penalty assessed under paragraphs (a) or (b) of this section. The letter shall state that the determination is a final decision under the Disputes clause of the contract. (Demanding payment of the penalty is separate from demanding repayment of any paid portion of the disallowed cost.)

231.7002–4 Computing interest.

For 231.7002–1(a)(1)(ii), compute interest on any paid portion of the disallowed cost as follows:

(a) Consider the overpayment to have occurred, and interest to have begun accumulating, from the midpoint of the contractor's fiscal year. Use an alternate equitable method if the cost was not paid evenly over the fiscal year.

(b) Use the interest rate specified by the Secretary of Treasury pursuant to Pub. L. 92–41 (85 Stat. 97).

(c) Compute interest from the date of overpayment to the date of the demand letter for payment of the penalty.

(d) Determine the paid portion of the disallowed cost in consultation with the contract auditor.

231.7002–5 Waiver of the penalty.

Pursuant to 10 U.S.C. 2324(c), the cognizant ACO shall waive the penalties at 231.7002–1(a) when—

(a) The contractor withdraws the proposal before the Government formally initiates an audit of the proposal and the contractor submits a revised proposal;

(b) The amount of the unallowable costs under the proposal which are subject to the penalty is $10,000 or less; or

(c) The contractor demonstrates, to the cognizant ACO's satisfaction, that—

(1) It has established appropriate policies and personnel training and an internal control and review system that provides assurances that unallowable costs subject to penalties are precluded from being included in the contractor's final indirect cost rate proposals (This should include satisfactory participation in a DoD sponsored self-governance program, specific accounting controls over indirect costs, compliance tests which show the controls are effective, and Government audits which do not disclose recurring instances of expressly unallowable costs.); and

(2) The unallowable costs subject to the penalty were inadvertently incorporated into the proposal; i.e., their inclusion resulted from an unintentional error, notwithstanding the exercise of due care.

231.7002–6 Contract clause.

Use the clause at 252.231–7001, Penalties for Unallowable Costs, in all solicitations and contracts over $100,000, which contain the clauses at FAR 52.216–7, 52.216–13, 52.216–16, or 52.216–17.

PART 233—PROTESTS, DISPUTES, AND APPEALS

233.211 [Removed]

53. Section 233.211 is removed in its entirety.

54. Section 233.7000 is revised to read as follows:

233.7000 Policy.

(a) Before payment can be made on a claim (see definition in FAR 33.201), a request for equitable adjustment to contract terms, a request for relief under Pub. L. 85–804 (see FAR part 50), or another similar request that exceeds $100,000, 10 U.S.C. 2410e requires that—

(1) The contractor certify the claim as required by FAR 33.207; and

(2) The person certifying the claim or request be an individual who has knowledge of—

(i) The basis of the claim or request;

(ii) The accuracy and completeness of the support data; and

(iii) The claim or request.

(b) The individual certifying the claim or request pursuant to paragraph (a) of this section may have knowledge based on direct involvement with the claim or knowledge gained by a review of contractor records or reports from more directly involved individuals.

(c) The certification required by this subpart is different from the certification required by FAR part 33, which is based on the Contract Disputes Act (CDA), 41 U.S.C. 601 *et seq.* When no certification under this subpart has been submitted prior to the inception of a contract dispute, a single certification will satisfy the requirements of both statutes. Such certification must use the language prescribed by the CDA and be executed by a person who meets the specific knowledge requirements found in paragraph (a)(2) of this section.

(d) The aggregate amount of both the increased and decreased costs shall be used in determining when the dollar threshold requiring certification is met (see example in FAR 15.804–2(a)(1)(ii)).

(e) If a certification required by paragraph (a) of this section is incorrect when originally submitted, and is resubmitted pursuant to paragraph (a), the resubmitted certification shall be deemed to have been submitted at the time the original certification was submitted.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

55. Section 235.006 is amended by revising paragraph (b)(i)(C)(*f*)(*iii*) to read as follows:

235.006 Contracting methods and contract type.

* * * * *

(b)(i) * * *

(c) * * *

(*f*) * * *

(*iii*) The development of a major system (as defined in FAR 34.001) or subsystem thereof, if the contract is over $25 million, or is over $10 million and is funded with fiscal year 1990 or later funds (Pub. L. 101–165, section 9048 and similar sections in subsequent Defense appropriations acts).

* * * * *

56. Section 235.017 is revised to read as follows:

235.017 Federally Funded Research and Development Centers.

(a) *Policy.*

(2) No DoD fiscal year 1992 or later funds may be obligated or expended to finance activities of a DoD Federally Funded Research and Development Center (FFRDC) if a member of its board of directors or trustees simultaneously serves on the board of directors or trustees of a profit-making company under contract to DoD, unless the FFRDC has a DoD-approved conflict of interest policy for its members (section 8107 of Pub. L. 102–172 and similar sections in subsequent Defense appropriations acts).

PART 237—SERVICE CONTRACTING

57. Sections 237.171, 237.171–1, and 237.171–2 are added to read as follows:

237.171 Severance payments to foreign nationals.

237.171–1 Waiver of cost allowability limitations.

(a) The head of an agency may waive the 231.205–6(g)(2)(i) cost allowability limitations on severance payments to foreign nationals for contracts that—

(1) Provide significant support services for members of the armed forces stationed or deployed outside the United States; and

(2) Will be performed in whole or in part outside the United States.

(b) Waivers can be granted only—

(1) Before contract award; or

(2) For costs incurred on or after October 1, 1991, under contracts that were in effect on or after October 1, 1991.

(c) Waivers can not be granted for—

(1) Military banking contracts, which are covered by 10 U.S.C. 2324(e)(2); or

(2) Severance payments made by a contractor to a foreign national employed by the contractor under a DoD service contract in the Republic of the Philippines, if the discontinuation of the foreign national is the result of the termination of basing rights of the U.S. military in the Republic of the Philippines (section 1351(b) of Pub. L. 102–484).

237.171–2 Contract clauses.

(a) Use the clause at 252.237–7020, Restriction on Severance Payments to Foreign Nationals, in all solicitations and contracts that meet the criteria in 237.171–1(a), except for those excluded by 237.171–1(c).

(b) When the head of the agency has granted a waiver pursuant to 237.171–1, use the clause at 252.237–7021, Waiver of Limitation on Severance Payments to Foreign Nationals.

58. Section 237.270 is revised to read as follows:

237.270 Master agreements.

Section 2304 of Title 10, U.S.C., authorizes award of master agreements under which orders may be issued for specific contract advisory and assistance services (CAAS). The authority to award master agreements expires September 30, 1994.

PART 239—ACQUISITION OF INFORMATION RESOURCES

59. Section 239.70501–2 is revised to read as follows:

239.7501–2 Restriction.

Section 8028 of the FY 1992 Defense Appropriations Act (Pub. L. 102–172) and similar sections in subsequent Defense appropriations acts prohibit use of DoD appropriations for acquisition of major automated information systems, unless the systems have successfully completed oversight reviews required by DoD regulations.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

60. Section 252.203–7001 is amended by revising the clause date to read "(APR 1993)" in lieu of "(DEC 1991)" and by adding a new paragraph (h) to read as follows:

252.203–7001 Special prohibition on employment.

* * * * *

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting the The Office of Justice Programs, The Denial of Benefits Office, U.S. Department of Justice, telephone (202) 307–1065.

61. Section 252.209–7001 is amended in the introductory prescription statement by revising the reference "209.104–70" to read "209.104–70(a)"; by changing the clause date to read "(APR 1993)" in lieu of "(DEC 1991)"; and by revising paragraph (a) to read as follows:

252.209–7001 Disclosure of ownership or control by a foreign government that supports terrorism.

* * * * *

(a) *Definition*

Significant interest, as used in this provision, means—

(1) Ownership of or beneficial interest in five percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding five percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(2) Holding a management position in the firm, such as a director or officer;

(3) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(4) Ownership of ten percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(5) Holding 50 percent or more of the indebtedness of a firm.

* * * * *

62. Section 252.209–7002 is added to read as follows:

252.209–7002 Disclosure of ownership or control by a foreign government.

As prescribed in 209.104–70(b), use the following provision:

DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT—(APR 1993)

(a) *Definitions.*

As used in this provision—

(1) *Entity controlled by a foreign government* means—

(i) Any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; or

(ii) Any individual acting on behalf of a foreign government.

(2) *Effectively owned or controlled* means that a foreign government or any entity controlled by a foreign government has the power, either directly or indirectly, whether exercised or exercisable, to control or influence the election or appointment of the Offeror's officers, directors, partners, regents, trustees, or a majority of the Offeror's board of directors by any means, e.g., ownership, contract, or operation of law.

(3) *Foreign government* means any governing body organized and existing under

the laws of any country other than the United States and its possessions and trust territories and any agent or instrumentality of that government.

(4) *Proscribed information* means—

(i) Top Secret information;

(ii) Communications Security (COMSEC) information, except classified keys used to operate secure telephone units (STU IIIs);

(iii) Restricted Data as defined in the U.S. Atomic Energy Act of 1954, as amended;

(iv) Special Access Program (SAP) information; or

(v) Sensitive Compartmented Information (SCI).

(b) *Prohibited on award.*

No contract under a national security program may be awarded to a company owned by an entity controlled by a foreign government if that company requires access to proscribed information to perform the contract, unless the Secretary of Defense or designee has waived application of 10 U.S.C. 2536(a).

