3–28–94
Vol. 59 No. 59

federal register

Monday
March 28, 1994

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

3–28–94
Vol. 59 No. 59
Pages 14357–14540

federal register

Monday
March 28, 1994

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

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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The **Federal Register** is published in paper and 24x microfiche format. The annual subscription price for the **Federal Register** paper edition is $444, or $490 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $403. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $6.00 for each issue, or $6.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: April 20 at 9:00 am

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

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Presidential Documents

Title 3—

The President

Proclamation 6658 of March 23, 1994

Education and Sharing Day, U.S.A., 1994

By the President of the United States of America

A Proclamation

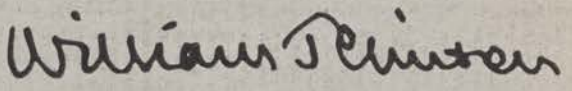
America's success in the years to come requires a national commitment to providing excellence in education. Our ability to seize the opportunities before us depends on the strength of our scholarship. We must build an educational system that offers our country's vast promise to every citizen. Only when we know that all of our students are receiving the best care and training possible can we say that we are prepared for the challenges of the future.

New innovations in teaching methods and curricula, combined with traditional lessons of ethics and morality, afford students a comprehensive education that will serve them well their entire lives. By sharing our experiences and our beliefs with the next generation of Americans, we can prepare our Nation for the awesome responsibilities and opportunities that lie ahead.

Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement, has contributed a great deal to this important endeavor, advancing the ideals of sharing and education over the course of his long and rich life. As Rabbi Schneerson celebrates his 92nd birthday, it is fitting and appropriate that the people of the United States honor his gifts to education and rededicate themselves to the teaching of ethics and morality.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 23, 1994, as Education and Sharing Day, U.S.A. I call upon the people of the United States, Government officials, educators, and volunteers to observe the day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of March, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.



[FR Doc. 94-6658
Filed 3-24-94; 2:40 pm]
Billing code 3195-01-P

Rules and Regulations

Federal Register
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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

9 CFR Part 78

[Docket No. 94-008-1]

Brucellosis in Cattle; State and Area Classifications; Texas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Texas from Class B to Class A. We have determined that Texas meets the standards for Class A status. This action relieves certain restrictions on the interstate movement of cattle from Texas.

DATES: Interim rule effective March 28, 1994. Consideration will be given only to comments received on or before May 27, 1994.

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. 94-008-1. 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 requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-4918.

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), provide a system for classifying States or portions of States according to the rate of *Brucella* infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining: (1) A cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughter establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all recognized slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection (including herds adjacent to infected herds and herds from which infected animals have been sold or received), and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the effective date of this interim rule, Texas was classified as a Class B State because of its herd infection rate and its MCI reactor prevalence rate.

To attain and maintain Class A status, a State or area must: (1) Not exceed a cattle herd infection rate, due to field strain *Brucella abortus*, of 0.25 percent, or 2.5 herds per 1,000, based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain for 12 consecutive months an MCI reactor prevalence rate not to exceed 0.10 percent, or one reactor per 1,000 cattle tested; (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd; and (4) maintain the specified surveillance system.

After reviewing the brucellosis program records for Texas, we have concluded that the State meets the standards for Class A status. Therefore, we are removing Texas from the list of Class B States in § 78.41(c) and adding it to the list of Class A States in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Texas.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Texas.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this 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 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Texas from Class B to Class A will promote economic growth by reducing certain testing and other requirements governing the interstate movement of cattle from the State. Cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Texas, as well as buyers and importers of cattle from the State.

There are an estimated 140,000 cattle herds in Texas that would be affected by this rule. Ninety-eight percent of these are owned by small entities. If the total cost of testing were distributed equally among all herds affected by this rule, this change in classification could save at the most approximately $4 per herd.

Therefore, we believe that changing the brucellosis status for Texas would not have a significant economic impact on the small entities affected by this interim rule.

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 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 document 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).

§ 78.41 [Amended]

2. Section 78.41, paragraph (b), is amended by revising ", and Tennessee" to read ", Tennessee, and Texas".

3. Section 78.41, paragraph (c), is amended by removing "Texas" and adding "None" in its place.

Done in Washington, DC, this 15th day of March 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–6946 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 785

[Docket No. 940384–4084]

RIN 0694–AA88

Exports to South Africa; Revision of Foreign Policy Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: With the significant political changes underway in South Africa, the rationale for prohibiting all exports to South African military and police entities no longer applies. The controls necessary to implement the mandatory U.N. arms embargo against South Africa remain. In addition, restrictions on certain exports to the South African military and police continue. This final rule amends the Export Administration Regulations (EAR) by revising the export licensing policy for exports to South African military and police entities in the following ways: By clarifying exemptions from general prohibitions on certain technology and software; by revising policy to permit the consideration of certain license applications; and by updating the list of South African military and police entities in the special country policies and provisions. These changes, while not diminishing U.S. compliance with the U.N. mandatory embargo against South Africa, and while maintaining U.S. ability to implement U.N. voluntary controls on certain exports to the South African military and police, will allow U.S. businesses to begin to compete with foreign suppliers, who are no longer bound by similar restrictions in their own countries. Thus, although it will likely result in an increase in export license applications submitted, this rule will be generally beneficial to U.S. exporters.

EFFECTIVE DATE: This rule is effective March 28, 1994.

FOR FURTHER INFORMATION CONTACT: David Schlechty, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 482–4252.

SUPPLEMENTARY INFORMATION:

Background

In conformity with the United Nations Security Council Resolutions of 1977 and 1986, the United States maintains an embargo on the export of arms, munitions and military equipment, and items used in their manufacture and maintenance to the Republic of South Africa, as well as on certain items to the South African military or police that have a military capacity and are intended for military purposes. These controls continue. Beyond these controls related to U.N. Security Council resolutions, the United States has also maintained an embargo on virtually all exports to South African military and police entities. The recent historic political changes in the Republic of South Africa argue against the continuation of such global restrictions. This rule modifies existing controls to allow certain exports to the South African military and police under an individual validated license. For example, applications to export food, medicine, or items to meet emergency humanitarian needs, prevent acts of unlawful interference with international civil aviation, or counter international narcotics trafficking will generally receive favorable consideration on a case-by-case basis. Applications for export of items relating to arms, munitions, military equipment and their manufacture or maintenance, or that have a military capacity and are intended for military purposes, will be subject to either a strict or general policy of denial. All other exports will be considered on a case-by-case basis.

Regardless of expanded opportunities to export under an individual validated

license, return, repair or replacement commodities may not be exported under General License GLR at this time. Therefore, exporters should include an allowance for replacement parts on their original license applications. Repairs should be arranged in-country when practical, since GLR will not be available for returning the item to South Africa after repair elsewhere, and the need for a validated license could delay the return.

Additionally, this rule clarifies the opportunity to use General License GTDU for exports destined to South African military and police entities of sales data that are the minimum necessary to support a proposal; operation technical data that are the minimum necessary to operate equipment authorized for export; or software updates (bug fixes) that do not enhance the capabilities of the initially authorized package. While such exports have been allowed under the provisions of § 779.4(e), the availability of GTDU for these shipments was obscured by § 771.2(c)(11), which broadly prohibits use of general licenses for exports to South African military and police entities. This rule clarifies the exemption of sales data, operation data and software updates from the general prohibitions.

General License GIT may now be used for shipments in transit through the United States destined to the Republic of South Africa, provided that the commodities are not related to arms and munitions or destined for military and police entities.

This rule also updates the list of military and police entities. This rule adds the company Denel (Pty) Ltd. and certain of its subsidiaries to the list of South African military and police entities, and removes Musgrave, a former subsidiary of Armscor, from the list. Denel was formed from several former Armscor subsidiaries, and produces a variety of products for the South African military as well as the civilian population.

Finally, this rule removes remaining restrictions on exports to Walvis Bay. On February 28, 1994, South Africa returned Walvis Bay to Namibia.

Rulemaking Requirements

1. This rule was not subject to review by Office of Management and Budget under Executive Order 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Hillary Hess, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 771

Exports, Reporting and recordkeeping requirements.

15 CFR Part 785

Exports.

Accordingly, parts 771 and 785 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 771 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); and E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

2. The authority citation for 15 CFR part 785 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); and E.O. 12868 of September 30, 1993 (58 FR 51749, October 4, 1993).

PART 771—[AMENDED]

3. Section 771.2 is amended by revising paragraph (c)(11) to read as follows:

§ 771.2 General provisions.

* * * * *

(c) * * *

(11) The exporter or reexporter knows or has reason to know that the item is for delivery, directly or indirectly, to or for use by or for military or police entities in the Republic of South Africa. This includes items for servicing equipment owned, controlled or used by or for such entities. However, this prohibition does not apply to exports of sales technical data, operation technical data, and software updates as described in § 779.4(b)(1), (b)(2), and (b)(3) of this subchapter; or to generally available software as described in the General Software Note, Supplement No. 2 to § 799.1 of this subchapter unless the exporter knows or has reason to know it would contribute to the manufacture or maintenance of items to which a strict policy of denial applies under § 785.4(a)(5) of this subchapter, or to which a general policy of denial applies under § 785.4(a)(6) of this subchapter. Note that ability to provide sales data does not confer a presumption that a license will be issued should an order be received.

* * * * *

4. Section 771.4 is amended by revising paragraph (b)(3) to read as follows:

§ 771.4 General License GIT; Intransit shipments

* * * * *

(b) * * *

(3) Commodities destined for the Republic of South Africa that are listed in Supplement No. 2 to part 779 of this subchapter, commodities described by any ECCN ending in "18A", or commodities for export to or for use by or for the South African military or police.

* * * * *

PART 785—[AMENDED]

5. Section 785.4 is amended by revising paragraphs (a)(2) through (a)(6) and by removing paragraph (a)(7) to read as follows:

§ 785.4 Country Groups T & V.

(a) * * *

* * * * *

(2) An individual validated license is required for the export or reexport to the Republic of South Africa of any commodity, where the exporter or reexporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in South Africa or used to service equipment owned, controlled or used by or for such military or police entities.

(3) An individual validated license is required for the export or reexport to the Republic of South Africa of software or technology—except software or technology generally available to the public that meets the conditions of General License GTDA—where:

(i) The software or technology relates to the commodities listed in Supplement No. 2 to part 779 of this subchapter; or

(ii) The exporter or reexporter knows or has reason to know that the technology or software, or their direct product, are for delivery to or for use by or for military or police entities of the Republic of South Africa or for use in servicing equipment owned, controlled or used by or for these entities, with the following exceptions: (A) Sales technical data, operation technical data, and software updates as described in § 779.4(b)(1), (b)(2), and (b)(3) of this subchapter; or

(B) Generally available software as described in the General Software Note, Supplement No. 2 to § 799.1 of this subchapter, unless the exporter knows or has reason to know it would contribute to the manufacture or maintenance of items to which a strict policy of denial applies under paragraph (a)(5) of this section, or to which a general policy of denial applies under paragraph (a)(6) of this section.

(4) Parts, components, materials, and other commodities exported from the United States under either a general or validated export license may not be incorporated abroad into foreign-made end-products where it is known or there is reason to know that the end product will be sold to or used by or for military or police entities in the Republic of South Africa. (See § 776.12(b)(4) of this subchapter for general exceptions and paragraph (a)(6) of this section for case-by-case exceptions.)

(5) Applications for validated licenses for arms, munitions, military equipment and materials, and materials and machinery for use in the manufacture and maintenance of such equipment, as described in Supplement No. 2 to part 779 of this subchapter, and related software or technology, will be subject to a strict policy of denial, in conformity with the embargo policy set out in paragraph (a)(1) of this section.

(6) Licensing policy for items not subject to § 785.4(a)(5) that are destined to or for use by or for the South African military or police is as follows:

(i) Applications will generally be denied for items described by any ECCN ending in "18A"; items that are or will be used to manufacture or maintain arms, munitions, military equipment, or paramilitary police equipment; and items that have military capacity and are intended for military purposes.

(ii) Applications will generally be considered favorably on a case-by-case basis for: (A) Food and other agricultural commodities;

(B) Medicine, medical supplies, medical equipment, and parts and components therefor;

(C) Items to be used in efforts to prevent acts of unlawful interference with international civil aviation;

(D) Items to counter international narcotics trafficking; and

(E) Items to be used to meet emergency humanitarian needs.

(iii) All other applications will be considered on a case-by-case basis.

* * * * *

6. Supplement No. 2 to part 785 is revised to read as follows:

Supplement No. 2 to Part 785—Interpretations

(1) The Department has received inquiries as to whether certain entities in the Republic of South Africa are considered police or military entities and hence subject to the policies set forth in § 785.4.

(a) In addition to the military and police of the Republic of South Africa, the following entities are considered to be police and military entities:

Aeronautical Systems Technology (AEROTEK) Division of the Council for Scientific and Industrial Research (CSIR)

ARMSCOR (Armaments Development and Production Corporation) and all of its subsidiaries (including Specialist B Vehicles (SBV), Institute of Maritime Technology, and Milistan)

Denel (Pty) Ltd. (including the following of its subsidiaries: Advena, Armatron, Atlas Aircraft, Eloptro, Gennan, Gerotek, Infoplan, Kentron, Lyttleton Engineering Works (LIW), Mechem, Naschem, Nimrod International, Overberg Test Range (OTR), Pretoria Metal Pressing (PMP), Simera, Somchem, Swartklip Products)

Department of Correctional Services

"Homeland" Police and Armed Forces

National Intelligence Services

Weapons Research activities of the Council for Scientific and Industrial Research (CSIR)

(b) This list is not necessarily inclusive, and is subject to change. When dealing with any South African entity, exporters should be sensitive to the potential for prohibited diversion of their products to police and military entities, and the potential for illegal use of their exports in the manufacture or maintenance of arms or related materials.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94-7234 Filed 3-25-94; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5, 7, 10, 12, 25, 60, 101, 109, 184, 314, 330, 500, 509, 520, 522, 524, 558, 808, 1010, 1030, 1240, and 1250

Foods and Drugs; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to correct the address for FDA's Dockets Management Branch. A notice announcing the new address for the Dockets Management Branch was published in the **Federal Register** of June 10, 1991 (56 FR 26688). This action is being taken to improve the accuracy of the regulations.

EFFECTIVE DATE: March 28, 1994.

FOR FURTHER INFORMATION CONTACT: Robin Thomas Johnson, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 1991 (56 FR 26688), FDA announced the relocation of the Dockets Management Branch, effective June 14, 1991, and listed its new address as the "Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr. Rockville, MD 20857." In this document, FDA is amending certain portions of its regulations to reflect the correct address.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

List of Subjects

21 CFR Part 5

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

21 CFR Part 7

Administrative practice and procedure, Consumer protection, Reporting and recordkeeping requirements.

21 CFR Part 10

Administrative practice and procedure, News media.

21 CFR Part 12

Administrative practice and procedure.

21 CFR Part 25

Environmental impact statements, Foreign relations, Reporting and recordkeeping requirements.

21 CFR Part 60

Administrative practice and procedure, Drugs, Food additives, Inventions and patents, Medical Devices, Reporting and recordkeeping requirements.

21 CFR Part 101

Food Labeling, Reporting and recordkeeping requirements.

21 CFR Part 109

Food packaging, Foods, Polychlorinated biphenyls (PCB's).

21 CFR Part 184

Food ingredients.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 330

Over-the-counter drugs.

21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Polychlorinated biphenyls (PCB's).

21 CFR Part 509

Animal foods, Packaging and containers, Polychlorinated biphenyls (PCB's).

21 CFR Part 520

Animal drugs.

21 CFR Part 522

Animal drugs.

21 CFR Part 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

21 CFR Part 808

Intergovernmental relations, Medical devices.

21 CFR Part 1010

Administrative practice and procedure, Electronic products, Exports, Radiation protection.

21 CFR Part 1030

Electronic products, Microwave ovens, Radiation protection.

21 CFR Part 1240

Communicable diseases, Public health, Travel restrictions, Water supply.

21 CFR Part 1250

Air carriers, Foods, Maritime carriers, Motor carriers, Public health, Railroads, Water supply.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 5, 7, 10, 12, 25, 60, 101, 109, 184, 314, 330, 500, 509, 520, 522, 524, 558, 808, 1010, 1030, 1240, and 1250 are amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701–1706, 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1, 300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314, of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

§ 5.110 [Amended]

2. Section 5.110 *FDA Public Information Offices* is amended in paragraph (a) by removing "Room 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 7—ENFORCEMENT POLICY

3. The authority citation for 21 CFR part 7 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); secs. 301, 351, 354–360F, 361 of the Public Health Service Act (42 U.S.C. 241, 262, 263b–263n, 264).