(c) *Disclosure.*

The Offeror shall disclose any interest a foreign government has in the Offeror when that interest constitutes control by a foreign government as defined in this provision. If the Offeror is a subsidiary, it shall also disclose any reportable interest a foreign government has in any entity that owns or controls the subsidiary, including reportable interest concerning the Offeror's immediate parent, intermediate parents, and the ultimate parent. Use separate paper as needed, and provide the information in the following format: Offeror's Point of Contact for Questions about Disclosure (Name and Phone Number with Country Code, City Code and Area Code, as applicable)

Name and Address of Offeror	Description of Interest, Ownership Percentage, and Identification of Foreign Government
Name and Address of Entity Controlled by a Foreign Government.	

(End of provision)

63. Section 252.219–7003 is amended by changing the date of the clause to read "(APR 1993)" in lieu of "(DEC 1991)"; by redesignating paragraph (d) as (f) and revising the word "contractor's" in newly designated paragraph (f) to read "Contractor's"; and by adding new paragraphs (d) and (e) to read as follows:

252.219–7003 Small business and small disadvantaged business subcontracting plan (DoD Contracts) (APR 1993).

* * * * *

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who Are Blind or Severely Disabled (41 U.S.C. 46–48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101–510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded—

(1) Protege firms which are qualified organizations employing the severely handicapped; and

(2) Former protege firms that meet the criteria in Section 831(g)(4) of Pub. L. 101–510.

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219–9 clause is approval by the Contractor's cognizant contract administration activity.

(End of clause)

64. Section 252.219–7007 is amended by revising Alternate B and Alternate C to read as follows:

252.219–7007 Alternates.

* * * * *

Alternate B (Apr 1993)

As prescribed in 219.811–3(b), delete paragraph (c) of the clause at FAR 52.219–12 and add the following subparagraphs (5), (6), and (7) to paragraph (b):

(5) That, in accordance with section 813 of Pub. L. 102–190, it will establish a special account, at a bank insured by the Federal Deposit Insurance Corporation, under which—

(i) All payments under this subcontract will be deposited directly by the (insert name of contracting activity); and

(ii) All disbursements will be subject to approval of the Department of Defense's Contracting Officer.

(6) That it will make timely payment to all suppliers of material and labor.

(7) That it will notify all suppliers of material or labor and will obtain written acknowledgement from such suppliers, that the contract is exempt from the Miller Act's bonding requirement and that neither the SBA nor the (insert name of contracting activity) are liable for payment to suppliers for materials or labor. Such acknowledgement must be provided to the Contracting Officer before approval of disbursements to the Contractor from the special bank account.

Alternate C (Apr 1993)

As prescribed in 219.811–3(c), substitute the following paragraphs (a)(3) and (b) for paragraphs (a)(3) and (b) of the clause at FAR 52.219–17;

(a)(3) That payments to be made under the contract will be deposited by the contracting activity to a special account established by the subcontractor and that all disbursements will be subject to approval of the Department of Defense Contracting Officer.

(b) The (insert name of subcontractor), hereafter referred to as the subcontractor, agrees and acknowledges as follows:

(1) That it will, for and on behalf of the SBA, fulfill and perform all of the requirements of the contract.

(2) That, in accordance with section 813 of Pub. L. 102–190, it will establish a special account, at a bank insured by the Federal Deposit Insurance Corporation, under which—

(i) All payment under this subcontract will be deposited directly by the *(insert name of contracting activity;* and

(ii) All disbursements will be subject to approval of the Department of Defense's Contracting Officer.

(3) That it will make timely payment to all suppliers of material and labor.

(4) That it will notify all suppliers of material or labor and will obtain written acknowledgement from such suppliers, that the contract is exempt from the Miller Act's bonding requirement and that neither the SBA nor the *(insert name of contracting activity* are liable for payment to suppliers for materials or labor. Such acknowledgements must be provided to the Department of Defense Contracting Officer before approval of disbursements to the subcontractor from the special bank account.

65. Section 252.219–7009 is added to read as follows:

252.219–7009 Certificate of competency.

As prescribed in 219.602–70, use the following provision:

CERTIFICATE OF COMPETENCY (APR 1993)

(a) In the event of a determination of nonresponsibility on a small business offeror, the Contracting Officer will—

(1) Notify the Offeror, in writing, of the determination and of the Offeror's right, under section 8(b)(7) of the Small Business Act, to request that the Small Business Administration (SBA) make a determination of the Offeror's responsibility under the Certificate of Competency Program.

(2) Withhold award until the Offeror's response is received or 14 calendar days from receipt of the notice by the Offeror.

(3) Upon timely receipt of an affirmative response from the Offeror, refer the matter to the SBA.

(4) Upon receipt of a negative response from the Offeror, or if a timely response is not received, award to another offeror.

(b) The Offeror shall notify the Contracting Officer, in writing, within 14 days of receipt of a notification of a nonresponsibility determination, as to whether or not it desires a request for an SBA determination of responsibility.

§ 252.222–7001 [Amended]

66. Section 252.222–7001 is amended by revising the clause date to read "(APR 1993)" in lieu of "(OCT 1992)" and by adding in the first sentence of paragraph (a) the words "who have been or will be" between the word "employees," and the work "adversely."

67. Section 252.223–7006 is added to read as follows:

§ 252.223–7006 Prohibition on storage and disposal of toxic and hazardous materials.

As prescribed in 223.7013, use the following clause:

PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) *Definitions.*

As used in this clause—

(1) *Storage* means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) *Toxic or hazardous materials* means:

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee.

68. Section 252.225–7016 is added to read as follows:

252.225–7016 Restriction on acquisition of antifriction bearings.

As prescribed in 225.7019–4, use the following clause;

RESTRICTION ON ACQUISITION OF ANTIFRICTION BEARINGS (APR 1993)

(a) The Contractor agrees that all antifriction bearings and antifriction bearing components delivered under this contract, either as end items or components of end items, shall be wholly manufactured in the United States or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube, or rod stock and lubricants, need not be mined or produced in the United States or Canada.

(b) The restriction in paragraph (a) does not apply to the extent that the end items or components containing antifriction bearings are commercial products. Commercial product means a product, such as an item, material, component, subsystem, or system sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices. The commercial product exception does not include items designed or developed under a Government contract or contracts where the end item is bearings and bearing components.

(c) The restriction in paragraph (a) may be waived upon request from the Contractor in accordance with section 225.7019 of the Defense Federal Acquisition Regulation Supplement.

(d) The Contractor agrees to retain records showing compliance with this restriction until three years after final payment and to make records available upon request of the Contracting Officer.

(e) The Contractor agrees to insert this clause, including this paragraph (e), in every subcontract and purchase order issued in performance of this contract, unless items acquired do not contain antifriction bearings.

(End of clause)

69. Section 252.225–7025 is revised to read as follows:

252.225–7025 Foreign source restrictions.

As prescribed in 225.7105, use the following clause:

FOREIGN SOURCE RESTRICTIONS (APR 1993)

(a) *Definitions.*

(1) *Domestic manufacture* means—

(i) For forging items, manufactured in the United States or Canada if the Canadian firm—

(A) Normally produces similar items or is currently producing the item in support of DoD contracts (as prime or subcontractor); and

(B) Agrees to become (upon receiving a contract/order) a planned producer under DoD's Industrial Preparedness Program (IPP), if it is not already a planned producer for the item.

(ii) For high carbon ferrochrome (HCF), manufactured in the United States regardless of source of the chrome ore.

(iii) For high-purity silicon, manufactured in the United States or Canada. When an item or subassembly containing high-purity silicon is involved, all such high-purity silicon incorporated in the item or subassembly must also have been manufactured in the United States or Canada.

(iv) For miniature and instrument ball bearings, manufactured in the United States or Canada and, when a ball bearing assembly is involved, all components of the bearing must also have been manufactured in the United States or Canada; and

(v) For precision components for mechanical time devices, manufacture in the United States or Canada, and, when a mechanical timing assembly is involved, all precision components of the assembly must also have been manufactured in the United States or Canada.

(2) *Forging items* means—

Items	Categories
Shipboard forged anchor chain.	All.
Ship propulsion shafts	Excludes service and landing craft shafts.
Periscope tubes	All.
Ring forgings for bull gears.	All greater than 120 inches in diameter.
Large caliber, thick-walled cannon (105mm through 8-inch forgings).	Preform, gun tube, muzzle brake, and breach ring forgings.
60mm and 81mm mortar forgings.	Bipod, base plate, and body yoke forgings.
Small caliber weapons forgings.	Barrel extensions, bolts, receivers, sights/handles, etc.
Tank and automotive forgings.	Turret rings, road arms, final drive gears, shafts, track shoes, axle shafts, flywheels, connecting rods, crankshafts, roadwheels, spindles, torsion bars.

(3) *High carbon ferrochrome (HCF)* means ferrochromium alloy that contains three percent or more carbon and 50 percent or more chromium.

(4) *High-purity silicon* means N or P type with a resistivity greater than 3000 ohm-centimeter.

(5) *Miniature and instrument ball bearings* means all rolling contact ball bearings with a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, irrespective of material, tolerance, performance, or quality characteristics.

(6) *Precision components for mechanical time devices* are parts which closely relate so that precise control and selection of working production tolerances can be maintained to accomplish the desired function and reliability. In terms of accuracy, such precision components have total tolerances under 0.003 inches, eccentricities less than 0.0015 inches, and surface finishes better than 65 rms. Examples of such precision components include: gears, pinions, posts, and plates.

(b) The Contractor agrees that end items and their components delivered under this contract shall contain forging items, high carbon ferrochrome, high-purity silicon, miniature and instrument ball bearings, and precision components for mechanical time devices that are of domestic manufacture only.

(c) The restrictions in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with the provisions of section 225.7104 of the Defense FAR Supplement. If the restriction is waived for miniature and instrument ball bearings or precision components for mechanical time devices, the Contractor agrees to acquire a like quantity and type of domestic manufacture for nongovernment use.

(d) The restrictions in paragraph (b) do not include forgings incorporated in commercial vehicles, such as commercial cars and trucks, or noncombat support military vehicles.

(e) The Contractor agrees to retain records showing compliance with these restrictions until three years after final payment and to make records available upon request of the Contracting Officer.

(f) The Contractor agrees to insert this clause, including this paragraph (f), in every subcontract and purchase order issued in performance of this contract, unless items purchased contain none of the restricted items.

(End of clause)

70. Section 252.225–7026 is revised to read as follows:

252.225–7026 Reporting of contract performance outside the United States.

As prescribed in 225.7203, use the following clause:

REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (APR 1993)

(a) *Reporting criteria*

Reporting under this clause is required for—

(1) Offers exceeding $10 million, if the Offeror is aware at the time the offer is submitted that it or its first-tier subcontractor intends to perform any part of the contract that exceeds $500,000 outside the United States and Canada, if that part could be performed inside the United States or Canada;

(2) Contracts exceeding $10 million, when any part that exceeds $500,000 could be performed inside the United States or Canada, but will be performed outside the United States and Canada. If the information was submitted with the offer, it need not be resubmitted unless it changes; and

(3) Contracts exceeding $500,000, when any part that exceeds $25,000 will be performed outside the United States, unless a foreign place of performance is—

(i) The principal place of performance; and

(ii) Indicated by the Offeror's entry in the Place of Performance provision of the solicitation.

(b) *Submission of reports.*

(1) The Offeror shall submit reports required by paragraph (a)(1) of this clause with its offer.

(2) The Contractor shall submit reports required by paragraph (a)(2) of this clause to the Contracting Officer as soon as the information is known, with a copy to the addressee in paragraph (b)(3) of this clause. With respect to performance by a first-tier subcontractor, this information shall be reported, to the maximum extent practicable, at least 30 days before award of the subcontract.

(3) The Contractor shall submit reports required by paragraph (a)(3) of this clause within 10 days of the end of each Government quarter to—

Deputy Director of Defense Procurement (Foreign Contracting) OUSD(A)DP(FC) Washington, DC 20301–3060

(c) *Flowdown requirements.*

(i) The Contractor shall include a clause substantially the same as this one in all first-tier subcontracts exceeding $100,000, except subcontracts for commercial items as defined in DFARS 211.7001, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

(ii) The Contractor shall provide the prime contract number to subcontractors for reporting purposes.

(d) *Information required.*

(1) Information to be reported on the part of this contract performed outside the United States (or outside the United States and Canada for reports required by paragraphs (a)(1) and (a)(2) of this clause) includes that for—

(i) Subcontracts;

(ii) Purchases; and

(iii) Intracompany transfers when transfers originate in a foreign location.

(2) For each part of the contract required to be reported, furnish the following information, in the format shown:

Title of Report: REPORT OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES

Date of Submission (YYMMDD) (Enter date of signature.).

Prime Contract Number (Use solicitation number when submitted with offer.).

Program Identification (e.g., F–16 aircraft, F–100 engine, AN/APN–59 radar, or type of services).

Name of Prime Contractor.

Division.

Address of Contractor (Street, City, State, Zip Code).

Name of Subcontractor or Foreign Division of Contractor.

Address of Subcontractor or Foreign Division of Contractor (Identify whether first- or second-tier subcontractor and give Street, City, State, Zip Code, and Country).

Value of Effort Performed Outside the United States. (Show amount of (1) prior action, (2) this action, and (3) new total in dollars.).

Country of Origin (Enter city and country of actual producer of supplies or firm providing services.).

Description of Supplies or Services Obtained Outside the United States (e.g., vertical stabilizer, F–15; Bomb Nav System, FB–111; or repair of F–16 wings).

Name of Company Submitting Report (Prime contractor for reports on first-tier subcontracts or first tier subcontractor for reports on second-tier subcontracts)

Point of Contact for Report (Name: Last, first, middle initial of individual submitting report).

Telephone Number of Point of Contact (Area code and number).

(End of clause)

71. Section 252.225–7033 is added to read as follows:

252.225–7033 Restriction on acquisition of four ton dolly jacks.

As prescribed in 225.7018–3, use the following clause:

RESTRICTION ON ACQUISITION OF FOUR TON DOLLY JACKS (APR 1993)

Four ton dolly jacks delivered under this contract shall be manufactured in the United States unless a waiver is granted in accordance with subsection 225 7018–2 of the Defense Federal Acquisition Regulation Supplement.

(End of clause)

252.227–7013 [Amended]

72. Section 252.227–7013, Alternate II, is amended by revising the Alternate II date to read "(APR 1993)" in lieu of "(OCT 1988)"; by revising in the first sentence of paragraph (b)(3) introductory text the words "two (2) years" to read "four (4) years"; by revising in the first sentence of paragraph (b)(3) introductory text the words "two-year period" to read "four-year period", by revising in the first sentence of the undesignated paragraph following paragraph (b)(3)(ii) the words "two (2) years" to read "four (4) years", and by revising in the second sentence of the undesignated paragraph following paragraph (b)(3)(ii) the words "two-year period" to read "four-year period".

73. Section 252.231–7001 is revised to read as follows:

252.231–7001 Penalties for unallowable costs.

As prescribed in 231.7002–6, use the following clause:

PENALTIES FOR UNALLOWABLE COSTS (APR 1993)

(a) *Definition.*

Proposal means either—

(1) A final indirect cost rate proposal submitted by the Contractor after the expiration of its fiscal year which—

(i) Relates to any payment made on the basis of billing rates or

(ii) Will be used in negotiating the final contract price; or

(2) The final statement of costs incurred and estimated to be incurred under the Incentive Price Revision clause (if applicable), which is used to establish the final contract price.

(b) Contractors which include unallowable costs in a proposal may be subject to penalties. The penalties are prescribed in 10 U.S.C. 2324, as amended by section 818 of Pub. L. 102–484, which is implemented in subpart 231.70 of the Defense Federal Acquisition Regulation Supplement (DFARS).

(c) The Contractor shall not include in any proposal any cost which is unallowable, as defined in part 31 of the Federal Acquisition Regulation (FAR).

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal is expressly unallowable under a FAR or DFARS cost principle that defines the allowability of specific selected costs, the Contractor shall be assessed a penalty equal to—

(1) The amount of the disallowed cost allocated to this contract, plus

(2) Simple interest, to be computed—

(i) On the amount the Contractor was paid (whether as a progress or billing payment) in excess of the amount to which the Contractor was entitled

(ii) Using the applicable rate effective for each six month interval prescribed by the Secretary of the Treasury pursuant to Pub. L. 92–41 (85 Stat. 97).

(e) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal includes a cost previously determined to be unallowable for that Contractor, then the Contractor will be assessed a penalty in an amount equal to two times the amount of the disallowed cost.

(f) Determinations under (d) and (e) of this clause are final decisions within the meaning of the Contract Disputes Act of 1978 (41 U S.C. 604, *et seq*).

(g) Pursuant to the criteria in DFARS 231 7002–5, the Contracting Officer may waive the penalties in (d) or (e) of this clause

(h) Contractor submission of unallowable costs is also subject to the provisions of 18 U.S.C. 287 and 31 U.S.C. 3729.

(i) Payment by the Contractor of any penalty assessed under this clause does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

(End of clause)

74. Section 252.233–7000 is amended by changing the date of the clause to read "APR 1993" in lieu of "DEC 1991"; and by revising paragraphs (a) and (d) to read as follows:

252.233–7000 Certification of claims and requests for adjustment or relief.

* * * * *

(a) Any contract claim, request for equitable adjustment to contract terms, request for relief under Pub. L. 85–804, or other similar request exceeding $100,000 shall bear, at the time of submission, the following certificate given by an individual who has knowledge of the basis of the claim or request, knowledge of the accuracy and completeness of the supporting data, and knowledge of the claim or request:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to bind the contractor with respect to the claim.

(Official's Name)

(Title)

* * * * *

(d) In those situations where no claim certification for the purposes of 10 U.S.C. 2410e has been submitted prior to the inception of a contract dispute, a single certification, using the language prescribed by the Contract Disputes Act (41 U.S.C. 601 *et seq.*) but signed by an individual who has knowledge of the basis of the claim or request, knowledge of the accuracy and completeness of the supporting data, and knowledge of the claim or request, will satisfy the certification requirements of both statutes.

* * * * *

75. Section 252.237–7020 is added to read as follows:

252.237–7020 Restriction on severance payments to foreign nationals.

As prescribed in 237.171–2(a), use the following clause:

RESTRICTION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS (APR 1993)

(a) The Defense Federal Acquisition Regulation Supplement (DFARS) at 231.205–6(g)(2)(i) limits the cost allowability of severance payments to foreign nationals employed under a service contract performed outside the United States unless the head of the agency grants a waiver pursuant to DFARS 237.171–1.

(b) In making the determination concerning the granting of a waiver, the head of the agency will consider whether—

(1) The application of the severance pay limitations to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States;

(2) The Contractor has taken (or has established plans to take) appropriate actions within its control to minimize the amount and number of incidents of the payment of severance pay to employees under the contract who are foreign nationals; and

(3) The payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

(End of clause)

76. Section 252.237–7021 is added to read as follows:

252.237–7021 Waiver of limitation on severance payments to foreign nationals.