§ 7.42 [Amended]

4. Section 7.42 *Recall strategy* is amended in paragraph (b)(3) by removing "Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

5. The authority citation for 21 CFR part 10 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 21 U.S.C. 41–50, 141–149, 467f, 679, 821, 1034; secs. 2, 351, 354, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b, 264); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 5 U.S.C. 551–558, 701–706; 28 U.S.C. 2112.

§ 10.3 [Amended]

6. Section 10.3 *Definitions* is amended in paragraph (a) in the definition for "Dockets Management Branch" by removing "Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 10.20 [Amended]

7. Section 10.20 *Submission of documents to Dockets Management Branch; computation of time; availability for public disclosure* is amended in paragraph (f) by removing

"Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 10.30 [Amended]

8. Section 10.30 *Citizen petition* is amended in paragraph (b) by removing "Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 10.33 [Amended]

9. Section 10.33 *Administrative reconsideration of action* is amended in paragraph (b) by removing "Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 10.35 [Amended]

10. Section 10.35 *Administrative stay of action* is amended in paragraph (b) by removing "Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 10.85 [Amended]

11. Section 10.85 *Advisory opinions* is amended in paragraph (b) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

12. The authority citation for 21 CFR part 12 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); 21 U.S.C. 41–50, 141–149, 467f, 679, 821, 1034; secs. 2, 351, 354–360F, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b–263n, 264); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 5 U.S.C. 551–558, 701–706; 28 U.S.C. 2112.

§ 12.45 [Amended]

13. Section 12.45 *Notice of participation* is amended in paragraph (a) by removing "Room 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

14. The authority citation for 21 CFR part 25 continues to read as follows:

Authority: Secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); secs. 351, 354–361 of the Public Health Service Act (42 U.S.C. 262, 263b–264); 42 U.S.C. 4321, 4332; 40 CFR parts 1500–1508; E.O. 11514 as amended by E.O. 11991; E.O. 12114.

§ 25.42 [Amended]

15. Section 25.42 *Actions for which an environmental impact statement is prepared* is amended in paragraph (b)(3)(v) by removing "5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 60—PATENT TERM RESTORATION

16. The authority citation for 21 CFR part 60 continues to read as follows:

Authority: Secs. 409, 505, 507, 515, 520, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348, 355, 357, 360e, 360j, 371, 376); sec. 351 of the Public Health Service Act (42 U.S.C. 262); 35 U.S.C. 156.

§ 60.20 [Amended]

17. Section 60.20 *FDA action on regulatory review period determinations* is amended in paragraph (b) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 60.24 [Amended]

18. Section 60.24 *Revision of regulatory review period determinations* is amended in the introductory text of paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 60.26 [Amended]

19. Section 60.26 *Final action on regulatory review period determinations* is amended in paragraph (b)(2) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 101—FOOD LABELING

20. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.108 [Amended]

21. Section 101.108 *Temporary exemptions for purposes of conducting authorized food labeling experiments* is amended in paragraph (c) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

22. The authority citation for 21 CFR part 109 continues to read as follows:

Authority: Secs. 201, 306, 402, 406, 408, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 336, 342, 346, 346a, 348, 371).

§ 109.30 [Amended]

23. Section 109.30 *Tolerances for polychlorinated biphenyls (PCB's)* is amended in paragraph (b) by removing "Room 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,"; in paragraphs (c) and (d) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.," the three times it appears.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

24. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

§ 184.1538 [Amended]

25. Section 184.1538 *Nisin preparation* is amended in paragraphs (b) and (d) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 201—LABELING

26. The authority citation for 21 CFR part 201 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 508, 510, 512, 530–542, 701, 704, 721, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 360gg–360ss, 371, 374, 379e); secs. 215, 301, 351, 361 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 264).

§ 201.63 [Amended]

27. Section 201.63 *Pregnancy-nursing warning* is amended in paragraph (d) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

28. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 704, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 374, 379e).

§ 314.200 [Amended]

29. Section 314.200 *Notice of opportunity for hearing; notice of participation and request for hearing; grant or denial of hearing* is amended in paragraph (c)(1) by removing "Rm. 4–62," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 314.300 [Amended]

30. Section 314.300 *Procedure for the issuance, amendment, or repeal of regulations* is amended in paragraph (b)(4) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

31. The authority citation for 21 CFR part 330 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

§ 330.1 [Amended]

32. Section 330.1 *General conditions for general recognition as safe, effective and not misbranded* is amended in paragraph (g) by removing "Room 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 500—GENERAL

33. The authority citation for 21 CFR part 500 continues to read as follows:

Authority: Secs. 201, 301, 402, 403, 409, 501, 502, 503, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371).

§ 500.80 [Amended]

34. Section 500.80 *Scope of this subpart* is amended in paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD-PACKAGING MATERIAL

35. The authority citation for 21 CFR part 509 continues to read as follows:

Authority: Secs. 306, 402, 406, 408, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 336, 342, 346, 346a, 348, 371).

§ 509.30 [Amended]

36. Section 509.30 *Temporary tolerances for polychlorinated biphenyls (PCB'S)* is amended in paragraph (b) by removing "Room 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

37. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.2640 [Amended]

38. Section 520.2640 *Tylosin* is amended in paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 522—IMPLANTATION OR INJECTIBLE DOSAGE FORM NEW ANIMAL DRUGS

39. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.2640a [Amended]

40. Section 522.2640a *Tylosin injection* is amended in paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 522.2640b [Amended]

41. Section 522.2640b *Tylosin tartrate for injection* is amended in paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

42. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 524.2640 [Amended]

43. Section 524.2640 *Tylosin, neomycin eye powder* is amended in paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane" and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

44. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.625 [Amended]

45. Section 558.625 *Tylosin* is amended in paragraph (a) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

46. The authority citation for 21 CFR part 808 continues to read as follows:

Authority: Secs. 521, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k, 371).

§ 808.20 [Amended]

47. Section 808.20 *Application* is amended in paragraph (b) by removing "Rm. 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

48. The authority citation for 21 CFR part 1010 continues to read as follows:

Authority: Secs. 501, 502, 510, 515–520, 701, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360e–360j, 371, 381); secs. 354–360F of the Public Health Service Act (42 U.S.C. 263b–263n).

§ 1010.4 [Amended]

49. Section 1010.4 *Variances* is amended in the introductory text of paragraph (b) by removing "Rm. 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

§ 1010.5 [Amended]

50. Section 1010.5 *Exemptions for products intended for United States Government use* is amended in the introductory text of paragraph (c) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIO FREQUENCY EMITTING PRODUCTS

51. The authority citation for 21 CFR part 1030 continues to read as follows:

Authority: Secs. 501, 502, 510, 515–520, 701, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360e–360j, 371, 381); secs. 354–360F of the Public Health Service Act (42 U.S.C. 263b–263n).

§ 1030.10 [Amended]

52. Section 1030.10 *Microwave ovens* is amended in paragraph (c)(6)(iv) by removing "Rm. 4–62, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 1240—CONTROL OF COMMUNICABLE DISEASES

53. The authority citation for 21 CFR part 1240 continues to read as follows:

Authority: Secs. 215, 311, 361, 368 of the Public Health Service Act (42 U.S.C. 216, 243, 264, 271).

§ 1240.62 [Amended]

54. Section 1240.62 *Turtles intrastate and interstate requirements* is amended in paragraph (e) by removing "Room 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

PART 1250—INTERSTATE CONVEYANCE SANITATION

55. The authority citation for 21 CFR part 1250 continues to read as follows:

Authority: Secs. 215, 311, 361, 368 of the Public Health Service Act (42 U.S.C. 216, 243, 264, 271).

§ 1250.51 [Amended]

56. Section 1250.51 *Railroad conveyances; discharge of wastes* is amended in paragraph (f)(4)(ii) by removing "Room 4–62, Parklawn Building, 5600 Fishers Lane," and adding in its place "rm. 1–23, 12420 Parklawn Dr.,".

Dated: March 22, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–7148 Filed 3–25–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Chapter I

Redesignation of a U.S. Code Citation; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to reflect a redesignation of a U.S. Code citation. This action is editorial in nature, and is intended to provide accuracy and clarity to the agency's regulations.

DATES: Effective March 28, 1994.

FOR FURTHER INFORMATION CONTACT: Robin Thomas Johnson, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations in Chapter I of Title 21 of the Code of Federal Regulations to reflect a redesignation of a U.S. Code citation. In section 106 of the Prescription Drug User Fee Act of 1992 (Pub. L. 102–571), section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376) was redesignated as section 721 of the act (21 U.S.C. 379e). Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because these amendments are editorial and nonsubstantive in nature.

This regulation is issued under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and under authority delegated to the Commissioner of Food and Drugs. FDA is amending Chapter I of Title 21 by removing "706" and "21 U.S.C. 376" and adding in its place "721" and "21 U.S.C. 379e", respectively, each time it appears.

Dated: March 21, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–7147 Filed 3–25–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Euthasol™ Euthanasia Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Delmarva Laboratories, Inc. The ANADA provides for intravenous or intracardiac use of Euthasol™, a generic euthanasia solution containing pentobarbital sodium 390 milligrams per milliliter (mg/mL) and phenytoin sodium 50 mg/mL, for canine euthanasia.

EFFECTIVE DATE: March 28, 1994.

FOR FURTHER INFORMATION CONTACT: Larry D. Rollins, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Delmarva Laboratories, Inc., P.O. Box 525, Midlothian, VA 23113, is sponsor of ANADA 200–071 which provides for the use of Euthasol™, a generic euthanasia solution containing pentobarbital sodium 390 mg/mL and phenytoin sodium 50 mg/mL, for intravenous or intracardiac use for humane, painless, and rapid euthanasia of dogs.

Approval of Delmarva Laboratories' ANADA 200–071 for Euthasol™ Euthanasia Solution (pentobarbital sodium 390 mg/mL and phenytoin sodium 50 mg/mL) is as a generic copy of Schering's NADA 119–807 for Beuthanasia®-D Special Solution (pentobarbital sodium 390 mg/mL and phenytoin sodium 50 mg/mL). The ANADA is approved as of February 24, 1994, and the regulations in 21 CFR 522.900 are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

In addition, Delmarva Laboratories, Inc., has not been previously listed in 21 CFR 510.600(c)(1) and (c)(2) as sponsor of an approved application. That section is amended to add entries for the sponsor.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for Delmarva Laboratories, Inc., and in the table in paragraph (c)(2) by numerically adding a new entry "059079" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Delmarva Laboratories, Inc., 2200 Wadebridge Rd., P.O. Box 525, Midlothian, VA 23113	059079
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
059079	Delmarva Laboratories, Inc., 2200 Wadebridge Rd., P.O. Box 525, Midlothian, VA 23113
* * * * *	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.900 [Amended]

4. Section 522.900 *Euthanasia solution* is amended in paragraph (b)(2) by removing the phrase "No. 000061" and adding in its place "Nos. 000061 and 059079."

Dated: March 21, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–7202 Filed 3–25–94; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Xylazine Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Fort Dodge Laboratories, Inc. The ANADA provides for intravenous and intramuscular use in horses and intramuscular use in *Cervidae* spp. of xylazine injection to produce sedation accompanied by a shorter period of analgesia.

EFFECTIVE DATE: March 28, 1994.

FOR FURTHER INFORMATION CONTACT: Charles W. Francis, Center For Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

FOR FURTHER INFORMATION: Fort Dodge Laboratories, Inc. (Fort Dodge), P.O. Box 518, Fort Dodge, IA 50501, filed ANADA 200–088 which provides for intravenous and intramuscular use in horses and intramuscular use in *Cervidae* spp. (fallow deer, mule deer, Sika deer, white-tailed deer, and elk) of Sedazine™ (xylazine 100 milligrams per milliliter (mg/mL)) injectable to produce sedation accompanied by a shorter period of analgesia. The drug is limited to use by or on the order of a licensed veterinarian.

ANADA 200–088 for Fort Dodge's Sedazine™ (xylazine 100 mg/mL) injectable is as a generic copy of Miles' new animal drug application (NADA 047–956) for Rompun® (xylazine 100 mg/mL) injectable. The ANADA is approved as of February 24, 1994, and the regulations are amended in 21 CFR 522.2662 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.2662 is amended in paragraph (b) by adding a new sentence after the paragraph heading to read as follows:

§ 522.2662 Xylazine hydrochloride injection.

* * * * *

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter for use in horses, wild deer, and elk. * * *

* * * * *

Dated: March 21, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–7201 Filed 3–25–94; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Salinomycin, Bambermycins, Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Hoechst-Roussel Agri-Vet Co. The ANADA provides for using approved single ingredient Type A medicated articles to make Type C medicated

broiler feeds containing salinomycin with bambermycins and roxarsone.

EFFECTIVE DATE: March 28, 1994.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center For Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1602.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., P.O. Box 2500, Somerville, NJ 08876–1258, filed ANADA 200–080 which provides for using approved single ingredient Type A medicated articles to make Type C medicated broiler feeds containing 40 to 60 grams per ton (g/t) salinomycin sodium activity, 1 to 2 g/t bambermycins, and 45.4 g/t roxarsone. The Type C feed is used for prevention of coccidiosis in broiler chickens caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* that are more susceptible to roxarsone combined with salinomycin than salinomycin alone; and for improved feed efficiency. ANADA 200–080 is as a generic copy of Agri-Bio's NADA 134–185. ANADA 200–080 is approved as of March 28, 1994. The regulations are amended in 21 CFR 558.95(b)(1)(xi)(b) to indicate that Hoechst-Roussel is an approved source for salinomycin in the combination and in 21 CFR 558.550(a) to indicate that Hoechst-Roussel has an approval for the combination.

This approval is for use of single ingredient Type A medicated articles to make Type C medicated feeds. Roxarsone is a Category II drug which, as provided in 21 CFR 558.4, requires an approved form FDA 1900 for making a Type C medicated feed. Use of salinomycin, bambermycins, and roxarsone Type A medicated articles to make Type C medicated feeds requires an approved form FDA 1900.

In addition, FDA published a rule in the **Federal Register** of March 11, 1992 (57 FR 8577) which reflected the change of sponsor of NADA 007–891 (3–NITRO (roxarsone) Type A medicated article) from Solvay to A. L. Laboratories. Inadvertently, the references concerning roxarsone in § 558.550 were not amended to reflect the new sponsor. At this time, the references are amended accordingly.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Sec. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.95 [Amended]

2. Section 558.95 *Bambermycins* is amended in paragraph (b)(1)(xi)(*b*) by removing "No. 042835" and adding in its place "Nos. 012799 and 042835."

3. Section 558.550 *Salinomycin* is amended by revising paragraph (a) and by removing in paragraphs (b)(1)(ii)(*c*), (b)(1)(v)(*c*), (b)(1)(ix)(*c*), (b)(1)(xii)(*c*), (b)(1)(xiv)(*c*), and (b)(1)(xv)(*c*) "053501" and adding in its place "046573", and in paragraph (b)(1)(iv)(*c*) by removing the words "as provided by No. 053501" to read as follows:

§ 558.550 Salinomycin.

(a) *Approvals.* Type A medicated articles—30 grams of salinomycin activity per pound from salinomycin sodium biomass:

(1) To 042835 in § 510.600(c) of this chapter for use as in paragraph (b) of this section.

(2) To 012799 for use as in paragraph (b)(1)(i) and (b)(3)(i) of this section.

* * * * *

Dated: March 17, 1994.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 94–7149 Filed 3–25–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 248

[Docket No. R–94–1513; FR–2978–I–04]

Prepayment of a HUD-Insured Mortgage by an Owner of Low-Income Housing: Technical Amendment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Technical amendment.

SUMMARY: This notice amends the definition of a Community-Based Nonprofit Organization (CBO), as set out in 24 CFR 248.101, in response to a change in the definition of a Community Housing Development Organization (CHDO) in the Department's HOME program. In its conference report, Congress requested that the definition of a CBO conform to the definition of a CHDO to the extent practicable. Subsequent to the original publication of the CBO definition, the CHDO definition was changed; as a result, an otherwise acceptable CBO with official CHDO status may not be an eligible CBO under the April 8 interim rule. This notice amends the definition of a CBO by omitting the requirement that the governing board of a rural multi-county CBO be required to contain low-income neighborhood residents from each county of the multi-county area.

EFFECTIVE DATE: April 27, 1994.

FOR FURTHER INFORMATION CONTACT: Frank Malone, Director, Office of Multifamily Preservation and Property Disposition, Department of Housing and Urban Development, room 6164, 451 Seventh Street, NW., Washington, DC 20410; telephone (202) 708–3555. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY or (1–800–877–8339) or 202–708–9300. (Except for the "800" number, telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: In the House Conference Report to the Cranston Gonzalez National Affordable Housing Act (Conf. Rep. No. 943, 101st Cong., 2nd Sess.) Congress indicated its intent that, to the extent practicable, the definition of a Community-Based Nonprofit Organization (CBO) should conform to the definition of a Community Housing Development

Organization (CHDO). Because the definition of a CHDO has been revised to eliminate the requirement that the board of directors of rural, multi-county CHDOs be composed of a representative from each county the CHDO encompassed.

List of Subjects in 24 CFR Part 248

Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, part 248 of title 24 of the Code of Federal Regulations is amended as set forth below.

PART 248—PREPAYMENT OF LOW-INCOME HOUSING MORTGAGES

1. The authority citation for part 248 is revised to read as follows:

Authority: 12 U.S.C. 17151 note, 4101 note, and 4101–4124; 42 U.S.C. 3535(d).

2. Section 248.101 is amended by revising paragraph (8)(i) of the definition of "Community-Based Nonprofit Organization" to read as follows:

§ 248.101 Definitions.

* * * * *

Community-Based Nonprofit Organization.

* * *

(8) Maintains accountability to low-income community residents by:

(i) Maintaining at least one-third of its governing board's membership for low-income neighborhood residents, other low-income community residents, or elected representatives of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county, or metropolitan area; for rural areas, "community" may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and

* * * * *

Dated: March 21, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 94–7157 Filed 3–25–94; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 970

[Docket No. R–94–1689; FR–3528–F–04]

RIN 2577–AB54

Public and Indian Housing Program—Demolition or Disposition of Public and Indian Housing Projects—Required and Permitted PHA/IHA Actions Prior To Approval; Withdrawal of Final Rule

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of withdrawal of final rule.

SUMMARY: On November 4, 1993 (58 FR 58784), the Department published a final rule that states that until such time as HUD approval may be obtained, the PHA or IHA must not take any action intended to further the demolition or disposition of a public housing project or a portion of a public housing project without obtaining HUD approval under 24 CFR parts 970 or 905, respectively. This final rule, which establishes an "intent" standard to the August 17, 1988 interim rule currently in effect, was to become effective on December 6, 1993.

On December 6, 1993, a notice was published to delay the effective date of the final rule from December 6, 1993, until February 4, 1994. On February 4, 1994, another notice was published which further delayed the effective date of the final rule for an additional 60 days. This notice withdraws the November 4, 1993 final rule. The August 17, 1988 interim rule remains in effect.

EFFECTIVE DATE: This final rule is withdrawn as of March 28, 1994.

FOR FURTHER INFORMATION CONTACT: William R. Minning, Director, Policy Division, Office of Management and Policy, (202) 708–0713. The telecommunications device for deaf persons (TDD) is available at (202) 708–0850. (The telephone numbers provided are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

List of Subjects

24 CFR Part 905

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Lead poisoning, Loan programs—housing and community development, Loan programs—Indians, Low and Moderate income housing, Public housing, Reporting and record keeping requirements.

24 CFR Part 970

Grant programs—housing and community development, Public housing, Reporting and record keeping requirements.

Withdrawal of Final Rule

On November 4, 1993, at 58 FR 58784, the Department issued a final rule regarding required and permitted actions that a PHA or IHA may take prior to approval of an application for demolition or disposition of a public or Indian housing project or a portion of a public or Indian housing project. The final rule had an effective date of December 6, 1993, and a notice was published in the **Federal Register** on December 6, 1993 (58 FR 64141) that delayed that effective date until February 4, 1994, because serious concerns had been expressed about the impact of some of the provisions of the final rule on residents and resident organizations.

In the spirit of cooperation, the Department further delayed the effective date of the final rule for an additional 60 days by publication of a notice on February 4, 1994 (59 FR 5321), so that further review of this rule could be conducted. The Department, after further consideration, now believes that the Department can better serve all parties concerned with this rule by receiving public comments before issuing this rule for effect.

Accordingly, the final rule published on November 4, 1993 (58 FR 58784) that amended 24 CFR parts 905 and 970, is withdrawn. The Department will issue a notice of proposed rulemaking in the near future.

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa–1437ee, 1437p, and 3535(d).

Dated: March 15, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–7156 Filed 3–25–94; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 940368–4068; I.D. 031694B]

Atlantic Sea Scallop Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects an emergency interim rule published on Wednesday, March 9, 1994, (59 FR 11006), that is related to Amendment 4 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery. This document corrects § 650.30(a) of the emergency interim rule to clarify that compliance is required with both paragraphs (a)(1) and (a)(2).

DATES: This correction is effective March 4, 1994.

FOR FURTHER INFORMATION CONTACT: Paul Jones, Fishery Policy Analyst, Northeast Regional Office, 508–281–9252.

Correction of Publication

Accordingly, the publication on March 9, 1994, of the emergency interim rule, (I.D. 030294C), which was the subject of FR Doc. 94–5367, is corrected as follows:

§ 650.30 [Corrected]

On page 11007, in the second column, in § 650.30, paragraph (a), on line five, the words "one of" are removed. In the same paragraph on line six, the word "or" is corrected to read "and".

Dated: March 22, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94–7220 Filed 3–25–94; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 59
Monday, March 28, 1994

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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1630

Privacy Act Regulations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Federal Retirement Thrift Investment Board (Board) is deleting the requirement in its rules on the Privacy Act that an individual who wishes to consent to a release of his or her records to a third party submit an originally signed statement authorizing the disclosure. A photocopy or facsimile transmission of the individual's signature and authorization will suffice.

DATES: Comments must be submitted on or before April 27, 1994.

ADDRESSES: Comments may be mailed or delivered to John J. O'Meara, Assistant General Counsel for Administration, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, Assistant General Counsel for Administration, (202) 942–1662, FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION:

Background

The Privacy Act of 1974, at 5 U.S.C. 552a(b), states that "No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains * * *" unless disclosure would be made pursuant to one of the Act's 12 exceptions.

The Board, established by the Federal Employees' Retirement System Act of 1986 (FERSA), maintains records similar to records of other Federal agencies and a Government-wide system of records on current and former participants in the Thrift Savings Plan (TSP). The TSP is a tax-deferred retirement plan for Federal employees that has approximately 2 million participants. The Department of Agriculture, National Finance Center, Thrift Savings Plan Service Office is the recordkeeper for TSP records subject to the Privacy Act.

Under current Board rules developed pursuant to the Privacy Act, "An individual who wishes to have a person of his or her choosing review a record or obtain a copy of a record from the Board shall submit an originally signed statement authorizing the disclosure of his or her record before the record will be disclosed." The Board's recordkeeper typically receives authorizations executed by participants who want a record disclosed to a financial institution so that they may qualify for a mortgage loan.

Based on the Board's experience in administering its Privacy Act record systems, submission of an originally signed authorization to disclose a record is not necessary because no significant safeguard results from this requirement. In addition, the requirement to submit an originally signed authorization is burdensome to the recordkeeper and to the participants. The Board, therefore, proposes to amend its Privacy Act rules to allow disclosure of a record about an individual upon receipt of a statement signed by the individual authorizing disclosure of his or her record.

Other Matters

This rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities. As required by the Paperwork Reduction Act, I hereby certify that this rule will not require additional reporting.

List of Subjects in 5 CFR Part 1630

Administrative practice and procedure, Privacy, Records.

Accordingly, the Board proposes to amend part 1630 of title 5 of the Code of Federal Regulations to read as follows:

PART 1630—PRIVACY ACT REGULATIONS

1. The authority citation for part 1630 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 1630.5 is amended by revising paragraph (a) to read as follows:

§ 1630.5 Granting access to a designated individual.

(a) An individual who wishes to have a person of his or her choosing review a record or obtain a copy of a record from the Board shall submit a signed statement authorizing the disclosure of his or her record before the record will be disclosed. The authorization shall be maintained with the record.

* * * * *

Dated: March 21, 1994.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 94–7195 Filed 3–25–94; 8:45 am]

BILLING CODE 6760–01–M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

RIN 0575–AB37

Business and Industrial Loan Program

AGENCY: Farmers Home Administration and Rural Development Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) and Rural Development Administration (RDA) propose to amend the regulations for the Business and Industry (B&I) Loan Program. The action is needed to relieve borrowers with small loans from the existing requirement to provide annual audited financial statements. The action is expected to clarify the requirements for annual financial statements and establish thresholds for determining which borrowers will be required to provide audited statements.

DATES: Comments must be received on or before May 27, 1994.

ADDRESSES: Submit written comments in duplicate to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection

during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Loan Specialist, Rural Development Administration, USDA, Room 6327, South Agriculture Building, 14th and Independence Avenue, SW., Washington DC 20250, Telephone (202) 720–6819

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this proposed rule in conformance with Executive Order 12866.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under number 10.422, and is subject to intergovernmental consultation in accordance with Executive Order 12372, and as stated in FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

Environmental Impact Statement

This purposed action has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190,, an Environmental Impact Statement is not required.

Civil Justice

This proposed regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(B)(2) of that Order. Provisions within this part which are inconsistent with State law are controlling. All administrative remedies pursuant to 7 CFR part 1900, subpart B must be exhausted prior to filing suit.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980. Public reporting burden for this collection of information is estimated to vary from 3 to 8 hours per response, with an average of 4 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

Background

This regulatory package is an FmHA initiative to enhance the program by reducing the financial burden on small business borrowers of obtaining annual audits of their financial statements. The existing regulations require annual audited financial statements from all borrowers, except those with loans that have been paid down to no more than $100,000 and to no more than two thirds of the original balance and have been current on repayments for at least 24 months. The cost of the audits can often be the difference between a profit and a loss for the year for small businesses. Many small businesses that need and want the assistance of the B&I guaranteed loan decide not to apply because they are unwilling to commit to the cost of an annual audit. Small businesses that have obtained B&I guaranteed loans sometimes become delinquent on the loans because the funds were spent on audits or refuse to honor their agreement to provide the audits.

The proposed revision will remove or allow FmHA to waive the requirement for annual audits for all loans of $500,000 or less and for loans that have been outstanding and have provided audits for three years, have an unpaid balance not exceeding $1,000,000, and are current on repayments. All borrowers that do not provide audited financial statements will be required to provide financial statements compiled or reviewed by an independent certified public accountant or licensed public accountant.

Guaranteed loan borrowers subject to OMB Circulars A–128 or A–133 will also have to comply with those Circulars. Insured (direct) B&I loans are governed by the requirements of 7 CFR part 1942.

List of Subjects in 7 CFR Part 1980

Loan programs, Business and industry, Rural development assistance, Rural areas.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for Part 1980 continues to read as follows:

Authority: 7 CFR 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Business and Industrial Loan Program

2. Section 1980.445 is added to read as follows:

§ 1980.445 Periodic financial statements and audits.

All borrowers will be required to submit periodic financial statements to the lender. Lenders must forward copies of the financial statements and the lender's analysis of the statements to FmHA.

(a) *Audited financial statements.* Except as provided in paragraphs (b), (d), and (e) of this section, all recipients of guaranteed loans of more than $500,000 will be required to submit annual audited financial statements. The audit must be performed in accordance with generally accepted government auditing standards (GAGAS) using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," developed by the Comptroller General of the United States in 1988, and any subsequent revisions. In addition, the audits are also to be performed in accordance with various Office of Management and Budget (OMB) circulars and any FmHA requirements specified in this subpart.

(b) *Unaudited financial statements.* For borrowers with a loan balance (principal plus interest) of $500,000 or less, FmHA will require annual financial statements which may be statements compiled or reviewed by an accountant qualified in accordance with the publication "Standards for audit of Governmental Organizations, Programs, Activities and Functions," instead of audited financial statements. For all loans, FmHA may also accept compilation or review statements even though the loan agreement requires an audit, when all of the following conditions are met:

(1) The loan has been outstanding and satisfactory audits have been provided for at least 3 years;

(2) The loan balance does not exceed $1,000,000; and

(3) The loan repayment is on schedule.

(c) *Internal financial statements.* FmHA may require submission of financial statements prepared by the borrower's staff at whatever frequency is determined necessary to adequately monitor the loan. Quarterly financial

statements should be required on new business enterprises or those needing close monitoring.

(d) *Minimum requirements.* This section sets out minimum requirements for frequency and quality of financial statements to be submitted to FmHA. If specific circumstances warrant, FmHA may require audited financial statements or independent unaudited financial statements in excess of the minimum requirements. For example, loans that depend heavily on inventory and accounts receivable for collateral should normally be audited, regardless of the size of the loan. Nothing herein shall be considered an impediment to the lender requiring financial statements more frequently or of a higher quality than required by FmHA.

(e) *Public bodies and Nonprofit Corporations.* Notwithstanding other provisions of this section, any public body or nonprofit corporation that receives a guarantee of a loan of $100,000 or more must provide an audit in accordance with Office of Management and Budget (OMB) Circulars A–128 or A–133 for the fiscal year of the borrower in which the Loan Note Guarantee is issued. If the loan is for development or purchases made in a previous fiscal year through interim financing, an audit will also be provided for the fiscal year in which the development or purchases occurred. Any audit provided by a public body or nonprofit corporation in compliance with OMB Circulars A–128 or A–133 will be considered adequate to meet the requirements of this section for that year.

3. Section 1980.451 is amended by revising paragraph (i)(13) to read as follows:

§ 1980.451 Filing and processing applications.

* * * * *

(i) * * *

(13) Proposed loan agreement. (See paragraph VII of Form FmHA 449–35). Loan agreements between the borrower and lender will be required. The final executed loan agreement must include FmHA's requirements as set forth in the Form FmHA 449–14 including the requirements for periodic financial statements and recordkeeping in accordance with § 1980.445 of this subpart. The loan agreement must also include, but is not limited to, the following:

* * * * *

4. Section 1980.454 is amended by revising ADMINISTRATIVE A. 1. to read as follows:

§ 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

* * * * *

Administrative

A. * * *

1. The loan agreement between the borrower and lender which provides for frequency of submission of financial statements to the State Director.

* * * * *

5. Section 1980.469 is amended by revising ADMINISTRATIVE C. 1. to read as follows:

§ 1980.469 Loan Servicing.

* * * * *

Administrative

* * * * *

C. * * *

1. The lender understands upon initial contact during loan application and in particular at loan closing that the lender is responsible for loan servicing and, for loans of more than $500,000, that annual audited financial statements are required.

* * * * *

Dated: February 23, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–7163 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AC93

Codes and Standards for Nuclear Power Plants; Subsection IWE and Subsection IWL: Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On January 7, 1994, (59 FR 979), the NRC published for public comment a proposed rule to amend its regulations to incorporate by reference the 1992 Edition with the 1992 Addenda of Subsection IWE, "Requirements for Class MC and Metallic Liners of Class CC Components of Light-Water Cooled Power Plants," and Subsection IWL, "Requirements for Class CC Concrete Components of Light-Water Cooled Power Plants," of Section XI, Division 1, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME B&PV Code) with specified modifications and a limitation. The comment period for this proposed rule was to have expired on March 23, 1994. The Nuclear Management and Resources Council (NUMARC) has requested an extension of the public comment period until April 25, 1994, so that NUMARC can provide necessary and constructive comments. In order to assure that the NRC receives the most meaningful comments possible, the NRC has decided to extend the public comment period for the additional thirty-three days. The extended comment period now expires on April 25, 1994.

DATES: The comment period has been extended and now expires April 25, 1994. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received before this date.

ADDRESSES: Written comments or suggestions may be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, MD between 7:45 am and 4:15 pm Federal workdays. Copies of the regulatory analysis, the environmental assessment and finding of no significant impact, the supporting statement submitted to the Office of Management and Budget, and comments received may be examined in the Commission's Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

Submission of Comments in Electronic Format

The comment evaluation process will be improved if each comment is identified with document title, section heading, and paragraph number addressed. In addition to the original paper copy, submitters are encouraged to provide a copy of their letter in an electronic format on IBM PC compatible 3.5- or 5.25-inch diskettes. Data files should be provided as WordPerfect documents. ASCII text is also acceptable or, if formatted text is required, data files should be provided in IBM Revisable-Form Text/Document Content Architecture (RFT/DCA) format. The format and version should be identified on the diskette's external label.

FOR FURTHER INFORMATION CONTACT: Mr. W. E. Norris, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3805.