As prescribed at 237.171–2(b), use the following clause:

WAIVER OF LIMITATION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS (APR 1993)

(a) Pursuant to 10 U.S.C. 2324(e)(3)(A), the cost allowability limitations of 10 U.S.C. 2324(e)(1)(M) and (N) are waived.

(b) This clause may be incorporated into subcontracts issued under this contract, if approved by the Contracting Officer

(End of clause)

PART 253–FORMS

§ 253.303–2139 [Removed]

77. Form 253.303–2139 is removed from the DFARS Form List.

Appendix B to Chapter 2 [Amended]

78. DFARS Appendix B, Part 4—Defense Logistics Agency Assignments is amended by removing the designation "P^{8}" from the Defense Logistics Agency Federal Supply Class Code numbers "3405, 3408, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3422, 3424, 3426, 3432, 3433, 3436, 3438, 3439, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3455, 3456, 3460, 3461, 3465, 3470, 3611, 3620, 3635, 3650, 3660, 3680, 3685, 3693, and 3694"; by revising Federal Supply Class Code number "6115 P^{9}" to read "6115 P^{8}"; and under the Footnotes by removing footnote "^{8}" and redesignating footnote "^{9}" as footnote "^{8}".

[FR Doc. 93–10967 Filed 5–12–93; 8:45 am]

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federal register

Thursday
May 13, 1993

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing

24 CFR Part 3500

Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3500

[Docket No. R–93–1653; FR–3382–P–01]

RIN No. 2502–AG13

Amendments to Regulation X, the Real Estate Settlement Procedures Act Regulation

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to revise Regulation X, HUD's regulation implementing the Real Estate Settlement Procedures Act of 1974. (RESPA) to reflect amendments to RESPA contained in sections 908 and 951 of the Housing and Community Development Act of 1992.

DATES: Comments must be received by July 12, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: David Williamson, Director, RESPA Enforcement, room 5241, (202) 708–4560 or, for legal questions, Grant E. Mitchell, Senior Attorney for RESPA, Office of General Counsel (202) 708–1552, room 10252, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. The TDD number is (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The OMB control numbers applicable to these information collections, when assigned, will be announced by separate notice in the **Federal Register.**

Public reporting burden for the requirements contained in this proposed rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the preamble heading, *Other Matters.* Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410–0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for HUD.

II. Background

The Department of Housing and Urban Development published, on November 2, 1992 (57 FR 49600), with corrections on December 1, 1992 (57 FR 56856), a comprehensive final rule revising Regulation X, HUD's Real Estate Settlement Procedures Act regulations. While that final rule clarified that the making of a mortgage loan is a settlement service, and provided that RESPA covers all refinancing transactions, the Department had not, before the amendments to RESPA contained in title IX of the 1992 Act, had jurisdiction over second or other subordinate mortgages, including most home equity loans and lines of credit and home improvement loans.

The new amendments in the 1992 Act involve four areas of RESPA coverage:

A. Lending Coverage

HUD had always interpreted RESPA to say that the making of a mortgage loan was a "settlement service" for purposes of coverage of RESPA. Since RESPA's original enactment, HUD has enforced the provisions of Section 8 prohibiting kickbacks and referral fees against lenders and mortgage brokers who have paid referral fees or things of value for the referral of lending business involving federally related mortgage loans. HUD has taken this enforcement position ever since issuing regulations on RESPA in 1976. See, for example, comments 2 and 7 appendix B to 24 CFR part 3500 (Regulation X, issued on June 4, 1976.) Most recently, in the regulations published on November 2, 1992, the Department restated this long-held enforcement practice in language that stated that the "origination, processing or funding of a federally related mortgage loan" is a "settlement service" covered by RESPA. (See the discussion in the preamble (57 FR 49600).

The 1992 Act amendment confirmed this long-held enforcement position by defining settlement services to include "the origination of a federally related mortgage loan * * *." This clarification is not retroactive. However, because the statute merely clarifies a long-held agency practice of viewing the activities of lenders and brokers as covered "settlement services," the Department does not consider the language of Section 908(d) concerning the non-retroactivity of the section to affect HUD's pending enforcement efforts against current Section 8 violations involving mortgage lending.

The 1992 Act requires that the Department issue regulations implementing the amendments and this rule merely clarifies the definition of "settlement services" using the new statutory language.

B. Refinancing Transactions

The 1992 Act amendments further clarified the definition of a federally related mortgage loan to include refinancing transactions. Although the original statutory language covered all refinancings which were first liens on residential real property, HUD had, by regulation, exempted most refinancings from RESPA coverage. The statutory amendment provides that all refinancings are to be included in the definition of a federally related mortgage loan.

HUD received comments on the 1988 proposed rule that involved the issue of coverage of refinancing transactions under RESPA. In the final rule published on November 2, 1992, the Department removed the exemption from RESPA coverage for refinancing transactions. The Department takes the position that it had the authority to cover refinancing loans prior to the passage of the 1992 Act, and that any application for a refinancing loan received on or after December 2, 1992 is covered by the final RESPA Rule. In this proposed rule, HUD tracks the 1992 Act's language describing refinancing transactions as covered in the definition of a "federally related mortgage loan." The proposed rule further states that changes in interest rate, term, or periodic payments, including extending the terms of a balloon note, are not considered to be refinancings if a transaction involves no charges, or only

nominal charges (less than ¼ of 1 percent of the loan amount), and does not involve a transfer of title.

C. Subordinate Loans

The 1992 Act amendment added subordinate loans as part of the definition of a federally related mortgage loan, and stated that the amendment was effective as of the date of enactment—October 28, 1992. To clarify any ambiguities raised by the amendment's effective date, the Department issued an Interpretive Rule concluding that subordinate lien loans would not be covered under RESPA until the completion of rulemaking under the 1992 Act, which rulemaking would have its own effective date. The determination of this Department was published as Interpretive Rule 1993–2 in the **Federal Register** on March 15, 1993 (58 FR 13705.)

The Department seeks comments from affected parties, and recommendations for the most efficient forms or formats for displaying the required information. Appendix F sets forth a proposed form of a HUD Settlement Statement that would be used for refinancing and junior lien transactions. The Department is also interested in recommendations for any specific class of exemptions which the Secretary may create under section 19 of RESPA. In particular, HUD is interested in receiving comments concerning the effect of this coverage change and compliance burdens under existing regulations concerning sections 4, 5, 6, 8, and 10 of RESPA.

Because this statutory amendment extends RESPA's coverage to second or subordinate lien loans, such as home equity and lines of credit loans which were previously unaffected by RESPA, the Department will begin enforcing coverage of this class of mortgages only as of the effective date of the final rule in this proceeding.

D. Good Faith Estimates; Special Information Booklet

Section 951 of the 1992 Act amended section 5(d) of RESPA to provide that the Special Information Booklet regarding settlement costs (and, implicitly, the Good Faith Estimate of Closing Costs) did not have to be provided to an applicant if the lender denied the application for mortgage credit within three business days of receipt of the application (See § 3500.6 and § 3500.7). This proposed rule would revise Regulation X to reflect this statutory change.

Section 5 of RESPA (12 U.S.C. 2604) provides that "The Secretary shall prepare and distribute booklets to help persons borrowing money to *finance the purchase of residential real estate* better to understand the nature and costs of real estate settlement services." Technically, there is no obligation for the Department to provide such loan advice except to purchase money loans, and the final rules of November 2, 1992 limits distribution of booklets to loans to finance the purchase of qualifying real estate. However, it is reasonable to believe that those refinancing residential real estate or putting other liens on their property are also in need of advice regarding the consequences and expenses of their actions, and failure to expand this provision was an omission by the Congress. The Federal Reserve Board has published materials entitled When Your Home is on the Line: What You Should Know About Home Equity Lines of Credit and A Consumer's Guide to Mortgage Refinancings. The proposed rule established a procedure wherein, if Congressional clarification of its intent is received, the Department may denominate materials or issue additional materials regarding refinancings and junior lien loans.

E. Definitions

The listed definitions in the final rule are being revised, and at the completion of final rulemaking here, the Department anticipates reorganizing § 3500.2, eliminating section designations and alphabetizing all definitions contained in the rule. Several provisions of the final rule contain cross-references to definitions in § 3500.2, using paragraph designations that appear in the current version of the regulation. When a final rule is promulgated in this proceeding, these cross-references will be adjusted with conforming amendments that will cross-reference to particular definitions by means other than their paragraph designations within § 3500.2.

Miscellaneous Matters

The proposed rule requests comments regarding the desirability of reinstatement of the so-called farm loan exemption (loans involving farm property) if the total acreage involved in the financing transaction exceeds 25 acres, whether or not a residential property is involved. In addition, because the final RESPA rule deleted any exemptions from coverage for commercial loan transactions involving lien positions on residential real estate, and instead relied on the lien rather than the loan purpose for coverage of RESPA, the Department will accept comments recommending exempted classes of commercial residential transactions for consideration. Regulation Z, for instance, provides for a business purpose test, and also excludes loans to other than natural persons. Another potential exempted class might be residential real estate which is only indirectly secured by an otherwise qualifying mortgage, such as one given as security for the guarantee of a loan, or securing a note which is used for collateral for other loans, or where the real estate is not the primary collateral for a loan. The Department is also interested in advice as to whether adopting the "business purpose" test of Regulation Z would be desirable.