Dated at Rockville, Maryland, this 22nd day of March, 1994.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 94-7205 Filed 3-25-94; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 778

Availability of Petition To Initiate Rulemaking; Minimum Requirements for Legal, Financial, Compliance, and Related Information

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

ACTION: Notice of availability of a petition to initiate rulemaking and request for comment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) seeks comments concerning the rule changes requested in a petition, submitted pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The petition requests OSM to amend its regulations governing the right-of-entry information (30 CFR 778.15) that must be submitted in a permit application to meet the minimum requirements for legal, financial, compliance, and related information. Comments will assist the Director of OSM in making the decision whether to grant or deny the petition.

DATES: *Written Comments:* OSM will accept written comments on the petition until 5 p.m. Eastern time on April 27, 1994.

ADDRESSES: *Written Comments:* Mail comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660-NC, 1951 Constitution Avenue, NW., Washington, DC 20240; or hand-deliver the comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660, 800 North Capitol Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Boyce, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone; 202-343-3839.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedure.
II. Background and Substance of Petition.
III. Procedural Matters.

I. Public Comment Procedures

Written Comments: Written comments on the requested change should be specific, should be confined to issues pertinent to the proposed revision, and should explain the reason for the comment. Where practicable, commenter should submit three copies of their comments. Comments received after the close of the comment peirod (see **DATES**) or delivered to an address other than those listed (see **ADDRESSES**) may not necessarily be considered or included in the Administrative Record on the petition.

Availability of Copies: Additional copies of the petition, copies of 30 CFR part 778, and other OSM and Kentucky State program regulations relevant to the right-of-entry requirements for permit applications are available for inspection and may be obtained at the location listed under **ADDRESSES.**

Public Hearing: OSM will not hold a public hearing on the proposed revision, but OSM personnel will be available to meet with the public during business hours, 9 a.m. to 5 p.m., during the comment period. In order to arrange such a meeting, call or write to the person identified under **FOR FURTHER INFORMATION CONTACT.**

II. Background and Substance of Petition

The Department of the Interior received a letter dated January 31, 1994, from James Kringlen, Attorney at Law, Appalachian Research and Defense Fund, Inc., Charleston, West Virginia, as a petition for rulemaking. The petitioner requested that "* * * a new regulation be issued by the Office of Surface Mining or the Department of the Interior, as appropriate, which would require all permit applications for surface mining include documentation with public records identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property."

Under section 201(g) of SMCRA, any person may petition the Director of OSM to initiate a proceeding for the issuance, amendment, or repeal of any of the regulations implementing SMCRA. Under the applicable regulations for rulemaking petitions, 30 CFR 700.12, this notice seeks public comment on the merits of the petition and on the rule changes requested in the petition.

At the close of the comment period, a decision will be made whether to grant or deny the petition. Under 30 CFR 700.12, the Director shall issue a written decision either granting or denying the petition within 90 days of the date of its receipt. Soon thereafter, notice of that decision will be published in the **Federal Register.** If the petition is granted, rulemaking proceedings will be initiated in which public comment will again be sought before a final rulemaking notice appears. If the petition is denied, no further rulemaking action will occur pursuant to the petition.

III. Procedural Matters

Publication of this notice of the receipt of the petition for rulemaking is a preliminary step prior to the initiation of the rulemaking process. If a decision is made to grant the petition, a rulemaking process will be initiated. Thus, no regulatory flexibility analysis is needed at this stage, nor a review under Executive Order 12866.

Publication of this notice does not constitute a major Federal action having a significant effect on the human environment for which an environmental impact statement under the National Environmental Policy Act, 44 U.S.C. 4322(a)(c), is needed.

List of Subjects in 30 CFR Part 778

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: March 21, 1994.

Robert J. Uram,

Director, Office of Surface Mining, Reclamation and Enforcement.

Appendix

The text of the petition dated January 31, 1994, (received February 3, 1994), from James Kringlen is as follows:

January 31, 1994.

Bruce Babbitt, Secretary of the Interior
Suite 6151, Main Interior Building, 1849 C Street, NW., Washington, D.C. 20240.

Re: Petition for Rule-Making under SMCRA

Dear Secretary Babbitt: I am writing to inform you of a substantial and serious absence of protection of surface owner's rights which the Surface Mining, Reclamation and Control Act was intended to protect. Specifically, when coal companies apply for surface mining permits to State agencies responsible for SMCRA enforcement, they are not required to provide proof of any kind regarding who owns the surface of the property the coal company seeks to strip mine. In other words, the coal companies set forth the name or names of the persons or companies that own the surface without any documentation, and the various States simply assume the correctness of the coal companies' representations. My experience has shown that it is very risky to presume the good faith or the accuracy of information submitted by coal companies in their permit applications.

My concern is prompted chiefly by my experience representing an elderly woman in

Perry County, Kentucky, in her efforts to prevent a coal company from getting a surface mining permit for her property. At the time, I was a staff attorney with the Appalachian Research and Defense Fund of Kentucky, Inc., a Legal Services Corporation-funded legal aid program in eastern Kentucky (at present I am a staff attorney with its sister program in West Virginia, Appalachian Research and Defense Fund, Inc.), My client, America Caudill, came to me in July, 1992, frustrated in her efforts to protect her small piece of land that she and her now deceased husband had purchased in 1940. (Enclosed is a copy of a newspaper article about Mrs. Caudill's difficulty.) After seeing the company's (Sheena Coal Company) published notice in the local newspaper indicating that it had applied for a surface mining permit in the vicinity of her home, she took the time and effort to go to the local Department for Surface Mining Reclamation and Enforcement ("DSMRE") (some forty miles from her home) in order to examine the permit application. Much to her dismay, she saw that Sheena Coal sought a permit to strip mine her property, but the application utterly failed to identify her as the owner of the surface! Instead, the application and accompanying maps asserted that America's neighbors on either side of her property were the owners of her property as well!

Mrs. Caudill then attempted to exercise the citizen's rights provisions of SMCRA by requesting the DSDRE to deny the permit because it failed to identify her as an owner of the surface as required by SMCRA, and because she had not given Sheena Coal permission to mine her property. In reply, the State of Kentucky advised Mrs. Caudill that her contention amounted to a mere private "property title dispute" which it lacked the authority to resolve. They further advised her that they were going to issue the permit without further ado, which they did. They were kind enough to advise her of her right to petition for a hearing pursuant to SMCRA's provisions, further advising her to whom she should write to request the hearing and nothing more. Mrs. Caudill followed up with a written request for a hearing, but the attorney for the Kentucky Natural Resources and Environmental Protection Cabinet promptly filed a motion to dismiss her petition for hearing on the basis that her request for a hearing had failed to set forth with particularity the items required by the applicable State regulations.[1] Never mine that Mrs. Caudill had already provided all of that information in her previous communications with the State of Kentucky and that the letter advising her of her right to request a hearing failed to advise her of the particular requirements for a hearing request under the regulation.

It was at this point that Mrs. Caudill came to me and requested assistance. The first thing I did was to check the public records at the Property Valuation Administrator's office in the County Courthouse. This office includes aerial photographs of every square inch of the county as well as the property lines and owners of record of the surface. There on file was the public evidence of Mrs. Caudill's and her deceased husband's surface ownership of the very land that Sheena Coal proposed to strip mine. I submitted this documentation to the State as well as a previous letter from the President of Sheena Coal Company to Mrs. Caudill in which he acknowledged that he had no right to mine her property, but indicating his hope that she would some day give him permission to do so. In the end, Sheena Coal was compelled to amend its permit so as to delete Mrs. Caudill's property.

I subsequently learned that very often coal companies knowingly submit permit applications which fail to identify all of the surface owners of record. Usually, this is done because the company does not have all of the surface owners' permission to mine, although they are negotiating with them and expect, or merely hope, that they will get such permission later. However, they wish to get the permit as quickly as possible without the cost and delay associated with incremental permit applications as they may obtain permission or agreements from various surface owners to the company's proposed surface mining. Furthermore, the more surface owners identified in the application, the more post-mining documents they must prepare and submit to the State upon completion of mining. Since the States require neither documentation of the ownership of the surface of property proposed for surface mining, nor verify the information provided by coal companies in the permit application review process, the coal companies have little incentive to accurately identify the surface owners of the property. The biggest danger here, of course, is that some surface owners may find their property being strip mined, notwithstanding that they never granted permission to mine to the mining permittee. Further, the permittee could be expected to defend itself by highlighting the fact that the State had given a permit to mine the property.

This major loophole in the law should be closed. I propose a new regulation be issued by the Office of Surface Mining or the Department of the Interior, as appropriate, which would require all permit applications for surface mining include documentation with public records identifying the surface owners of the property they propose to mine as well as the property contiguous to the proposed mining property.

Please consider this much needed corrective regulation. The rights of citizens such as America Caudill will continue to be overlooked despite the protective provisions in SMCRA unless coal companies are required to document the information they provide in their surface mining permit applications. Please advise me whether your Department may pursue this matter. Also, please call or write to me if you desire any further information or if there is anything further that I can do to assist you and your Department in its consideration of my request.

Sincerely,

James Kringlen,

Attorney at Law.

[FR Doc. 94–7218 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–05–M

[1] To its credit, the Cabinet subsequently adopted a policy, as a result of this case, whereby the Cabinet will not seek the dismissal of citizen hearing requests without substantial justification.

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30 CFR Part 914

Indiana Regulatory Program Amendment

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

ACTION: Proposed Rule; Reopening and Extension of Public Comment Period on Proposed Amendment.

SUMMARY: OSM is announcing receipt of additional revisions pertaining to previously proposed amendment No. 93–3 to the Indiana regulatory program (hereinafter referred to as the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions of Indiana's proposed rules pertain to ultimate authority for the department, and record of the director for surface coal mining permits. The amendment is intended to revise Indiana's rules at 310 IAC 0.6 to reflect statutory changes contained in the 1992 Senate Enrolled Act 154.

This document sets forth the times and locations that the Indiana program and proposed amendment to that program are available for public inspection, and dates and times of the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., e.s.t. April 12, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Roger W. Calhoun, Director, Indianapolis Field Office at the address listed below.

Copies of the Indiana program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, room 301, Indianapolis, Indiana 46204, Telephone: (317) 226–6166.

Indiana Department of Natural Resources, 402 West Washington Street, room C256, Indianapolis,

Indiana 46204, Telephone: (317) 232–1547.

FOR FURTHER INFORMATION CONTACT: Roger W. Calhoun, Director, Indianapolis Field Office, Telephone: (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Discussion of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32071). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of the Proposed Amendment

By letter dated April 2, 1993, (Administrative Record No. IND–1217) Indiana submitted proposed amendment 93–3 to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. The provisions that Indiana proposes to amend are:

310 IAC 0.6–1–2 concerning applicability of the rule; 310 IAC 0.6–1–2.5 concerning ultimate authority for the Department of Natural Resources (IDNR); and 310 IAC 0.6–1–17 concerning record of the director of the IDNR for surface coal mining permits. OSM announced receipt of the proposed amendment in the April 23, 1993, **Federal Register** (58 FR 21693) and invited public comment on its adequacy.

During its review of the amendment, OSM identified additional changes to the rules which had not been previously reviewed and approved by OSM. Consequently, OSM reopened the public comment period to provide opportunity for public comment on those rules which had not been identified as amendments in the initial comment period (September 21, 1993; 58 FR 48996).

By telefax dated March 10, 1994 (Administrative Record No. IND–1339), Indiana submitted a version of the proposed amendment which differs from that provided to OSM during the original submittal of April 2, 1993. OSM is, therefore, reopening the public comment period and inviting comment on the substantive changes identified below.

1. 310 IAC 0.6–1–2.5 Ultimate Authority for the Department

Subsection 2.5(b) is amended by deleting the words "permit revision application." With this change, the administrative law judge (ALJ) is the ultimate authority for the IDNR except for proceedings concerning the approval or disapproval of a permit application or permit review under IC 13–4.1–4–5 and proceedings for suspension or revocation of a permit under IC 13–4.1–11–6.

2. 310 IAC 0.6–1–17 Record of the Director of the IDNR for Surface Coal Mining Permits

Subsection 17(c) is amended to add the following language after the first sentence. "However, nothing in this subsection precludes the admission of testimony or exhibits which are limited to the explanation or analysis of materials included in the record before the director, or the manner in which the materials were applied, used, or relied upon in evaluating the application."

Indiana is also amending the third sentence (formerly the second sentence) to provide that timely objections may be made "before or during" a hearing. Prior to this change, timely objections were to be made at a hearing.

Finally, subdivision 17(c)(2) is amended to read: "[T]he permit application as defined at 310 IAC 12–0.5–10." Prior to this change, the proposed language did include the words "as defined at 310 IAC 12–0.5–10."

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Indiana program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional changes submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by Indiana, not by OSM.

Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities.

Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 18, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–7197 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–DS–M

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30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Utah rules pertaining to significant permit revisions. The amendment is intended to improve operational efficiency and simplify the processing and approval of coal permit changes ordered by the Utah Division of Oil, Gas and Mining (Division).

This document sets forth the times and locations that the Utah program and proposed amendment to that program are available for public inspection, the dates and times of the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.s.t. on April 27, 1994. If requested, a public hearing on the proposed amendment will be held on April 22, 1994. Requests to present oral testimony at the hearing must be received by 4 p.m., m.s.t. on April 12, 1994. Any disabled individual who has a need for a special accommodation to attend a public hearing should contact the individual listed under "**FOR FURTHER INFORMATION CONTACT.**"

ADDRESSES: Written comments should be mailed or hand delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Alburquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., suite 1200, Albuquerque, New Mexico 87102, Telephone: (505) 766–1486

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, suite 350, Salt Lake City, Utah 84180–1203, Telephone: (801) 538–5340.

FOR FURTHER INFORMATION CONTACT: Rober H. Hagen, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated March 7, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT–899). Utah submitted the proposed amendment at its own initiative to "streamline the Utah program and to simplify the process for revising permits." The provisions of the Utah Coal Mining Rules that Utah proposes to amend are: Utah Administrative Rules (Utah Admin. R.) 645–303–224.400, .500, and .600, regarding the requirements for significant permit revisions.

Specifically, Utah proposes to delete Utah Admin. R. 645–303–224.400, which requires that permit changes ordered by the Division in accordance with Utah Admin. R. 645–303–212 and 213 (the provisions authorizing the Division to order permit changes) must always be processed as significant permit revisions. In addition, Utah proposes to recodify the existing provisions at Utah Admin. R. 645–303–224.500 and .600, regarding additional criterion for categorizing and processing proposed permit changes as significant permit revisions, as Utah Admin. R. 645–303–224.400 and .500 respectively.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.s.t. on April 12, 1994. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meeting will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 94–7198 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–05–M

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC21

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Puccinellia Parishii (Parish's Alkali Grass)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list the plant *Puccinellia parishii* (Parish's alkali grass) as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). This ephemeral annual grass occurs in small, widely disjunct populations in California, Arizona, and New Mexico occupying desert springs or seeps. Parish's alkali grass is threatened by alteration of hydrologic flows due to spring or seep development, water diversion or impoundment, and groundwater pumping; loss of habitat from farming, grazing, and residential construction activities; limited distribution; and low population numbers. This proposal, if made final, would implement Federal protection provided by the Act for Parish's alkali grass. Critical habitat is not being proposed.

DATES: Comments from all interested parties must be received by May 27, 1994. Public hearing requests must be received by May 12, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 3530 Pan American Highway, NE, suite D, Albuquerque, New Mexico 87107. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Anne Cully, at the above address (505/883–7877).

SUPPLEMENTARY INFORMATION:

Background

Parish's alkali grass was first collected by Samuel Bonsal Parish at Rabbit Springs in the Mojave Desert of California in 1915. It was described by A.S. Hitchcock in 1928. Parish's alkali grass has also been collected in Arizona and New Mexico.

Parish's alkali grass is a member of the grass family (Poaceae). It is a dwarf, ephemeral, winter-to-spring, tufted annual that flowers from April to May. The leaves are 1–3 centimeters (cm) (0.4–1.2 inches (in)) long, firm, upright, and very narrow. Flowering stems are 2–20 cm (0.8–8 in) long and number 1–25 per plant. The inflorescence is 1–10 cm (0.4–4 in) long, narrow, and few-flowered. Each division has 2–6 perfect flowers, 3–5 millimeters (mm) (0.1–0.2 in) long, that separate at maturity.

Parish's alkali grass is known from widely disjunct localities in California, Arizona, and New Mexico. Its small populations occupy a very specific desert habitat of alkaline springs and seeps at elevations of 700–1,800 meters (m) (2,300–6,000 feet (ft)). This species is dependent upon continuous spring or seep flows. Population size fluctuates widely in response to climatic conditions and precipitation.

In Arizona, Parish's alkali grass is documented from several historic locations on the Navajo and Hopi Indian reservations. These include a marsh near Tuba City in Coconino County (Phillips and Phillips 1991) and near Shato (Shonto), Navajo County. There are seven currently known sites in Arizona, all from the vicinity of Tuba City. It is unknown whether the historic and currently known locations near Tuba City are precisely the same. The 7

known populations total approximately 400 plants and occupy about 0.1 hectare (ha) (0.2 acre (ac)) of mesic canyon bottom seeps and natural springs. Associated riparian species include *Triglochin* spp. (arrowgrass), *Distichlis stricta* (saltgrass), and *Juncus* spp. (rush). The Shato population has not been relocated; wetland sites may have disappeared in response to severe overgrazing (B. Hevron, Navajo Natural Heritage Program, pers. comm., 1993).

Parish's alkali grass presently occurs at two sites in the California Mojave Desert. The first site is located on a privately owned multiple spring complex in San Bernardino County. First collected at these springs in 1915 and later in 1950 (Phillips and Phillips 1991), the species was rediscovered at the spring complex in 1992 (T. Thomas and C. Rutherford, U.S. Fish and Wildlife Service, pers. comm., 1993). An estimated 100–200 plants occupy a 50 square (sq) m (500 sq ft) area, 5–8 m (16–26 ft) downslope from a leaking earthen impoundment. Associated species include *Anemopsis californica* (yerba mansa), *Carex* spp. (sedge), saltgrass, *Hesperochiron pumilus*, and *Mimulus guttatus* (monkey flower). It is uncertain whether Parish's alkali grass disappeared at this location or was merely overlooked; botanists had searched for it repeatedly (Rutherford, pers. comm., 1993). Alteration of hydrology and loss of habitat could explain why this species remained undetected for 42 years (Phillips and Phillips 1991). There is little historic information on the land use or hydrology of this spring complex from which to evaluate the present condition of the Parish's alkali grass population. However, it is evident that the spring complex was altered at some point to create several ponds for livestock use (Thomas, pers. comm., 1993). Development around this site may have contributed to lowering the water table to the point that the spring stopped or rarely flowed (Phillips and Phillips 1991). Jerrold Davis, of the Bailey Herbarium at Cornell University, noted that the spring itself did not appear to have flowed for a long time (A. Phillips, Museum of Northern Arizona, pers. comm., 1991).

A second California population of Parish's alkali grass was discovered in a remote area of Edwards Air Force Base in Kern County in 1992 (D. Charlton, Edwards Air Force Base, pers. comm., 1993). An estimated 50–400 plants occupy a total area of 50 sq m (500 sq ft) at an elevation of 700 m (2,300 ft). The associated halophytic vegetation includes *Atriplex canescens* (fourwing saltbush), *Suaeda moquinii* (inkweed), *Calochortus striatus* (alkali mariposa lily), *Atriplex confertifolia* (shadscale), and *A. spinifera* (spinescale) (Charlton, pers. comm., 1993). This population is located between the base of a stabilized dune on the east side of Rosamond Dry Lake and a small barren playa. Additional habitat probably existed where a road now borders the playa. Past land use is unknown. There are currently no activities in the area, but due to its roadside location, the site remains vulnerable to accidental disturbance. This population occurs in an active dune field and could be buried if the dunes shift or destabilize.

The largest known population of Parish's alkali grass occurs at a privately owned spring in Grant County, New Mexico (Phillips and Phillips 1991). This spring has been captured and the outflow comes out of two pipes. Parish's alkali grass occurs in a low-lying seep area about 300 m (1,000 ft) downstream from the spring. This population occupies approximately 4 ha (10 ac) and varies from 200–5,000 plants, depending on environmental conditions. Associated riparian species include *Distichlis stricta* (saltgrass), *Sporobolus airoides* (alkali sacaton), yerba mansa, *Scirpus olneyi* (Olney bulrush), and *Juncus balticus* (wire rush).

Misidentification of Parish's alkali grass by botanists has led to the inclusion of erroneous localities in the literature. A grass specimen collected in 1967 near Winkleman, Navajo County, Arizona, was later identified as *Poa annua (annual blue grass). A specimen collected in 1982 from Clark County, Nevada (Wallace 1993), was later identified as Leptochloa filiformis* (red sprangletop). A specimen collected in 1966 near the town of Red River, Taos County, New Mexico, was recently identified as annual blue grass (R. Sivinski, New Mexico Energy, Minerals and Natural Resources Department, pers. comm., 1993).

Federal action on this species began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4 (c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. Parish's alkali grass was included as threatened in this notice of review. On December 15, 1980 (45 FR 82479), the Service published an updated notice reviewing the native plants being considered for classification as endangered or threatened. Parish's alkali grass was included in this notice as a Category 1 species. Category 1 comprises taxa for which the Service has on file substantial data on biological vulnerability and threats to support preparation of listing proposals. The November 23, 1983, supplement to the plant notice of review (48 FR 53640) reclassified Parish's alkali grass as a Category 2 candidate. Category 2 species are those taxa for which there is some evidence of vulnerability, but for which there are insufficient data to support listing proposals at the time. Parish's alkali grass was included as a Category 2 species in the 1985 and 1990 notices of review (50 FR 39525, September 27, 1985; 55 FR 6183, February 21, 1990). The most recent plant notice of review (58 FR 51144; September 30, 1993) upgraded this species to Category 1 status.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 1 year of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. Because Parish's alkali grass was included in the 1975 Smithsonian report, which was accepted as a petition, the petition to list this species was treated as being newly submitted on October 13, 1982. From 1983 to 1993, the Service made the required 1-year findings that listing Parish's alkali grass was warranted, but precluded by other listing actions of higher priority, in accordance with section 4(b)(3)(B)(iii) of the Act. Biological data supplied by Phillips and Phillips (1991) fully support the listing of this species. Publication of this proposed rule constitutes the final 1-year finding for this species.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the Act set forth the criteria and procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Puccinellia parishii* Hitchcock (Parish's alkali grass) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Parish's alkali grass is vulnerable to alteration of the hydrologic flows upon which it depends through water diversion and impoundment, and groundwater pumping. The development of these fragile spring habitats could eliminate the already small populations of this species. One population near Tuba City, Arizona, occurs in a mesic canyon bottom used since the late 1800's for farming. The canyon bottom is divided into a series of plots that are farmed by individual families (Hevron, pers. comm., 1993). Water is drained from the canyon bottom each spring by two lateral ditches and a central drain. It takes about 4–6 weeks for the area to dry out enough to be farmed. Farming practices such as burning, herbicide use, and plowing regimes may have impacted this population of Parish's alkali grass because the grass is present in some farm plots, but absent in others with apparently similar soils and drainage. Plants of Parish's alkali grass have been observed plowed up within some plots (Hevron, pers. comm., 1993). Threats to this and other sites within the Tuba City area include farming of seep habitat, construction, recreation, and water diversion.

Livestock have access to most of the currently known sites of Parish's alkali grass, but apparently do not graze the species. However, trampling by livestock occurs at the Grant County spring and in the Tuba City area. Livestock hooves produce surface disturbance that can develop into gullies, increase soil erosion and surface water runoff, reduce or eliminate the soil seed bank, open up the habitat to invasive weedy species, and lessen the ability of Parish's alkali grass populations to recover.

The most severe types of surface disturbance and habitat alteration occur when heavy equipment is used within spring or seep habitat. The San Bernardino County spring complex was changed from a natural spring into several water impoundments presumably used by livestock. Although no further construction is currently planned for this site, it is near the community of Lucerne Valley, which is undergoing an accelerated rate of development. One population of Parish's alkali grass in the Tuba City area occurs on a hillside that has been partly leveled by a bulldozer, possibly for house construction. Such habitat alteration can cause permanent changes in the soil microhabitat, severe soil erosion, loss of the soil seed bank, and eventual decline or loss of the population.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No economic uses for Parish's alkali grass are known. However, low population numbers make this species vulnerable to overcollection by both scientists and rare plant enthusiasts.

C. *Disease or predation.* Jackrabbits (*Lepus californicus*) have been documented grazing the San Bernardino County, California, site during midsummer (Thomas, pers. comm., 1993). The effect of this predation on Parish's alkali grass is unknown. No significant disease has been observed in this species.

D. *The inadequacy of existing regulatory mechanisms.* Parish's alkali grass is included as a Highly Safeguarded species on the list of plants protected under the Arizona Native Plant Law (ARS 3–901), administered by the Arizona Department of Agriculture. A Highly Safeguarded species is one "* * * whose prospects for survival in this State are in jeopardy* * *." The protections afforded a Highly Safeguarded species include restrictions on collecting and a requirement for salvage permits. However, all known populations of Parish's alkali grass in Arizona occur on tribal lands where the Arizona Native Plant Law does not apply. This species is not currently protected on the Navajo or Hopi reservations in Arizona. Under title 17 section 507(b) of the Navajo Tribal Code and Navajo Nation Council Resources Committee Resolution RCF–014–91, the Navajo Fish and Wildlife Department has developed the Navajo Nation Endangered Species List (NESL) for tribal lands. Parish's alkali grass is currently listed on the NESL as a Group 4 species, meaning there is insufficient information to list it as endangered or threatened on the NESL. There are currently no restrictions on its collection and/or the modification of its habitat on the Navajo reservation. The Navajo Fish and Wildlife Department is in the process of revising the status of Parish's alkali grass (Hevron, pers. comm., 1993).

Although Parish's alkali grass is not listed as endangered by the State of California, it is on List 1B of the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California. List 1B plants are considered "rare, threatened, or endangered in California and elsewhere." Under the guidelines of the California Environmental Quality Act, List 1B species are considered equivalent to State-listed species for the purposes of disclosing project impacts to sensitive resources in environmental assessments. However, such disclosure does not confer protection from project impacts on these species.

Parish's alkali grass is protected in the State of New Mexico by the New Mexico Native Plant Protection Act (NMFRCD Rule No. 91–1). This law prohibits collection without a permit from the New Mexico Energy, Minerals and Natural Resources Department.

E. *Other natural or manmade factors affecting its continued existence.* Low population numbers and limited distribution make this species vulnerable to extinction from both natural and manmade threats. Further reduction in population numbers could reduce the reproductive capability and genetic potential of this species. There is a potential threat of deliberate destruction of plants by individuals concerned about the perceived loss of property rights resulting from listing species under the Act.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list Parish's alkali grass as endangered without critical habitat. Endangered status is appropriate because there are few remaining populations and the species' habitat is vulnerable to hydrologic alteration, development, grazing impacts, and other disturbances. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time a species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for Parish's alkali grass at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. As discussed under Factors B and E in the "Summary of Factors Affecting the Species," Parish's alkali grass is threatened by taking (including vandalism to habitat), an activity difficult to enforce against and only regulated by the Act with respect to

plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make Parish's alkali grass more vulnerable and increase enforcement problems. Pertinent Federal, State, and local government agencies have been notified of the proposed listing of this species. Other interested parties will be notified either by mail or by public notice in local newspapers. Private landowners that have not yet been notified will be notified of the location and importance of protecting this species' habitat, following publication of this proposal. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to propose critical habitat for Parish's alkali grass.

Available Conservation Measures

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

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

Possible future Federal actions that could affect Parish's alkali grass include U.S. Army Corps of Engineers involvement in projects such as the construction of roads, bridges, and dredging projects subject to section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*) and section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*), and issuance of loans by the Farmers Home Administration. The Bureau of Indian Affairs may permit, fund, or carry out actions such as utility corridors or home construction within spring habitat. Road construction, training exercises, and other military activities could affect the species at Edwards Air Force Base.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would ever be sought or issued because Parish's alkali grass is not common in cultivation or in the wild. Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, room 420C, 4401 N. Fairfax Drive, Arlington, Virginia 22203 (703/358–2105, FAX 703/358–2281).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to Parish's alkali grass;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Hitchcock, A.S. 1928. New species of grasses from the United States. Proc. Biol. Soc. Wash. 41:157–158.

Phillips, A.M., III, and B.G. Phillips. 1991. Status Report for *Puccinellia parishii*. U.S. Fish and Wildlife Service, Ecological Services, Phoenix, Arizona. 10 pp.

Wallace, R. 1993. Draft Conservation Plan: Parish's Alkali Grass, *Puccinellia parishii*. The Nature Conservancy, Santa Fe, New Mexico. 18 pp.

Author

The primary author of this proposed rule is Philip Clayton (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter 1, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. Section 17.12(h) is amended by adding the following, in alphabetical order under the family Poaceae, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Poaceae—Grass family:						
*	*	*	*	*	*	*
Puccinellia parishii	Parish's alkali grass	U.S.A. (AZ, CA, NM)	E		NA	NA
*	*	*	*	*	*	*

Dated: March 16, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–7225 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of a Finding on a Petition To List a Hawaiian Spider, Doryonychus raptor

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of a finding on a petition.

SUMMARY: the U.S. Fish and Wildlife Service (Service) announces a 90-day petition finding on a pending petition to add an endemic Hawaiian spider, *Doryonychus raptor*, to the List of Endangered and Threatened wildlife. Substantial information has not been presented to indicate that the requested action may be warranted.

DATES: The finding announced in this document was made on June 8, 1992. Comments and materials related to this petition finding may be submitted to the Field Supervisor at the address below.

ADDRESSES: Information, comments, or questions concerning the status of the petitioned species should be submitted to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith at the above address (808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the Service finds that a petition presents substantial information indicating that a requested action may be warranted, then the Service initiates a status review on that species. The Service has received and made a 90-day finding on the following petition.

On September 25, 1991, Dr. Rosemary G. Gillespie, Research Fellow of the Hawaiian Evolutionary Biology Program, University of Maryland at College Park, submitted a petition to list an endemic Hawaiian spider, *Doryonychus raptor* Simon, as an endangered species. The petition was received by the Service on September 27, 1991. After review of the petition and supporting documentation, the Fish and Wildlife Service finds that the petition does not present sufficient information to substantiate that the requested action may be warranted.

Doryonychus raptor was initially discovered by R.C.L. Perkins in the 1890's, but had not been observed subsequently in the wild until the petitioner, Dr. Gillespie, reported the existence of *D. raptor* within the Hono O Na Pali Natural Area Reserve in 1990. Dr. Gillespie believes that this species is restricted to areas of low elevation, directly beneath high waterfalls emanating from the Alakai plateau on the island of Kauai. In addition to its limited range, *D. raptor* may be threatened by predation by alien species of spiders and ants. Since the rediscovery of the species, the petitioner has been actively collecting baseline data on the current distribution and abundance of *D. raptor*. However, because the historic distribution and abundance of the species is not known, there is no good comparative evidence that would support a determination that the species is in decline over all or a significant portion of its range at this point in time. In addition, the encroachment of alien plant species into the spider's habitat is not entirely a threat, as the spider is reported to be present in alien *Psidium* (guava) forests.

Author

This document was prepared by Sharon R. Kobayashi, Pacific Islands Office (see **ADDRESSES** section).

Authority

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

List of Subjects in 50 CFR Part 17

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

Dated: March 21, 1994.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 94-7227 Filed 3-25-94; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 931100-4043; I.D. 032194G]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Apportionment of reserve; request for comments.

SUMMARY: NMFS proposes to apportion reserve to certain target species in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow for ongoing harvest and account for previous harvest of the total allowable catch (TAC). It is intended to promote the goals and objectives of the North Pacific Fishery Management Council.

DATES: Comments must be received at the following address no later than 4:30 p.m., Alaska local time, April 7, 1994.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 W. 9th, Room 453, Juneau, AK 99801 or P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Martin Loefflad, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI area of the U.S. exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Director of the Alaska Region, NMFS, has determined that the initial TACs specified for pollock and Greenland turbot in the Bering Sea, for Pacific ocean perch, Greenland turbot, and pollock in the Aleutian Islands, for Atka mackerel in the combined Eastern Aleutian District and Bering Sea subarea, and for Pacific cod in the BSAI, need to be supplemented from the non-specific reserve in order to continue operations and account for prior harvest. Therefore, in accordance with § 675.20(b), NMFS proposes to apportion from the reserve to TACs for the following species: (1) For the Bering Sea area—99,750 metric tons (mt) to pollock and 700 mt to Greenland turbot; (2) for the Aleutian Islands area—1,635 mt to Pacific ocean perch, 350 mt to Greenland turbot, and 4,245 mt to pollock; (3) for the combined Eastern Aleutian District and Bering Sea subarea—2,021 mt to Atka mackerel; and (4) for the BSAI management area—28,650 mt to Pacific cod.