In addition, the Department is taking the opportunity of proposing technical clarifications and corrections of matters that were unclear or imprecise in the final rule published on November 2, 1992 and effective on December 2, 1992 (57 FR 49600). These technical clarifications included the following: 1 A clarification that a "reverse mortgage" and a "home equity conversion mortgage" are different names for the same type of loan. 2. A statement indicating that certain types of mortgage life or disability insurance are only covered by RESPA if they are required by the lender as a condition of the loan. 3. A clarification that the exemption for cooperative brokerage payments derived from the status applies only to the division of fees within or between real estate brokerages, and does not create any exemption for the split of fees between real estate brokers and mortgage brokers. 4. A statement of the use of Line 902 of the HUD–1 Settlement Statement for recording mortgage insurance premiums, and the use of Line 1000 for recording mortgage insurance premium reserves.

The Department invites comments regarding these and other technical clarifications and corrections that may be desirable for inclusion in a revised final rule.

Other Matters

Public Reporting Burden

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The Department has determined that the following provisions contain information collection requirements:

TABULATION OF ANNUAL REPORTING BURDEN—REAL ESTATE SETTLEMENT PROCEDURES ACT

	No. of respondents	No. of responses	Total annual responses	Hours per response	Annual burden hours	Total annual burden (mil.)
Good Faith Estimate (Brokers)	15,000	11	160,500	0.25	40,125	[2] 4.8
Good Faith Estimate (Lenders)	100,000	6	642,000	0.25	160,500	[2] 19.3
HUD–1(A)	[1] 100,000	6	642,000	0.50	321.000	19.3
Controlled Business Disclosure	[1] 10,000	64	64,000	0.10	6,400	[3] 1.2

[1] Part of original 100,000 respondents.
[2] Estimated cost is $30 per disclosure.
[3] Estimated cost is $20 per disclosure.

Executive Order 12291

The proposed rule appears to constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Initial analysis indicated that the disclosure and recordkeeping costs would have an annual effect on the economy of less than $100 million. However, the proposed rule may lead to other increases in costs or prices for consumers or individual industries by altering established business practices. Because of this possibility, the Department is preparing a regulatory impact analysis and will publish the regulatory impact analysis with the final rule. The Department invites comments on the possible costs and benefits of the proposed rule to assist in the preparation of the regulatory impact analysis. Send comments to the addresses set forth in Section I. Paperwork Reduction Act above.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities, other than those impacts specifically required to be applied universally by the legislation being implemented.

Environmental Impacts

A Finding of No Significant Impact with respect to the environment has been made in accordance with Part 50 of this title which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the proposed rule is not subject to review under the order.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. Promulgation of this rule expands coverage of the statute pursuant to statutory direction.

Regulatory Agenda

This proposed rule was listed as item 1448 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24410) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 3500

Consumer protection, Housing, Mortgages, Real property acquisition, Reporting and recordkeeping requirements.

Accordingly, 24 CFR chapter XX, part 3500, is proposed to be amended as follows:

1. The authority citation for part 3500 would continue to read as follows:

Authority: 12 U.S.C. 2601 *et seq.*

2. Section 3500.2 would be amended by removing the paragraph designations and by listing all definitions in alphabetical order; by revising the definitions for "Federally-related mortgage loan", "HUD–1 settlement statement or HUD–1", "Lender", "Settlement service", and "Special information booklet"; and by adding a new definition for "Dealer", to read as follows:

§ 3500.2 Definitions.

* * * * *

Dealer means, in the case of property improvement loans, a seller, contractor, or supplier of goods or services. In the case of manufactured home loans, "dealer" means one who engages in the business of manufactured home retail sales.

Federally-related mortgage loans means any loan (other than temporary financing, such as a construction loan, (see § 3500.5(b)(4) which:

(1) Is secured by a first lien or subordinate lien on residential property, including any secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property;

(i) Upon which there is located, or will be constructed following settlement using proceeds of the loan, a structure or structures designed principally for the occupancy of from one to four families (including individual units of condominiums and cooperatives and including any related interests such as a share in the cooperative or right to occupancy of the unit); or

(ii) Upon which there is located, or will be placed following settlement using proceeds of the loan, a manufactured home; and

(2)(i) Is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government; or

(ii) Is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) Is intended to be sold by the originating lender to the Federal

National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation (or its successors), or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation (or its successors); or

(iv) Is made in whole or in part by any "Creditor," as defined in Section 103(f) of the Consumer Credit Protection Act (15 U.S.C. 1602(f)), as such provisions may be amended from time to time, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year, except that for the purpose of this section the term "creditor" does not include any agency or instrumentality of any State and a "residential real estate loan" means any loan (including temporary financing) secured by a lien (including a junior lien) on property described in § 3500.2(a)(9) except that such property may also be designed for occupancy by more than four families or may be more than an individual cooperative or condominium units; or

(v) Is the subject of a "home equity conversion mortgage," also frequently called a "reverse mortgage," issued by any maker of mortgage loans specified in paragraph (2)(i)–(iv) of this definition.

* * * * *

HUD–1 settlement statement or HUD–1 means the standard form for the statement of settlement charges which is prescribed by the Secretary pursuant to Section 4 of RESPA (12 U.S.C. 2603). HUD may issue additional settlement statements for specific categories of transactions by publication of a notice in the **Federal Register** setting forth the form and the effective date for its utilization.

Lender means, generally, the secured creditor or creditors named as such in the debt obligation and document creating a lien, unless a specific provision of this rule modifies this definition.

* * * * *

Settlement service means any service provided in connection with a prospective or actual settlement including, but not limited to, the following:

(1) The origination of a federally-related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of such loans);

(2) The rendering of services by a mortgage broker (including counseling, taking of applications, obtaining verifications and appraisals, and other loan processing and origination services, and communicating with the borrower and lender);

(3) The providing of any services related to the origination, processing, or funding of a federally-related mortgage loan;

(4) The providing of title services, including title searches, title examinations, abstract preparation, insurability determinations, and the issuance of title commitments and title insurance policies;

(5) The rendering of services by an attorney;

(6) The preparing of documents, including notarization, delivery and recordation;

(7) The rendering of credit reports and appraisals;

(8) The rendering of inspections, including inspections required by applicable law, or any inspections required by the sales contract or mortgage documents prior to transfer of title;

(9) The conducting of settlement by a settlement agent and any related services;

(10) The providing of services involving mortgage insurance;

(11) The providing of services involving hazard, flood, or other casualty insurance or homeowners warranties;

(12) The providing of services involving mortgage life, disability or similar insurance designed to pay a mortgage loan upon disability or death of a borrower, but only if such insurance is required by the lender as a condition of the loan;

(13) The providing of services involving real property taxes or any other assessments or charges on the real property;

(14) The rendering of services by a real estate agent or real estate broker; and

(15) The providing of any other services for which a settlement service provider requires a borrower or seller to pay.

Special information booklet means the booklet prepared by the Secretary pursuant to section 5 of RESPA (12 U.S.C. 2604) to help persons understand the nature and costs of settlement services, in the form most recently published in the **Federal Register**. The Department may issue or approve additional booklets or alternative booklets by publication of a Notice in the **Federal Register**.

* * * * *

3. Section 3500.5 would be revised to read as follows:

§ 3500.5 Coverage of RESPA.

(a) *Applicability.* RESPA and this part apply to all federally related mortgage loans.

(b) *Exemptions.* This part does not apply to the following:

(1) [PROPOSED LANGUAGE FOR EXEMPTION:] Any loan involving agricultural property (including, but not limited to, farms, ranches, aquaculture or vineyards) constituting 25 or more acres, regardless of whether the loan in part involves a lien including residential property.

(2) [PROPOSED LANGUAGE FOR EXEMPTION:] Any transaction whose purpose is to change the interest rate, term, or periodic payment amount of an existing Federally-related mortgage loan, including extension of the terms of a balloon note, so long as the transaction involves no charge, or nominal charges (less than ¼ of 1% of the outstanding loan amount), and does not involve a transfer of title.

(3) [PROPOSED LANGUAGE FOR EXEMPTION:] A loan secured by vacant or unimproved property, unless a structure or manufactured home will be purchased, constructed, or placed on the property using the loan proceeds within two years from the date of the loan. If a loan for a structure or manufactured home to be placed on vacant or unimproved property will be secured by a lien on such property, the loan is a covered transaction.

(4) [PROPOSED LANGUAGE FOR EXEMPTION:] Temporary financing, such as a construction loan. The exemption for temporary financing does not apply to a loan made to finance construction of a new structure if the loan is used as or may be converted to permanent financing by the same lender or to finance transfer of title to the first user. Any construction loan for a new structure, other than a loan to a *bona fide* builder, is a RESPA-covered loan if its term is in excess of two years.

(5) *Secondary market transactions.* A *bona fide* transfer of a loan obligation in the secondary market is not covered by Section 8 of RESPA. In determining what constitutes a bona fide transfer, HUD will consider the real source of funding and the real interest of the settlement lender. Mortgage broker transactions commonly called "table funding" wherein there is a contemporaneous advance of loan funds and assignment of the loan are not considered to be secondary market transactions. [PROPOSED LANGUAGE:] A dealer loan, where a dealer, having a direct or indirect financial interest in the transaction between the applicant and the lender, assists the applicant in

obtaining the loan from the lender is not a secondary market transaction.

4. Section 3500.6 would be amended by revising paragraph (a) to read as follows:

§ 3500.6 Special information booklet at time of loan application.

(a) *Lender to provide information booklet.* Subject to the exceptions set forth below, the lender shall provide a copy of the special information booklet to a person from whom the lender receives, or for whom the lender prepares, a written application on an application form or forms normally used by the lender for a federally related mortgage loan. Where two or more persons apply together for a loan, the lender is in compliance if the lender provides a copy of the booklet to one of the individuals applying, but may provide additional booklets to other applicants, or to guarantors.