These proposed apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species or the "other species" category, because the revised TACs are equal to or less than specifications of acceptable biological catch.

Pursuant to § 675.20(a)(3)(i), the proposed apportionments of pollock are allocated between the inshore and offshore components: (1) For the Bering Sea—34,913 mt to vessels catching pollock for processing by the inshore component and 64,837 mt to vessels catching pollock for processing by the offshore component; and (2) for the Aleutian Islands—1,486 mt to vessels catching pollock for processing by the inshore component and 2,759 mt to vessels catching pollock for processing by the offshore component.

Pursuant to § 675.20(a)(3)(iv), the proposed apportionment of the BSAI Pacific cod TAC is allocated 573 mt to vessels using jig gear, 12,606 mt to vessels using hook-and-line or pot gear, and 15,471 mt to vessels using trawl gear.

Classification

This action is taken under 50 CFR 675.20 and 675.24.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: March 23, 1994.

David S. Crestin,

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

[FR Doc. 94-7219 Filed 3-23-94; 12:53 pm]

BILLING CODE 3510-22-P

Notices

Federal Register
Vol. 59, No. 59
Monday, March 28, 1994

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Meeting

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States.

Committee on Judicial Review

DATES: Wednesday, April 6, 1994, at 2:00 p.m.

ADDRESSES: Office of the Chairman, Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Committee on Judicial Review will meet to discuss Professor Howard Fenton's study on administrative procedure and judicial review of Foreign Trade Zone Boards' decisions.

Attendance at the meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of the committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: March 23, 1994

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 94–7316 Filed 3–25–94; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB–94–06]

Flue-Cured Tobacco Advisory Committee; Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of committee renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of 2 years.

FOR FURTHER INFORMATION CONTACT: Howard M. Magwire, Acting Director, Tobacco Division, AMS, USDA, 300 12th Street, SW., room 502-Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Inspection Services, recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the flue-cured tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: February 14, 1994.

Mike Espy,

Secretary.

[FR Doc. 94–7229 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–02–M

[TB–94–07]

Burley Tobacco Advisory Committee; Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of committee renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Burley Tobacco Advisory Committee for an additional period of 2 years.

FOR FURTHER INFORMATION CONTACT: Howard M. Magwire, Acting Director, Tobacco Division, AMS, USDA, 300 12th Street, SW., room 502-Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Inspection Services, recommends opening dates and selling schedules for the burley marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the burley tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. app.).

Dated: February 14, 1994.

Mike Espy,

Secretary.

[FR Doc. 94–7228 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Suitability Study for a Portion of the North Fork of the Clearwater River, Kelly Creek, and Cayuse Creek Being Considered for National Wild & Scenic River Status; Clearwater National Forest; Clearwater & Idaho Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a legislative environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare a draft and final legislative Impact Statement (LEIS) associated with a study of the suitability of a portion of the North Fork of the Clearwater River, Kelly Creek, and Cayuse Creek in the Clearwater National Forest in Idaho for inclusion in the National Wild and Scenic River System. The three streams were found eligible for consideration as Wild and Scenic Rivers in the 1987 Clearwater National Forest Land and Resource Management Plan (Forest

Plan). All three streams are found within the boundaries of the Clearwater National Forest. The agency invites written comments and suggestions on the suitability of these rivers. In addition, the agency gives notice of the environmental analysis and decision-making process associated with the study so that interested and affected people are aware of how they may participate and contribute to the decision.

DATES: Comments on the scope of the study should be received by May 15, 1994.

ADDRESSES: Send written comments to James Caswell, Forest Supervisor, Clearwater National Forest, 12730 Highway 12, Orofino, Idaho 83544.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed study and EIS to Brian Hensley, River Study Team Leader, North Fork Ranger District, Clearwater National Forest, P.O. 2139, Orofino, Idaho 83544, phone (208) 476–3775.

SUPPLEMENTARY INFORMATION: The Clearwater National Forest Land and Resource Management Plan was approved in 1987. Segments of the North Fork of the Clearwater River, Kelly Creek, and Cayuse Creek were identified as eligible for inclusion in the National Wild & Scenic Rivers System as part of the planning process, but were not studied for their suitability at that time. The decision to be made, based upon the environmental impact statement, is whether or not to recommend any or all of the above mentioned rivers for designation and inclusion in the National Wild & Scenic Rivers System. The Forest Plan will be amended accordingly.

The area of consideration for each of the rivers is a corridor a minimum of ¼ mile in width from each stream bank for the length of the eligible river segments.

The eligible segment of the North Fork of the Clearwater River is a 60-mile stretch flowing from the Road No. 250 bridge crossing (Section 6, Township 40 North, Range 11 East, Boise Meridian) downstream to the beginning of slack water in Dworshak Reservoir (Section 34, Township 41 North, Range 6 East, Boise Meridian).

The eligible section of Kelly Creek is approximately 39 miles long including its main stem and its North, Middle, and South Forks that originate near the Idaho/Montana state border and flow to the stream's confluence with the North Fork of the Clearwater River.

The eligible portion of Cayuse Creek includes the entire 31-mile stream, from its source at Lost Lake (Section 24, Township 38 North, Range 13 East, Boise Meridian) to its confluence with Kelly Creek (Section 24, Township 39 North, Range 11 East, Boise Meridian).

Scoping for the study began in April of 1993 with a series of 6 regional public meetings to explain the study process and to identify issues relating to the study. A study newsletter was also circulated at that time. Another series of 6 public meetings was held in December of 1993 to validate: study issues, preliminary outstandingly remarkable values (ORV's), and preliminary alternatives. A second issue of the study newsletter was mailed to interested publics prior to this set of meetings.

The following preliminary issues are being considered in the environmental analysis: (1) Effects on timber harvest and mineral development in the area of the study rivers; (2) effects on the local and regional economy; (3) effects on abilities of county governments and local constituents to affect resource management recommendations; (4) effects on transportation system and development in the area of the study rivers; (5) effects on recreation use and users in the study stream areas; (6) effects on wildlife and fish in the study river areas; (7) effects on water quality and the free flowing nature of the study streams; (8) protection of the identified outstandingly remarkable values of the study streams; (9) effects on the ability of the private landowners along the North Fork of the Clearwater River to retain their properties and use their lands as they choose; and (10) effects on the roadless character of the headwaters of Kelly Creek and a large portion of Cayuse Creek.

A range of alternatives is being considered. They will include as a minimum, one alternative that does not recommend designation (no action), and one that recommends designation for all the eligible river segments. Additional alternatives will be developed from public comments received during the scoping process. The environmental impact statement will disclose the direct, indirect, and cumulative effects of implementing each of the alternatives.

The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the proposal. This input will be utilized in preparation of the draft environmental impact statement.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) by August 1994. At that time EPA will publish a notice of availability on the draft environmental impact statement in the **Federal Register.** It is very important that those interested in the management of these rivers participate at that time. To be most helpful, comments on the draft environmental impact statement should be as site-specific as possible.

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

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final study report and environmental impact statement. The final report is scheduled to be completed by December 1994. The comments, responses, and environmental consequences discussed in the final environmental impact statement and applicable laws, regulations, and policies will be considered in preparing the agency's recommendations for Wild and Scenic River designation.

The responsible official for making recommendations to the Congress is Mike Espy, Secretary of Agriculture, Administration Building, 12th Street, SW., Washington, DC 20250.

The decision on inclusion of a river in the National Wild & Scenic Rivers System rests with the United States Congress.

Dated: March 18, 1994.

Mark A. Reimers,

Deputy Chief, Programs and Legislation.

[FR Doc. 94–7221 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–11–M

Wild and Scenic River Suitability Study for the Lower Wallowa River, Wallowa and Union Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Revision of notice of intent to prepare a legislative environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Steve Davis, Wild and Scenic Rivers Team Leader, Wallowa-Whitman National Forest, P.O. Box 907, Baker City, Oregon 97814; telephone: 503–523–6391 ext. 316.

SUPPLEMENTARY INFORMATION: The Notice of Intent to prepare a wild and scenic river study report and legislative environmental impact statement (LEIS) for the Wallowa River was published in the **Federal Register** September 19, 1990 (55 FR 38573). In December 1993, the Forest Service released the Wallowa River Wild and Scenic River Study Report and Draft LEIS (Notice of Availability, December 17, 1993, 58 FR 65982). As a result, the U.S. Department of the Interior, National Park Service has been designated a cooperating agency in the preparation of the final LEIS. This study report and final LEIS were scheduled to be completed by the end of March 1992. It is not expected to be available May 1994.

Dated: March 17, 1994.

Mark A. Reimers,

Deputy Chief, Programs and Legislation.

[FR Doc. 94–7222 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–11–M

Mono Basin National Forest Scenic Area Comprehensive Management Plan Amendment #1

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare supplemental environmental impact statement.

SUMMARY: The Forest Service will prepare a supplemental environmental impact statement for a proposal to revise management direction for the Mono Basin National Forest Scenic Area, Mono Lake Ranger District, Inyo National Forest, Mono County, California.

DATES: Comments concerning the scope of the analysis should be received by July 15, 1994.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Dennis W. Martin, Forest Supervisor, Inyo National Forest, 873, N. Main Street, Bishop, California, 93514–2494.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be sent to John Schuyler, Forest Planner, phone 619–873–2400.

SUPPLEMENTARY INFORMATION: The Mono Basin National Forest Scenic Area Comprehensive Management Plan (CMP) was completed in March 1990. The CMP which is a component of the 1988 Inyo Land and Resource Management Plan, provides direction and recommendations for the management of Mono Lake and the surrounding Scenic Area. The CMP places an overall emphasis on protecting geologic, ecological, and cultural resources, and recommends a lake level that ranges from 6,377 to 6,390 feet in elevation. Furthermore, the CMP recognizes the relationship between lake levels and the impacts on the natural resources of this unique ecosystem. For instance, lower lake levels expose dust-producing relicted lands, while the CMP provides specific direction to work closely with the Environmental Protection Agency (EPA) and the Great Basin Unified Air Pollution Control District to bring the Mono Basin airshed into compliance with the requirements of the Clean Air Act.

Since approval of the CMP, new scientific information relevant to the impacts of various lake levels on resource values, including compliance with air quality requirements, has come to the attention of the Forest Service.The EPA has recently classified the Mono Basin as a non-attainment area in respect to PM-10 emissions, with violations occurring primarily as a result of wind-blown dust from the relicted lands. Review of this new information has revealed the need to amend the CMP so that it can fully and adequately guide the protection and management of the Mono Basin ecosystem. An amendment is also necessary to ensure compliance with the legal mandates of the Clean Air Act.

The Forest Service will consider a reasonable range of alternatives. One alternative will be no change in management direction. Other alternatives will examine various lake level ranges and prose direction or make recommendations that will address Mono Basin resource concerns, including air quality requirements. These other alternatives will be based on the new information, in addition to the range of alternatives previously considered in the environmental impact statement that supports the CMP.

The responsible official is Dennis W. Martin, Forest Supervisor, Inyo National Forest, 873 North Main Street, Bishop, CA 93514–2494.

Public participation will be especially important at several points during this analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations interested in or affected by the proposed action. Information obtained during scoping will be used to prepare the draft supplemental environmental impact statement (DSEIS). The most useful information in preparing a DSEIS will be that pertaining to significant issues, reasonable alternatives, potential environmental effects, and identification of other agencies whose cooperation may be needed.

Workshops and open houses, if held, will be announced locally. Federal, State, and local agencies, user groups, and other organizations known to be interested in this action are being invited to participate in the scoping process.

The DSEIS will be filed with the Environmental Protection Agency (EPA) and is expected to be available for public review by January 1996. At that time the EPA will publish a notice of availability of the DSEIS in the **Federal Register.**

The comment period on the DSEIS will be 45 days from the date the EPA publishes the notice of availability in **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v.

Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final statement.

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

After the comment period ends on the DSEIS, written comments will be analyzed and considered by the Forest Service in preparing the final supplemental environmental impact statement (FSEIS). The FSEIS is scheduled to be completed by September 1996. The Forest Service is required to respond in the FSEIS to the comments received (40 CFR 1503.4). The Forest Supervisor will consider the comments, responses, and environmental consequences discussed in the FSEIS, and applicable laws, regulations, and policies in making his decision regarding amendment of the CMP. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Dated: March 22, 1994.

Joellen J. Keil,

Acting Forest Supervisor.

[FR Doc. 94–7191 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether an amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Friedrich R. Crupe, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether a Secretary of Commerce should issue an amended Certificate to the applicant. An original and five (5) copies of such comments should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 92–A0014."

The American Pork Export Trading Company's original Certificate was issued on April 8, 1993 (58 19652, April 15, 1993). A summary of the application for an amendment follows:

Summary of the Application

Applicant: American Pork Export Trading Company ("APEX") P.O. Box 10383, Des Moines, Iowa 50306

Contact: Laurence J. Lasoff, Telephone: (202) 342–8400

Application No.: 92–A0014

Date Deemed Submitted: March 17, 1994

Proposed Amendment: APEX seeks to amend its Certificate to add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(1)): Sioux-Preme Packing Co., Sioux Center, Iowa; Excel Corporation, Wichita, Kansas; Smithfield Foods, Inc., Smithfield, Virginia; and American Foods Group, Inc., Minneapolis, Minnesota.

Dated: March 21, 1994.

Friedrich R. Crupe,

Office of Export Trading Company Affairs.

[FR Doc. 94–7240 Filed 3–25–94; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

Proposed Relocation of the San Francisco Weather Service Forecast Office; Availability

SUMMARY: The National Weather Service (NWS) is publishing its proposed certification for the proposed relocation of the San Francisco Weather Service Forecast Office, Redwood City, to Monterey, California, as required by Public Law 102–567. In accordance with this law, the public will have 60-days in which to comment on this proposed certification. The proposed certification is summarized in this notice but the entire package is too voluminous to publish in its entirety in the FR and much of the supporting documentation is, therefore, available by contacting the addressees below.

DATES: Comments are requested by May 27, 1994.

ADDRESSES: Requests for copies of the proposed relocation package should be sent to Senator Raygor, Wx21, 1325 East-West Highway, Silver Spring, MD 20910 or Norman Hoffmann, MIC, 660 Price Avenue, Redwood City, California 94063. All comments should be sent to Senator Raygor.

FOR FURTHER INFORMATION CONTACT: Senator Raygor at 301–713–0391.

SUPPLEMENTARY INFORMATION: The National Weather Service (NWS) anticipates relocating its forecast office for Northern California from Redwood City to Monterey. This is the first modernization action which requires a certification of no degradation of service under the Weather Service Modernization Act (the Act). In accordance with section 706 of Public Law 102–567, the Secretary of Commerce must certify that this relocation will not result in any degradation of service and must publish the proposed relocation certification in the FR. The proposed certification documentation includes the following:

(1) A draft memorandum by the meteorologist in charge recommending the certification, the final of which will be endorsed by the Regional Director and the Director of the National Weather Service if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee;

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A detailed comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of National Weather Service operation which will enhance services in the service area;

(5) An identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the relocation checklist and evidence from similar moves; and

(7) A letter appointing the liaison officer.

The proposed certification will not include any report of the Modernization Transition Committee (the Committee) which could be submitted in accordance with sections 706(b)(6) and 707(c) of the Public Law. At its March 16–17 meeting the Committee concluded that the information presented by that date did not reveal any potential degradation of service and decided not to issue a report.

As stated earlier, some of the documentation included in the certification is too voluminous to publish, e.g. the description of weather characteristics and the detailed comparison of services, and a number of the attachments to the MICs evaluations. These items can be obtained through either of the contacts listed above.

Attached to this notice is (1) the draft memorandum from Norman C. Hoffman, Meteorologist in Charge, WSFO San Francisco to Dr. Thomas D. Potter, Director, Western Region, summarizing the basis for his recommendation for relocation certification; (2) the Relocation Checklist; (3) memorandum from (a) Dean P. Gulezian, Meteorologist in Charge, Detroit, (b) James D. Belville, Meteorologist in Charge, WSFO Washington, DC (c) G.C. Henricksen, Jr., Meteorologist in Charge, WSFO Philadelphia, all evaluating recent office moves for which they were responsible and providing evidence for the present relocation.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. If a decision to certify is made, the Secretary of Commerce must publish the final certification in the **Federal Register** and transmit the certification to the appropriate Congressional committees prior to relocating the office.

Dated: March 22, 1994.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

Proposed MIC Recommendation. Included at this time for Completeness. Also, acronyms used in this package are provided as part of this letter for reference.

Memorandum For: W/WR—Thomas D. Potter

From: Norman C. Hoffmann, MIC, WSFO San Francisco

Subject: Recommendation for Relocation Certification

After reviewing the documentation herein, I have determined that, in my professional judgment, relocating the Weather Service Forecast Office (WSFO) for the northern and central California service area from Redwood City to Monterey will not result in any degradation in weather services to this service area. Accordingly, I am recommending that you approve this section in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward the package for transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for relocation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns which affect the weather services provided within the northern and central California service area is included as attachment A. As discussed below, I find that providing the services that address these characteristics and concerns from Monterey rather than from Redwood City will not degrade these services.

2. A detailed list of the services currently provided within the northern and central California service area from the Redwood City location and a list of services to be provided from the Monterey location after relocation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed relocation. As discussed below, I find that there will be no degradation in the quality of these services as a result of the relocation.

3. A description of the recent or expected modernization of National Weather Service operations which will enhance services in the service area is included as attachment C. The new technology listed (ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services in the northern and central California service area.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for California is included as attachment D. It identifies a limited area within the State (in the Sierra Nevadas) which will not receive coverage. It should be noted that this area does not have any NWS radar coverage at this time. NWS operational radar coverage for the State and for the specific service area will be increased dramatically.

5. A relocation checklist setting forth all necessary steps to accomplish the proposed relocation without a disruption of services is included as attachment E. In finalizing this checklist, I carefully considered the evidence from already completed office moves and the comments on my draft checklist from the MICs responsible for these completed moves [and from users and/or the public during the comment period.] Thus, the relevant aspects of "battle plan" and other planning materials from the successful move from Ann Arbor to White Lake, Michigan are fully incorporated, for example, extra care in ensuring an appropriate moving contractor. (The move from Philadelphia to Mount Holly, New Jersey also suggests adding this particular check point.) I note that several recommendations made by the other MIC's, such as a new phone system and a new demark box are already planned for the Monterey facility. [Final letter may point out any important changes resulting from user/public comment]

This checklist includes all of the items required by the modernization relocation criteria. In particular, to satisfy Item 1 requiring "notification and technical coordination with users," I include as attachments F & G, a list of the users in the SWFO San Francisco Bay Area service area that will be notified of the relocation and a draft of the notification letter I plan to send to these users approximately 60 days prior to the relocation.

6. In reaching my conclusion that no degradation in service will result from this relocation, I considered evidence, based upon operational demonstration of modernized National Weather Service operations, of two types:

First is the evidence based on existing operations in Redwood City which will remain the same once the office is relocated in Monterey. Staff will continue to receive the same data and information on the same computer terminals and comparable display monitors and will disseminate their products over the same telecommunications network to the media and other users as they did before. In other words, in this case, "modernized" operations after the relocation will be the same as existing operations. I am certain there is no reason to anticipate any effect on the quality of services throughout the affected service area simply because they will be provided from a new location.

This expectation is confirmed by the second type of evidence I considered, that from completed office moves of WSFO Washington (from Camp Springs, MD to Sterling, VA); WSFO Philadelphia (from Philadelphia, PA to Mount Holly, NJ); and

WSFO Ann Arbor (from Ann Arbor, MI to White Lake, MI), included as attachment H. The primary mechanism for determining whether any degradation of service resulted from these moves is evidence of user dissatisfaction in products and services after the move. I believe that, in each case, there has been adequate opportunity for such dissatisfaction to surface if it existed and each MIC reports a successful move with no indication of such dissatisfaction.

I recognize that no single move constitutes a perfect model for the present relocation but, after reviewing these moves as a body, I find adequate evidence that no degradation of service will result. For example, the Ann Arbor WSFO did not contain a service unit as does San Francisco, but the other two offices do contain such units and were moved without degrading the services provided by such units.

Therefore, based of my review of this evidence and in my professional judgment, I find that the relocation will not result in a degradation in services to the northern and central California service area.

7. A memorandum assigning the liaison officer for the San Francisco Bay Area service area is included as attachment I.

I note that WSFO San Francisco is not located on an airport and is not the only field office in California, so that those special criteria involving an air safety appraisal and an evaluation to in-state users required under PL 102–567 are not applicable to this proposed relocation certification.

[If, after the MIC considers comments raised during the comment period, he continues to recommend certification, the final memorandum will address appropriate comments either here or in an attachment.]

I, Thomas D. Potter, Director, Western Region, endorse this proposed relocation certification.

_____

Thomas D. Potter

_____

Date

I, Elbert W. Friday, Jr., Assistant Administrator for Weather Services, endorse this proposed relocation certification.

_____

Elbert W. Friday, Jr.

_____

Date

Relocation Checklist

I. Notification and Technical Coordination With Users

_____Technical Coordination completed with users. Users have received notification of the proposed relocation and relocation date.

II. Identification and Preparation of Backup Sites

WSO Sacramento is the backup site.

_____Personnel scheduled for deployment from WSFO San Francisco to WSO Sacramento during backup operations.
_____AFOS software loaded at WSO Sacramento for backup operations.
_____Portable NOAA Weather Radio system installed at Monterey and tested for backup NOAA Weather Radio operation.

III. Start of Service Backup

Delay move and start of backup service if severe weather is in progress or forecast for the day.

_____Forecasters deployed to WSO Sacramento for backup operations.
_____WSFO San Francisco MIC coodinates with WSO Sacramento MIC regarding start of backup operations.
_____Start backup operations.

IV. Systems, Furniture and Communications

_____Final Coordination with moving company. Ensure familiarity with moving computer equipment. Also company will allow flexibility in the order the truck is loaded.
_____Furniture at Redwood City identified that will be moved to the new WSFO.
_____Inventory all circuits to be moved and established relationships with all involved telephone companies.
_____New telephone system and communications circuits installed at the new WSFO.
_____AFOS communications circuits installed.
_____Satellite data circuits installed.
_____Install furniture and equipment according to furniture and equipment floor plan.

V. Installation and Checkout

_____Connect wiring for AFOs, peripheral computers and modems.

AFOS

_____Boot AFOS, bring it up and on line.
_____Validate data base and verify data flowing.
_____Send test message.
_____Verify request reply.
_____Test printer.
_____Display maps on AFOS.
_____Run animate on AFOS.
_____Check out software
_____Verify watchdog programs are running.

CFOS

_____Bring CFOS and additional computers/peripherals (printer plotter) on lone.
_____Run applications program.
_____Send test product to AFOS.
_____Send test product over SDC.
_____Send test product over Western Region Loop.

NOAA Weather Wire

_____Transmit on NOAA Weather Wire.

National Warning System (NAWAS)

_____Initiate call to California OES to verify operation of NAWAS.

Satellite Display Systems

_____Bring SWIS, MicroSWIS, DWIPS, HIPS Satellite systems on line.
_____Check receipt of images.
_____Check looping capability after 2nd image.

Emergency Broadcast System (EBS)

_____Ensure the EBS capabilities are reestablished.

Emergency Digital Information System (EDIS)

_____Ensure EDIS transmission and reception.

ALERT

_____Bring ALERT on line.
_____Verify data is flowing.
_____Verify dial-out and dial-in capabilities are working.

NOAA Weather Radio (NWR)

_____Bring NWR on line.
_____Verify the three NWR consoles are operational.
_____Terminate use of portable NOAA Weather Radio (DALKE) system for NWR backup.
_____Verify the two phones: one for the media answered 24 hours per day; the second for public and service requests, are working and have the same phone numbers as they had at Redwood City.

VI. Validation of Systems Operability and Service Delivery

Once AFOS hardware and all associated PCs are deemed operational by the ET staff, the meteorologist at the various forecast desks will verify that their PCs are communicating with AFOS.
_____Verify receipt of the needed hydrologic, radar, satellite, surface and upper air observational data, appropriate computer model guidance, and appropriate forecast products and guidance from other NWS offices to maintain the watch, warning, advisory and forecast programs for northern and central California.

VII. End of Backup Operations

_____Following validation of systems operability and service delivery, terminate backup operations at WSO Sacramento.

February 8, 1994.

Memorandum For: Louis J. Boezi Wx2
From: Dean P. Gulezian MIC/AM WSFO DTX
Subject: Evaluation of Office Move
Reference: Your Memo, Same Subject 1/21/94

Listed below are the responses to each of the questions raised in your 1/21/94 memo.

Before answering the specific questions, I'll provide a little background on how we approached the move.

Our office move from Ann Arbor to White Lake Michigan was a TQM effort from the start. A move task team was developed which included everyone in the office who volunteered or was assigned responsibility for certain aspects of the move. The union had a representative on the task team as well, and he worked "hand in hand" with us every step of the way. We especially worked closely with the union on such matters as floor plans, short distance transfer benefits, paperwork necessary to process transfers, etc. A letter was presented to the union 60 days in advance of the move specifying the pertinent information regarding the move (attachment 1).

Most move related tasks were delegated to various staff members who were given full authority and responsibility to execute these tasks. My responsibility was to oversee everything, and carry out the few tasks that I took on myself. Many "move task force"

meetings were held during the time the move was being planned, with the meetings becoming more frequent (daily at the end) as the move drew closer.

A "battle plan" (attachment 2 shows the final summary) for executing the move was developed at the first meeting. Subsequent meetings evaluated the progress of this plan. Input for the battle plan came from a number of sources. They were: the relocation kickoff meeting conducted by CRH SOD (agenda in attachment 3), the draft ROML issued by CRH on Facilities Relocation Management (attachment 4), the Facilities Prep List prepared by the SFT (attachment 5), and the Office Relocation Plan prepared by CRH SOD with input from members of the move task force (attachment 6). Furthermore, a Move Activities Plan was written, using CRH guidance. Attachment 7 is the final copy of the plan. Rather than me commenting on your draft relocation checklist, I offer our "battle plan" and move activities plan as well as the additional documents mentioned in this paragraph as alternatives to the plan you drafted.

As a result of many people being an important part of the move, and excellent support from CRH and WSH, and a top-notch moving company, our move went smoothly. Our staff was very supportive of the move, despite the fact that it meant most people would have to relocate. For all employees involved in a short-distance transfer, the PCS's were processed quickly and without complication. Because of the sparse population near the new office, the staff was given a 25 mile radius from the new office to move into and still claim a short-distance transfer.

When reviewing our comments, it should be noted that our office at Ann Arbor was rather unique. It did not have a public service unit, or any interaction with the public. It also did not have a CWA or NWR program. We still don't have these programs, but will have them shortly when we pick up the service programs from WSOs Detroit and Flint.

1. The Move From Where to Where—Distance

The move occurred between Ann Arbor, MI and White Lake MI, which is a distance of 48 miles. AFOS and other communications were disconnected at 8 AM and running again by 8 PM. We were fully operational by 10 PM that day. The move was managed by following the above-mentioned documents. It went smoothly with no problems encountered.

2. User Notification of the Move

The attached user notification list was used to notify all users of our move (attachment 8). It was developed based on a generic list provided by CRH (attachment 9). The move letter is also attached (attachment 10) as is the press release that was sent on AFOS (attachment 11). Notification went smoothly with no problems encountered.

3. Service Backup

The attached service back-up plan (attachment 12) and letter explaining the Flexzone Program (attachment 13) enabled service back-up to be perfectly executed with no problems encountered.

4. Communications, Installation, and Checkout

An inventory of all circuits at the old office was taken (attachment 14). This included all voice and data circuits. Then a list was made of all of the necessary circuits that would be needed at the new office, including voice and data. A Request for Change was written by WSH which also addressed necessary actions (attachment 15). Regional Headquarters then ordered new circuits that were needed and ordered "add term circuits" for circuits that could be used at both locations i.e. AFOS RDC Circuits. The add term circuits avoided the conflict of having to connect both ends when the move took place. These circuits were ordered approximately eight months in advance with an installation date at least a month in advance of the move. A minor problem did develop with the local telephone company during the evening of the move. It was quickly taken care of by our ESA. Our Regional Communication Manager was also a tremendous help on moving day. No matter how well the communications portion of a move is planned, the actions of the local telephone company are out of the NWS's hands. Other than that minor problem, no other problems were encountered.

5. The Move of Furniture and Equipment

The move of furniture was handled by one of our forecasters. He was in charge of everything from marking what furniture was to be shipped to the new office, to what furniture was to be made excess property. He also worked with our secretary on preparing the excess property list (attachment 16), worked with CASC and met with the movers to arrange details of the move, and drew color coded maps for both locations as to where each piece of furniture was to be taken from and placed. On move day he oversaw the move of furniture out of Ann Arbor, while our Service Hydrologist oversaw the move of furniture into the new White Lake office. The move of furniture went smoothly with no problems encountered.

CRH SOD and CASC procurement handled contracting the moving company for both furniture and equipment. They did not look for the lowest bidder, but the company that showed they could move the equipment properly, without tipping or laying the equipment over. The mover also had to agree to allow the NWS to instruct them what to move and when. This allowed the NWS to get the equipment loaded first and moved safely to the new office immediately. Not only were no problems encountered in moving equipment, but the ability to dictate what equipment was to be moved first enabled us to restore full operations as quickly as we did.

6. System Installation and Checkout

The following were the major systems relocated at DTX: AFOS, SWIS, and Remote RADAR displays. An NWS telephone system was also installed at the new office. Approximately 8 months in advance of the move, an inventory was conducted of all of the cables needed by the major systems being moved. The larger cables, such as the AFOS GDM Bus cables were ordered by CRH. The smaller cables were made by the Electronics staff at the WSFO using supplies purchased locally. These were cables such as the ABT cables.

As soon as the building was accepted, the SFT installed the necessary peculiar electrical outlets for the systems that would be installed. At the same time the electronics staff installed all of the phone system cabling and all of the system cables. The phone system cables were terminated where necessary and the system cables were checked to ensure the correct connectors were in the correct locations. The phone system was connected and all of the phone locations were programmed and checked out for proper operation. CRH supplied the phone system and the phone sets. All of the interconnecting cabling and termination supplies were purchased locally by the electronics staff.

The layout of the equipment in the new office was planned well in advance of the move and diagrammed, to scale, by CRH SOD. This diagram allowed local staff to determine where all furniture and equipment would be located. It also allowed the electronics staff to determine where all of the system cables and telephone cables needed to be terminated. As a result, no problems were encountered with systems installation and checkout.

7. Validation of System Operability and Service Delivery

Diagnostics were run on AFOS followed by a MODIFY. Then all equipment was turned on and the electronics staff and forecasters made sure all incoming data was received. We were fully operational and receiving all incoming data by 10 PM the evening of the move and there were no problems encountered validating the system operability or products delivered by the WSFO.

User Reaction

User reaction has been extremely positive. After moving to White Lake, we immediately held 2 open houses. One was for our users (see attachment 17), and one for our new neighbors (see attachment 18). Both open houses went a long way toward building a positive relationship with our users. A typical response from our users is one that a county emergency manager made to a letter from our WPM (attachment 19). One neighbor did raise some concerns which were addressed in a memo which is attached to this response (attachment 20). The response satisfied his concerns.

Attachments

February 22, 1994.

Memorandum For: Louis J. Boezi, Deputy Assistant Administrator for Modernization

From: James D. Belville, MIC/AM WSFO, Washington, DC

Subject: Evaluation of the Relocation of WSFO, Washington, DC from Camp Springs, MD to Sterling, VA

The Weather Service Forecast Office (WSFO) in Washington, DC provides weather forecasts and warnings over a four state area (Virginia, Maryland, Delaware, and the eastern panhandle of West Virginia) as well as, one federal district and a large section of

the North Atlantic Ocean. The WSFO in Washington, DC provides a full suite of services including aviation, public, and marine forecasts; fire weather, air pollution, and agricultural support services; hydrologic data collection and forecasts; and severe weather warnings. Due to the multi-state service area and multitude of services, few if any WSFO's in the United States could compare in complexity for the relocation of this particular office.

The WSFO Washington, DC (WBC) relocated on March 19, 1990 from Camp Springs, MD to Sterling, VA. The relocation of this facility was necessary because of the location of the WSR–88D weather radar on property owned by the NWS just west of Dulles International Airport. The distance of this move was approximately fifty (50) miles.

The move of WSFO WBC was completely planned and coordinated by myself, William Comeaux (DMIC), and numerous staff members of the WSFO. Our first priority was to ensure that the office move was totally transparent to our entire user community. This meant that all services continued uninterrupted during the transition of services from one location to another. In every aspect of the planning process, the transition of services was the number one consideration.