(1) The lender shall provide the special information booklet by delivering it or placing it in the mail to the applicant not later than three business days (as that term is defined in § 3500.2) after the application is received or prepared, unless the lender denies the application for credit before the end of the three business-day period. If a borrower uses a mortgage broker, the mortgage broker shall distribute the special information booklet and the lender need not do so. The intent of this provision is that the applicant receive this special information booklet at the earliest possible date.

(2) However, the lender or mortgage broker does not have to provide the booklet to any applicant for a covered loan for refinancing of a borrower's property, or for any other loan where the lender will not take a first lien, until and unless the Secretary has issued a revised or separate HUD Settlement Booklet[s] which deals with refinancing loans or subordinate liens, or until the Secretary has endorsed forms or information booklets of other Federal Agencies. The availability of the Booklet or the acceptability of alternate materials or booklets will be set forth in a notice in the **Federal Register**, which will also set forth the implementation date of this provision. Similarly, the HUD Settlement Booklet need not be distributed to applicants for a reverse mortgage, until the Department identifies an appropriate booklet or other information to be distributed, by means of a notice in the **Federal Register**.

* * * * *

5. Section 3500.7 would be amended by revising paragraphs (a) and (e)(1) and by adding new sentences to the end of paragraphs (b) and (e)(3) to read as follows:

§ 3500.7 Good faith estimate.

(a) *Lender to provide.* The lender shall provide the good faith estimate required under this section (a suggested format is set forth in Appendix C of this part) to all applicants for a federally related mortgage loan by delivering the good faith estimate or placing it in the mail to at least one of the loan applicants not later than three business days after the application is received or prepared, unless the lender denies the application for credit before the end of the three business day period. If a mortgage broker is the exclusive agent of the lender, either the lender or the mortgage broker shall provide the good faith estimate, within three business days after the application is received or prepared by the mortgage broker.

(b) * * * If the mortgage loan is to be table funded, the lender is not required to provide an additional good faith estimate. If the application for mortgage credit is denied before the end of the three business day period, no good faith estimate is required.

* * * * *

(e) * * *

(1) If the provider is an associate of the lender (as that term is defined in § 3500.15(c)(1)), or;

* * * * *

(3) * * * In the event that a lender requires a provider as set forth in the first paragraph of this part, but at the time of the receipt of the application has a list or lists of discrete classes of required providers (5 or more) such as appraisers, closing agents, attorneys, private mortgage insurers, or credit reporting agencies, and the lender has not yet chosen the provider from one or more of these lists, an alternative form of compliance may be utilized. The requirements of this part may be satisfied if it is disclosed that a designated provider will be required from a lender controlled list, the range of costs for each provider are disclosed on the Good Faith Estimate, and if the required information, including Controlled Business Arrangement disclosures, if applicable, regarding the specific service provider is given to the applicant within three business days after the service provider is selected.

6. Section 3500.12 is amended by removing the phrase "escrow account statements," and by adding in its place, the phrase "escrow account statements required by section 10 of RESPA,"

* * *

7. Section 3500.14 would be amended by revising paragraph (g)(1)(v) to read as follows:

§ 3500.14 Prohibition against kickbacks and unearned fees.

* * * * *

(g) * * *

(1) * * *

(v) Pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers. (The statutory exemption restated in this paragraph refers only to fee divisions within real estate brokerage arrangements for real estate brokerage fees.)

* * * * *

8. Appendix A to part 3500 would be amended by revising line 902, under the paragraph heading *"Line Item Instructions"*, in "Section L. Settlement Charges.", to read as follows:

Appendix A to Part 3500—Instructions for Completing HUD–1 Settlement Statement

* * * * *

Line Item Instructions

* * * * *

Section L. Settlement Charges.

* * * * *

Line 902 is used for mortgage insurance premiums due and payable at settlement, except reserves collected by the Lender and recorded in the 1000 series. A lump sum mortgage insurance premium paid at settlement should be inserted on Line 902, with a note that indicates that the premium is for the life of the loan.

* * * * *

9. Appendix F would be added to part 3500 to read as follows:

Appendix F—Form of HUD Settlement Statement for Refinancings and Junior Lien Transactions

BILLING CODE 4210–27–M

Appendix F

REAL ESTATE SETTLEMENT STATEMENT

U.S. Department of Housing and Urban Development

For Use Only for Refinancing and Junior Lien Settlements

Name and Address of Borrower	Loan Number
	Settlement Date
Property Location (if different from above)	Name & Address of Lender

L. SETTLEMENT CHARGES		M. DISBURSEMENT TO OTHERS	
800. **Items Payable In Connection With Loan**		1501.	
801 Loan origination fee %		1502	
802. Loan discount %		1503.	
803. Appraisal fee to		1504.	
804. Credit report to		1505.	
805 Lender's inspection fee		1506.	
806. Mortgage insurance application fee to		1507.	
807. Assumption fee		1508.	
808. Mortgage broker fee		1509.	
809.		1510.	
810.		1511.	
811.		1512.	
900. **Items Required By Lender To Be Paid In Advance**		1513.	
901. Interest from to @$ /day		1514.	
902. Mortgage insurance premium for months to		1515.	
903. Hazard insurance premium for years to		1520. **TOTAL DISBURSED (enter on line 1603)**	
904. years to			
905.			
1000. **Reserves Deposited With Lender**			
1001. Hazard insurance months @ $ per month			
1002. Mortgage insurance months @ $ per month			
1003. City property taxes months @ $ per month			
1004. County property taxes months @ $ per month			
1005. Annual assessments months @ $ per month			
1006. months @ $ per month			
1007. months @ $ per month			
1008. months @ $ per month			
1100. **Title Charges**			
1101. Settlement or closing fee to			
1102. Abstract or title search to			
1103. Title examination to			
1104. Title insurance binder to			
1105. Document preparation to			
1106. Notary fees to			
1107. Attorney's fees to (includes above item numbers)			
1108. Title insurance to (includes above item numbers)			
1109. Lender's coverage $			
1110. Owner's coverage $			
1111.			
1112.			
1113.			
1200. **Government Recording And Transfer Charges**			
1201. Recording fees: deed $: mortgage $: releases $			
1202. City/county tax/stamps: deed $: mortgage $			
1203. State tax/stamps: deed $: mortgage $			
1204.			
1205.			
1300. **Additional Settlement Charges**			
1301. Survey to			
1302. Pest inspection to			
1303. Architectural/engineering services			
1304. Building permit			
1305.			
1400. **Total Settlement Charges (enter on line 1602)**			

N. NET SETTLEMENT	
1600. Note Amount	$
1601. PLUS Cash/[illegible] Borrower	$
1602. MINUS Total Settlement Charges (line 1400)	$
1603. MINUS Total Disbursements To Others (line 1520)	$
1604. **EQUALS** Disbursements to Borrower (after expiration of any applicable rescission period required by law)	$

DRAFT

DRAFT

Borrower

Borrower

BILLING CODE 4210-27-C

Dated: March 12, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–11233 Filed 5–12–93; 8:45 am]

BILLING CODE 4210–27–M

federal register

Thursday
May 13, 1993

Part VI

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for MARCH 1993; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-53165; FRL-4585-2]

Premanufacture Notices; Monthly Status Report for MARCH 1993

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for March 1993.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Nonconfidential Information Center (NCIC), also known as the TSCA Public Docket Office ETG-102 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "[OPPTS-53165]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ET-201, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during March; (b) PMNs received previously and still under review at the end of March; (c) PMNs for which the notice review period has ended during March; (d) chemical substances for which EPA has received a notice of commencement to manufacture during March; and (e) PMNs for which the review period has been suspended. Therefore, the March 1993 PMN Status Report is being published.

Dated: May 4, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for MARCH 1993

I. 147 Premanufacture notices and exemption requests received during the month:

PMN No.

P 93-0617 P 93-0618 P 93-0619 P 93-0620 P 93-0621 P 93-0622 P 93-0623 P 93-0624 P 93-0625 P 93-0626 P 93-0627 P 93-0628 P 93-0629 P 93-0630 P 93-0631 P 93-0632 P 93-0633 P 93-0634 P 93-0635 P 93-0636 P 93-0637 P 93-0638 P 93-0639 P 93-0640 P 93-0641 P 93-0642 P 93-0643 P 93-0644 P 93-0646 P 93-0647 P 93-0648 P 93-0650 P 93-0651 P 93-0652 P 93-0653 P 93-0654 P 93-0655 P 93-0656 P 93-0657 P 93-0658 P 93-0659 P 93-0660 P 93-0661 P 93-0662 P 93-0663 P 93-0664 P 93-0665 P 93-0667 P 93-0668 P 93-0669 P 93-0670 P 93-0671 P 93-0672 P 93-0673 P 93-0674 P 93-0675 P 93-0676 P 93-0677 P 93-0678 P 93-0679 P 93-0680 P 93-0681 P 93-0682 P 93-0683 P 93-0684 P 93-0685 P 93-0686 P 93-0687 P 93-0688 P 93-0689 P 93-0690 P 93-0691 P 93-0692 P 93-0694 P 93-0695 P 93-0696 P 93-0697 P 93-0698 P 93-0699 P 93-0700 P 93-0701 P 93-0702 P 93-0703 P 93-0704 P 93-0705 P 93-0706 P 93-0707 P 93-0708 P 93-0709 P 93-0710 P 93-0711 P 93-0712 P 93-0713 P 93-0714 P 93-0715 P 93-0716 P 93-0717 P 93-0718 P 93-0719 P 93-0720 P 93-0721 P 93-0722 P 93-0723 P 93-0724 P 93-0725 P 93-0726 P 93-0727 P 93-0728 P 93-0729 P 93-0730 P 93-0731 P 93-0732 P 93-0733 P 93-0734 P 93-0735 P 93-0736 P 93-0737 P 93-0738 Y 93-0058 Y 93-0064 Y 93-0065 Y 93-0066 Y 93-0067 Y 93-0068 Y 93-0069 Y 93-0070 Y 93-0071 Y 93-0072 Y 93-0073 Y 93-0074 Y 93-0075 Y 93-0076 Y 93-0077 Y 93-0078 Y 93-0079 Y 93-0080 Y 93-0081 Y 93-0082 Y 93-0083 Y 93-0084 Y 93-0085 Y 93-0086 Y 93-0087 Y 93-0088 Y 93-0091 Y 93-0092 Y 93-0093

II. 283 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 84-0660 P 84-0704 P 84-1145 P 85-0619 P 85-1331 P 86-0066 P 86-1315 P 86-1662 P 87-0323 P 88-0998 P 88-0999 P 88-1616 P 88-1937 P 88-1938 P 88-1980 P 88-1982 P 88-1984 P 88-1985 P 88-1999 P 88-2000 P 88-2001 P 88-2212 P 88-2213 P 88-2228 P 88-2229 P 88-2230 P 88-2236 P 88-2484 P 88-2518 P 88-2529 P 88-2540 P 89-0632 P 89-0721 P 89-0769 P 89-0775 P 89-0867 P 89-0957 P 89-0958 P 89-0959 P 89-1038 P 89-1058 P 90-0009 P 90-0158 P 90-0211 P 90-0261 P 90-0262 P 90-0263 P 90-0372 P 90-0550 P 90-0558 P 90-0559 P 90-0564 P 90-0581 P 90-0608 P 90-1318 P 90-1319 P 90-1320 P 90-1321 P 90-1322 P 90-1422 P 90-1527 P 90-1564 P 90-1592 P 90-1687 P 90-1745 P 90-1893 P 91-0043 P 91-0107 P 91-0108 P 91-0109 P 91-0110 P 91-0111 P 91-0112 P 91-0113 P 91-0242 P 91-0243 P 91-0244 P 91-0245 P 91-0246 P 91-0247 P 91-0248 P 91-0503 P 91-0514 P 91-0548 P 91-0572 P 91-0619 P 91-0659 P 91-0689 P 91-0701 P 91-0818 P 91-0826 P 91-0914 P 91-0915 P 91-0939 P 91-0940 P 91-0941 P 91-1009 P 91-1010 P 91-1014 P 91-1015 P 91-1131 P 91-1206 P 91-1210 P 91-1297 P 91-1298 P 91-1299 P 91-1324 P 91-1386 P 91-1394 P 91-1409 P 92-0003 P 92-0031 P 92-0032 P 92-0033 P 92-0048 P 92-0129 P 92-0217 P 92-0244 P 92-0245 P 92-0246 P 92-0247 P 92-0248 P 92-0249 P 92-0250 P 92-0251 P 92-0314 P 92-0396 P 92-0412 P 92-0471 P 92-0477 P 92-0478 P 92-0545 P 92-0546 P 92-0547 P 92-0548 P 92-0549 P 92-0550 P 92-0551 P 92-0552 P 92-0595 P 92-0606 P 92-0624 P 92-0625 P 92-0649 P 92-0688 P 92-0714 P 92-0776 P 92-0777 P 92-0787 P 92-0804 P 92-0813 P 92-0919 P 92-1003 P 92-1079 P 92-1086 P 92-1125 P 92-1222 P 92-1255 P 92-1294 P 92-1295 P 92-1296 P 92-1298 P 92-1307 P 92-1308 P 92-1313 P 92-1316 P 92-1324 P 92-1337 P 92-1345 P 92-1352 P 92-1357 P 92-1364 P 92-1369 P 92-1394 P 92-1454 P 92-1455 P 92-1489 P 92-1503 P 92-1504 P 93-0014 P 93-0015 P 93-0017 P 93-0036 P 93-0037 P 93-0038 P 93-0040 P 93-0066 P 93-0067 P 93-0068 P 93-0094 P 93-0096 P 93-0097 P 93-0122 P 93-0123 P 93-0124 P 93-0126 P 93-0168 P 93-0173 P 93-0174 P 93-0175 P 93-0177 P 93-0184 P 93-0185 P 93-0186 P 93-0187 P 93-0188 P 93-0189 P 93-0190 P 93-0193 P 93-0204 P 93-0212 P 93-0213 P 93-0214 P 93-0215 P 93-0227 P 93-0228 P 93-0246 P 93-0250 P 93-0251 P 93-0252 P 93-0253 P 93-0254 P 93-0255 P 93-0256 P 93-0257 P 93-0276 P 93-0277 P 93-0282 P 93-0307 P 93-0313 P 93-0314 P 93-0315 P 93-0316 P 93-0317 P 93-0318 P 93-0333 P 93-0339 P 93-0343 P 93-0349 P 93-0352 P 93-0353 P 93-0357 P 93-0358 P 93-0360 P 93-0361 P 93-0362 P 93-0364 P 93-0374 P 93-0375 P 93-0376 P 93-0406 P 93-0418 P 93-0419 P 93-0427 P 93-0438 P 93-0476 P 93-0480 P 93-0483 P 93-0498 P 93-0505 P 93-0507 P 93-0512 P 93-0517 P 93-0518 P 93-0519 P 93-0520 P 93-0521 P 93-0532 P 93-0533 P 93-0542 P 93-0552 P 93-0553 P 93-0555 P 93-0561 P 93-0562 P 93-0568 P 93-0570 P 93-0572 P 93-0577 P 93-0578 P 93-0590 P 93-0591 P 93-0603

III. 160 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 89-0867 P 90-1280 P 91-0228 P 91-1116 P 91-1117 P 91-1118 P 92-0031 P 92-0032 P 92-0033 P 92-0660 P 92-0918 P 92-0998 P 92-0999 P 92-1029 P 92-1119 P 92-1313 P 92-1316 P 92-1485 P 93-0036 P 93-0037 P 93-0038 P 93-0161 P 93-0212 P 93-0213 P 93-0215 P 93-0216 P 93-0217 P 93-0218 P 93-0219 P 93-0220 P 93-0221 P 93-0222 P 93-0223 P 93-0224 P 93-0225 P 93-0226 P 93-0229 P 93-0230 P 93-0231 P 93-0232 P 93-0233 P 93-0234 P 93-0235 P 93-0236 P 93-0237 P 93-0238 P 93-0239 P 93-0240 P 93-0241 P 93-0242 P 93-0243 P 93-0244 P 93-0245 P 93-0247 P 93-0248 P 93-0249 P 93-0258 P 93-0259 P 93-0260 P 93-0261 P 93-0262 P 93-0263 P 93-0264 P 93-0265 P 93-0266 P 93-0267 P 93-0268 P 93-0269 P 93-0270 P 93-0271 P 93-0272 P 93-0273 P 93-0274 P 93-0275 P 93-0278 P 93-0279 P 93-0280 P 93-0281 P 93-0283 P 93-0284 P 93-0285 P 93-0286 P 93-0287 P 93-0288 P 93-0289 P 93-0290 P 93-0291 P 93-0292 P 93-0293 P 93-0294 P 93-0295 P 93-0296 P 93-0297 P 93-0298 P 93-0299 P 93-0300 P 93-0301 P 93-0302 P 93-0303 P 93-0304 P 93-0305 P 93-0306 P 93-0308 P 93-0309 P 93-0310 P 93-0311 P 93-0312 P 93-0319 P 93-0320 P 93-0321 P 93-0322 P 93-0323 P 93-0324 P 93-0325 P 93-0327 P 93-0328 P 93-0329 P 93-0330 P 93-0331 P 93-0332 P 93-0334 P 93-0335 P 93-0336 P 93-0337 P 93-0338 P 93-0340 P 93-0341 P 93-0342 P 93-0343 P 93-0344 P 93-0345 P 93-0346 P 93-0347 P 93-0348 P 93-0349 P 93-0350 P 93-0351 P 93-0352 P 93-0353 P 93-0354 P 93-0355 P 93-0356 P 93-0357 P 93-0358 P 93-0359 P 93-0360 Y 93-0055 Y 93-0056 Y 93-0057 Y 93-0058 Y 93-0059 Y 93-0060 Y 93-0061 Y 93-0062 Y 93-0063 Y 93-0064 Y 93-0065 Y 93-0066 Y 93-0067 Y 93-0068

IV. 93 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P 83-0370	8-Acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triazaspiro 4,5 decane-2,4-dione.	December 7, 1983.
P 87-1798	G Alkylester functionalized colloidal silica.	December 28, 1992.
P 88-1448	G Hydroxy acrylic polymer.	January 29, 1993.
P 88-1648	G Branched hydrocarbon.	February 23, 1993.
P 88-2041	G Substituted-substituted-substituted-benzene polymer, aminomethylated reacted with an organic carbamide.	January 19, 1993.
P 88-2343	G Methyl tertiary amyl ether.	January 29, 1993.
P 88-2488	G Polyoxyethylene alkylaryl ether ammonium sulfate.	February 18, 1993.
P 89-0075	G Urethane acrylate.	January 14, 1993.
P 90-0460	G Reaction product of: vinyl toluene, tofa, glycerine, polyhydric alcohols maleic anhydride aliphtic oils.	February 12, 1993.
P 91-0201	G Amine salt of acetic acid.	February 4, 1993.
P 91-0506	G Phosphoric acid derivative.	January 6, 1993.
P 91-0583	G Propargylalcoholpropoxylate.	August 28, 1991.
P 91-0631	Siloxanes and silicones, Me hydrogen, reaction products with vinyl group-terminated di-me siloxanes and silicones and 4-vinylcyclohexene monoepoxide.	February 27, 1993.
P 91-0721	G Modified rosin ester amide, ammonium salt.	January 6, 1993.
P 91-0853	G Ethanammonium, *N,N,N*-trimethyl-2(-methyl-1-oxo-2-propyl)oxo)-chloride olymer with 2-propenamide and *N,N,N*-trimethyl-2-(C_1-oxo-2-propenyloxy)ethanammonium chloride.	February 10, 1993.
P 91-0970	G Polyester.	January 28, 1993.
P 91-1306	Trimethylolpropane, complex ester with dimer acid and oleic acid.	January 29, 1993.
P 92-0075	G Gum and tall oil rosin, fumaric acid, modified with substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer, triethanolamine salt.	January 29, 1992.
P 92-0177	G Mixed alkylmetallic mercapoester sulfides.	January 26, 1993.
P 92-0275	G Alkyldiene propionate.	May 26, 1992.
P 92-0311	G Amine functional epoxy resin salted with an organic acid.	January 30, 1993.
P 92-0574	Terpolymer-ethylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methylenebutanedioic ester; ammonium hydroxide.	January 25, 1993.
P 92-0575	Terpolymer-ethylacrylate-methacrylic acid-methylmethyacrylate-cetyl polyethyleneoxy alcohol-methylenebutandioic 1/2 ester sodium hydroxide.	January 25, 1993.
P 92-0576	Terpolymer-ethylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methylenebutandioic ester; sodium hydroxide.	January 25, 1993.
P 92-0577	Terpolymer-ethylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methylenbutandioic acid 1/2 ester; calciut hydroxide.	January 25, 1993.
P 92-0581	Terpolymer-ethylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methacrylenebutandioic 1/2 ester; dimethylamine.	January 28, 1993.
P 92-0583	Terpolymer-methylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methylenebutandioic 1/2 ester; ethylenediamine.	January 25, 1993.
P 92-0586	Terpolymer-ethylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methylenebutandioic 1/2 ester; triethylamine.	January 28, 1993.
P 92-0591	Terpolymer-ethylacrylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methacrylenebutandioic 1/2 ester; morpholine.	January 28, 1993.
P 92-0592	Terpolymer-ethylate-methacrylic acid-methylmethacrylate-cetyl polyethyleneoxy alcohol-methylenebutandioic 1/2 ester;amino methylpropenol.	January 28, 1993.
P 92-0663	G Modified acrylic polymer.	February 15, 1993.
P 92-0739	G Higher alkyl methacrylate.	January 22, 1993.
P 92-0740	G Higher alkyl methacrylate.	January 8, 1993.
P 92-0741	G Higher alkyl methacrylate.	January 8, 1993.
P 92-0742	G Higher alkyl methacrylate.	January 8, 1993.
P 92-0783	G Isocyanate-terminated polyether urethane.	February 6, 1993.
P 92-0791	G Acrylic resin solution.	February 3, 1993.

IV. 93 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P 92–0795	G Aliphatic armomatic ester copolymer.	January 14, 1993.
P 92–0802	G Poly(oxy(methyl-1,2-ethanediyl), *A,A'A"*-1.2.3.-propanetris(*W*-((Oxo-2-propenyl)oxy)-polymer with alkylamine.	January 6, 1993.
P 92–0814	G Sodium salt of a substituted naphthalene disulfonlic acid.	January 24, 1993.
P 92–0853	G Triazole derivative.	September 19, 1992.
P 92–0868	G Hydroxy functional acrylic copolymer.	November 21, 1993.
P 92–0881	G Trisubstituted triazine salt.	August 24, 1992.
P 92–0987	G Poly-B-fluoroalkyl acrylate and alkyl acrylate.	January 7, 1993.
P 92–1051	1,2-Ethanediamine,*N*-((ethenylphenyl)methyl)-*N*-(3-trimethoxysliyl)propyl)-hydrolyzate.	January 26, 1993.
P 92–1056	G Phenolic novolak resin.	February 2, 1993.
P 92–1141	G Mixed polyacrylate, sodium salt.	December 17, 1992.
P 92–1143	Styrene with methyl methacrylate, iso-butyl methacrylate and glycidyl methacrylate.	January 20, 1993.
P 92–1286	G Substitute benzoyl chloride.	February 10, 1993.
P 92–1311	G Polymeric sterically hindered piperidine.	December 14, 1992.
P 92–1361	G Butadiene copolymer.	January 20, 1993.
P 92–1383	G Acrylourethane adduct.	February 19, 1993.
P 92–1413	G Fluorochemical urethane.	January 6, 1993.
P 92–1416	G Substituted phenol ester.	January 26, 1993.
P 92–1448	G Oxxazine dye.	January 29, 1993.
P 92–1462	G Fluorochemical esters.	January 29, 1993.
P 92–1463	G Fluorochemical esters.	January 29, 1993.
P 92–1464	G Fluorochemical esters.	January 29, 1993.
P 92–1465	G Fluorochemical esters.	January 29, 1993.
P 92–1466	G Fluorochemical esters.	January 29, 1993.
P 92–1477	G Polyoxyalkylene sulfonamide amine.	January 13, 1993.
P 92–1478	G Substituted polyoxyalkylene sulfonamide.	January 13, 1993.
P 92–1499	G Quinazoline derivative.	January 18, 1993.
P 93–0010	G Modified chlorinated hydrocarbon.	January 20, 1993.
P 93–0049	G Iron metal soap.	February 23, 1993.
P 93–0055	G Polyether polycarbonate diol.	January 27, 1993.
P 93–0069	G Fatty acids esters.	February 9, 1993.
P 93–0085	Methacrylic acid, sodium salt, polymer with *N,N*-dimethylacrylamide.	February 3, 1993.
P 93–0128	G Diamno disulfo naphthalene.	February 10, 1993.
P 93–0130	G Diamino disulfo naphthalene.	February 10, 1993.
P 93–0131	G Diazo coupled amino *J* acid.	February 10, 1993.
P 93–0132	G Tris(diamino carbopolycycle) terrate (III).	February 10, 1993.
Y 87–0132	G saturated polyester resin.	April 15, 1987.
Y 89–0140	G Copolymer of butadiene and methacrylic monomers.	February 23, 1990.
Y 90–0002	G Flexible unsaturated polyester polymer.	January 13, 1990.
Y 92–0044	G Saturated polyester.	January 25, 1992.
Y 92–0086	G Thermoplastic olefin elastomer.	January 13, 1993.
Y 92–0152	G Propylene glycol; diethylene glycol; maleic anhydride.	February 4, 1993.
Y 92–0176	G Polymethacrylic acid-fish oil sulfonated sodium salt copolymer.	October 29, 1992.
Y 93–0002	2-Propenoic acid, polymer with methyloxirane polymer, with oxirane; monobutylether; 20% acrylic acid with 80% polyalkoxylated.	December 8, 1992.
Y 93–0003	G Hydroxy functional acrylic polymer.	December 18, 1992.
Y 93–0004	G Fatty acid isophthalete alkyd polymer.	December 4, 1992.
Y 93–0005	G Acrylated,styrenated alkyl polymer.	December 15, 1992.
Y 93–0006	G Hexanedioic acid, polymer with 1,3-diisocyanatomethylbenzene, 1,3-isobenzofurandione and polyhydroxyalkanes.	February 2, 1993.
Y 93–0013	1,1'-Methylenedbis(4-isocyanatobenzene), polymer with 1,3-benzenedicarboxylic acid,1,4-benzenedicarboxylic acid, 2,2-dimethyl-1,-dimethyl-1,3-propanediol,1,2-ethanediol, and 5-sulfo-1,3-benzenedicarboxylic acid monosodium salt.	January 25, 1993.
Y 93–0014	G Polyester polyurethane with 5-sulfo-1,3-benzenedicarboxylic.	January 25, 1993.
Y 93–0018	G Polyester resin.	January 17, 1993.
Y 93–0020	Nonanedioic acid and fatty acids, C_{4-11} di-polymer with 1,4 utanediol,1,2 propylene glycol, and (nonanedioic acid polymer with ethylene glycol), bishydroxyethyl nonanedioate, and ethylene glycol-, 2-ethyl hexyl ester.	February 14, 1993.
Y 93–0024	G Fatty acids, polymer with pentaerythritol, isphthalic acid, trimethylolethylolethane and anhydrides.	January 26, 1993.
Y 93–0033	G Acrylic bead polymer.	January 3, 1993.
Y 93–0041	G Acrylic graft copolymer.	January 21, 1993.
Y 93–0045	G Linoleic alkyd polymer.	January 26, 1993.
Y 93–0046	G Vinyl toluene acrylic polymer.	January 28, 1993.

V. 31 Premanufacture notices for which the period has been suspended.

PMN No.

P 92–0129 P 92–1222 P 92–1324 P 93–0214 P 93–0226 P 93–0227 P 93–0228 P 93–0246 P 93–0250 P 93–0251 P 93–0252 P 93–0253 P 93–0254 P 93–0255 P 93–0256 P 93–0257 P 93–0276 P 93–0277 P 93–0282 P 93–0307 P 93–0313 P 93–0314 P 93–0315 P 93–0316 P 93–0317 P 93–0318 P 93–0333 P 93–0339 P 93–0361 P 93–0364 Y 93–0059

[FR Doc. 93–11390 Filed 5–12–93; 8:45 am]

BILLING CODE 6560–50–F

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