User notification of the office relocation along with new NWS phone numbers presented the WSFO with a significant challenge. While gearing up for this task, we found there was no central listing of the various users. Each office focal point was tasked with developing a comprehensive list of users, along with the current address, for notification. These were then combined and compiled in an administrative computer. A letter was composed for each specific user group of individual along with computer produced mailing labels. We found that computer paper with the NOAA letterhead was available. We were able to generate in excess of 2400 notification letters and mail them over a three day period. Following the office relocation, we received zero complaints from all user groups concerning our notification procedures. The notification occurred 45 days prior to the relocation.

Designing and implementing a communication system for the new facility in Sterling was the most difficult, as well as frustrating, experience of the entire move. For the most part, this was due to the fact that the local phone company was Contel, but C&P Telephone and AT&T also provided many of our data circuits. An enormous amount of coordination was required in order to successfully install all needed communications circuits. All data circuits were tested using a PC one week prior to the move. Several problems were found and immediately corrected. These efforts paid off as the WSFO AFOS system, NWR, RADIDS monitors, and SWIS were all functioning in an operational configuration at the new site within 18 hours of being turned off at the old location.

One significant outcome of the WSFO relocation was the vastly increased (nearly double) area covered by the metro area telephone service the NWS obtained through Contel. The WSFO public service function was greatly enhanced by the expanded telephone service area.

There were three communication deficiencies which resulted from the relocation of the WSFO.

1. FTS service was not available at the Sterling site for approximately 1½ years following the relocation.

2. Relocating the office telephone system from the old site to the new location was a mistake. It proved to be quite expensive and required several days to complete installation. Installing a new phone system prior to the relocation would have been better.

3. The FEMA NAWAS circuits were installed about one month following the office move. This delay was caused by FEMA not budgeting for the relocation of these circuits.

Service backup for the WSFO relocation was provided by several means. The public forecast and warning programs were provided from WSO Baltimore, MD by WSFO WBC forecasters. The backup service began at 12 AM EST Sunday, March 19 and ended at 8 AM EST Monday, March 20, 1990. All products were issued on time and were of excellent quality. Neither the public, local officials, nor media could tell that a relocation had occurred. The aviation forecast products and marine forecast products were issued by WSFO Charleston, WV and WSFO Raleigh, NC respectively. They did an excellent job of providing quality products for our users.

The relocation of the equipment was planned in great detail. Equipment was loaded onto the vans in the order in which it needed when unloaded. In other words, the most important was loaded last in order to be first off. The first off was the NOAA Weather Radio (NWR). This system was down for a total of 6 hours. Next, the AFOS was off loaded. As each piece was moved into the new facility, it was off loaded. As each piece was moved into the new facility, it was hooked up immediately by the electronics technicians. The entire system installation and checkout was completed by 8 PM EST, March 19. The system was allowed to run all night to ensure everything was operating satisfactorily. Two forecasters and a meteorological technician monitored data flow and product delivery to validate service delivery capabilities. No troubles were encountered during the night and all backup services were terminated at 8 AM Monday morning.

The relocation of WSFO WBC to a new facility was more than just a move. It also provided the WSFO with an opportunity to improve several key areas of WSFO operations. These were:

1. Greatly improved operations layout with respect to access to the various technologies and the facilitation of interaction between forecasters.

2. Vastly improved NOAA Weather Radio operations both in the basic programming and quality of the broadcast.

3. Improved warning procedures were obtained by locating the key dissemination systems to local officials and the media in the operations area (NAWAS and EBS).

4. The SKYWARN spotter program was significantly enhanced with respect to the location of the amateur radio station in the operations area and improved antenna system. It was difficult for SKYWARN to function at the old location.

To-date, I have not received nor have I heard of a complaint connected with the relocation of WSFO WBC to Sterling, VA. The relocation went extremely well and was transparent to all users.

I have thoroughly reviewed the WSFO San Francisco relocation checklist with respect to requirements of relocation of WSFO WBC. I find this checklist quite comprehensive and serves its intended purpose well. I could find no deficiencies in their planning for this office relocation.

G. C. Henricksen, Jr., NWSFO PHI/MT. HOLLY, NOAA, 732 Woodlane Road, Mount Holly, N.J. 08060

February 3, 1994.

Memorandum For: Louis J. Boezi, WX2
From: MIC/AM WSFO PHI
Subject: Evaluation of Office Move
Reference: WX21 memorandum 1/21/94

In reference to the above memorandum, the responses are as follows:

(1) The move was from downtown Philadelphia, Pennsylvania (Federal Building, 600 Arch Street), to Westampton township, New Jersey, just west of the town of Mount Holly. The distance is 21 road miles.

(2) User notification was handled by our office and Eastern Region Headquarters. Over three thousand notifications were mailed to radio, television, cable, newspapers, cooperative observers and spotters.

(3) Full service backup was accomplished by NWSFO PIT and NYC for sixty hours (60) from 7am edt August 23, 1993 to 7pm edt August 25, 1993.

(4) Telephone lines were moved across state boundaries. This created numerous difficulties with the RDC/SDC AFOS circuits, the asynchronous circuits, NWR, and general telephone lines. The NWR circuit problems took the longest to resolve. The DMARC was moved from the old location to the new location. A new DMARC should have been constructed at the new facility. The old DMARC caused numerous circuit restructuring problems. All cabling and connections were installed and checked at the new facility prior to the move.

(5) & (6) The furniture and equipment move was handled poorly. The "A" side of AFOS was dropped. SWIS was dropped and severely damaged. The equipment was loaded first and off-loaded last which was opposite to our instructions. The damage and delay in off-loading equipment contributed to lengthening operational down time of the new facility—requiring a longer full service backup. The RDA, RPG, and PUP installation went smoothly. The new facility environmental control was seriously faulty and took several weeks to fully rectify.

(7) The WSR–88D was accepted approximately two weeks later than target date (early October 1993). The building was conditionally (with faults noted with suggested corrections) accepted just prior to the move.

User reaction was strongly negative toward the poor communication systems or lack of proper operating communication systems

prior to resolution. Current reaction of the users is highly positive. In short, the major problem was communications. The damage to the computer equipment and SWIS further delayed the restoration of full service capability. In the long run, the systems were repaired, re-routed, restructured, and stabilized to the full satisfaction of all users.

Attachments: memorandum 9/21/93; memorandum WX21, 1/21/94

cc: W/ER Susan F. Zevin, DMIC, John Jones, AES, Ralph Paxson

September 21, 1993.

For the Record:

From: MIC/AM WSFO PHI/MT. HOLLY—Chet Henricksen

Subject: The NWSFO PHL move to Mt. Holly

On August 23, 1993, the forecast office moved from center city Philadelphia to Mt. Holly, New Jersey. The move was approximately 21 miles. This is a summary of the move and the things that we've learned. Each move is different, with separate problems. We can all learn from each individual move scenario.

(1) The equipment and furniture move—Significant damage occurred to our SWIS and AFOS system due to improper handling during the move. We estimate approximately 10 thousand dollars in damages due to dropped and damaged equipment. A more experienced computer equipment mover should have been used.

Recommendations: The area manager should have an active role in the selection of the equipment mover with EASC oversight. The mover should have a history of successful computer moves. The computer equipment should be loaded last and off loaded first. The delivery of non-computer equipment to the new sight should be delayed to allow for setup of moved computer systems. The placement and handling of office and computer equipment requires at least two dedicated NWS oversight personnel.

(2) Communications—All AFOS lines and telephone lines were laid prior to the move. The AFOS DEMARC from the center city WSFO was hand carried to the new office, and put in place in a couple of hours. The new lines already in place in the office had to be connected to the AFOS DEMARC. There was a circuit routing change required by SMCC in addition to normal re-connection. This effected all asynchronous circuits. An attempt was made to reroute all asynchronous circuits in the DEMARC. This was only partially successful. The end result was a significant delay in asynchronous service. The RDC and SDC could not be checked prior to the move other than to confirm that the new lines were active. Problems arose in data distribution checks after AFOS was reconnected. This further delayed return from full service backup. NWWS and NU IFLOWS saw significant delays.

Recommendations: Standardized new DEMARC boxes should be available prior to a move, with all cables and wiring accomplished prior to the move. All required changes in the DEMARC should be done well in advance, and available to the office for installation to the new location prior to the physical move. Assistance from person(s) at another management area, which has accomplished a similar move should be *required*. Expertise and experience of NWS personnel should be fully utilized. We need a design review of the satellite antenna plot to stabilize the system.

(3) Telephone Systems—The switch over from the old telephone line numbers to the new was not smooth. The old telephone numbers were still active for over one week following the move. The public ring through answering machine failed, probably due to an internal power supply failure. This occurred on power up at the new location. Additionally, the ring through telephone number did not properly switch over to the New Jersey number as planned. It was more than two weeks after the move, when we discovered that Bell Atlantic had not passed the work request on to Bell of Pennsylvania to accomplish a "roll over" number for Pennsylvania callers. The three 800 telephone numbers failed to "roll over" to the New Jersey numbers as designed. In an attempt to keep the 800 numbers and ring through number changes transparent to the user, unforeseen delays occurred in incoming calls to the new office. Numerous public complaints were filed due to telephones not being answered (due to the numerous switch over problems). The learning curve on the NorthStar telephone system was slow. This lead to an added irritant during and shortly following the move.

Recommendations: If the new lines are connected and operational, the old FTS 2000 lines should be disconnected by GSA within twenty-four hours of the move. A voice intercept should be used for approximately thirty days on the old telephone numbers announcing the new telephone number. With at least four telephone companies involved in an interstate move, you can be assured of delays and errors in timing, and implementation of telephone numbers. A comparable spare answering machine should be available for on site use in the event of the primary system failure.

(4) Environmental Systems—The condenser units on two of the three air conditioners flooded the ceiling and hallway of the new office on four separate occasions. The problem turned out to be a defect under recall by the manufacturer that had to be accomplished by the local service installers. The humidifier unit flooded the ceiling tiles twice. This appears to be an engineering problem with the circulation system in the humidifier. we have a temporary fix in place, but no permanent solution is available. The thermostatic control for the three air handlers is a computer. A password and system training is necessary to operate and control the temperature environment in all but the equipment room. The password was not made available until two weeks after the move. Training is still not accomplished. The computer control unit failed due to a near by lightning strike. This caused the entire environmental system to fail. A telephone line was installed three weeks after the move. This established contractor remote access to the computer control. The environmental controller was placed on UPS three weeks after the move.

Recommendations: Communications of recalls and equipment modification lists must be improved. Facility problems experienced at this location, are likely to be repeated at other NWS facilities. All environmental computer control units should be placed on UPS in all NWS facilities. Passwords and training for the control units should be supplied within 48 hours of building occupancy. Remote access to the control unit via telephone lines should be completed prior to the move. A permanent fixed needs to be found for the humidifier problem.

Many things did go well with the move. I have listed the problem areas. This was done in an attempt to help other offices in their move. I am open for questions and clarifications of these and other issues at anytime.

cc: Susan F. Zevin, W/ER, Ted Wilk, W/ER4, AMs, NWSFOs ER, Ralph Paxson, AES

[FR Doc. 94–7144 Filed 3–25–94; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa and Quota Requirements for Certain Textile Products Produced or Manufactured in Various Countries and Re-Imported Under Certain HTS Numbers

March 22, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and quota requirements for goods re-imported under HTS number 9801.00.2000 or 9801.00.2500.

EFFECTIVE DATE: March 25, 1994.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

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).

Effective on March 25, 1994 textile and apparel products which are produced or manufactured in various countries and entered into the United States for consumption and withdrawal from warehouse for consumption under existing visa and quota requirements are no longer subject to visa or quota requirements upon re-entry into the United States under Harmonized Tariff Schedule (HTS) number 9801.00.2000 or 9801.00.2500. These tariff provisions provide for duty free entry to products

which have been previously imported into the United States. Upon the initial importation the textile or apparel products would have been subject to all applicable quota and visa requirements. Since these HTS numbers mandate that the same articles be re-imported, CITA has decided to exempt them from being subject to the same quota and visa requirements a second time.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 22, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements. This directive also amends, but does not cancel, all visa requirements for all countries for which visa arrangements are in place with the United States.

Effective on March 25, 1994 textile and apparel products which are produced or manufactured in various countries and entered into the United States for consumption and withdrawal from warehouse for consumption upon re-entry into the United States under Harmonized Tariff Schedule (HTS) number 9801.00.2000 or 9801.00.2500 are no longer subject to visa or quota requirements.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–7186 Filed 3–25–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Joint Advisory Committee (JAC) on Nuclear Weapons Surety will meet in closed session on April 28, 1994, in Alexandria, Virginia.

The Joint Advisory Committee is charged with advising the Secretary of Defense, Secretary of Energy, and the Joint Nuclear Weapons Council on nuclear weaons systems surety matters. At this meeting, the Joint Advisory Committee will receive classified briefings on maintaining nuclear expertise in the Services and on Fail Safe and Risk Reduction (FARR) implementation.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended, Title 5, U.S.C. App. II, (1988)), this meeting concerns matters, sensitive to the interests of national security, listed in 5 U.S.C. section 552b (c)(1) and accordingly this meeting will be closed to this public.

Dated: March 22, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–7150 Filed 3–25–94; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35).

Title; Applicable Form; and OMB Control Number: DoD FAR Supplement, part 232, "Contract Financing," and the Clause at 252.232–7002; OMB Control Number 0704–0321.

Type of Request: Reinstatement.

Number of Respondents: 150.

Responses Per Respondent: 24.

Annual Responses: 3,600.

Average Burden Per Response: 5 hours.

Annual Burden Hours (Including Recordkeeping): 5,400.

Needs and Uses: Public Law 90–629, "The Arms Export Control Act," requires purchases of equipment for foreign governments under the Foreign Military Sales (FMS) program be made with foreign funds and without charge to appropriated funds. The U.S. Government needs to know, therefore, how much to charge each country as progress payments are made for its FMS purchases. This information can only be provided by the contractor preparing the progress payment request. DoD FAR Supplement, part 232 requires contractors whose contracts include FMS requirements to submit a separate progress payment request. This separate request must contain a supporting schedule for each progress payment rate, clearly distinguishing the contracts' FMS requirements from U.S. contract requirements. This information is used to obtain funds from the appropriate foreign country's trust funds for payment to the contractor.

Affected Public: Businesses or other for-profit; Non-profit institution; Small Business or organizations.

Frequency: Monthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: March 22, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–7151 Filed 3–25–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Open Meeting

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

Name of Committee: Army Science Board (ASB).

Date of Meeting: 12 April 1994.

Time of Meeting: 1300–1700.

Place: Orlando, FL.

Agenda: The Army Science Board's independent assessment on "Missile Shelf Life" will meet to review (1) action items and information required from previous meetings, (2) shelf life limiting factors on specific systems, (3) information concerning retrofit/rebuild programs, (4) generic and system specific shelf life related specifications, and (5) current programs concerning shelf life. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–7272 Filed 3–25–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Cooperative Agreement to National Academy of Sciences

AGENCY: U.S. Department of Energy.

ACTION: Notice of Non-Competitive Financial Assistance Award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(6), it is making a discretionary financial assistance award based on the criterion set forth at 10 CFR 600.7(b)(2)(i)(A) and 600.7(b)(2)(i)(D) to the National Academy of Sciences (NAS) under Cooperative Agreement number DE–FC01–94EW54069. The Department of Energy will provide the $14,291,140 total estimated funding necessary for the cooperative agreement. This funding will allow the NAS to continue, as well as expand, its current research program focused on environmental restoration and waste management. The major thrust of this project will be to apply the best available science to nuclear waste issues, in an effort to promote reasoned and reasonable strategies for nuclear waste handling the disposal. This approach will also enable the nation to entertain a healthy and constructive debate on nuclear waste issues by broadening the debate to include the general public, rather than just specific polarized special interest groups.

The NAS has the facilities and human resources that will be required to support the successful completion of this project. The NAS is a unique, not-for-profit organization chartered by the United States Congress to provide scientifically valid and objective reviews and critical assessments of major domestic and international problems and issues.

The anticipated period of performance is 5 years form the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Gracie L. Narcho, HR–531.21, 1000 Independence Avenue, SW., Washington, DC 20585.

Arnold A. Gjerstad,

Acting Director, Headquarters Operations Division B, Office of Placement and Administration.

[FR Doc. 94–7236 Filed 3–25–94; 8:45 am]

BILLING CODE 6450–01–M

Oakland Operations Office; Trespassing on Department of Energy Property

AGENCY: Department of Energy.

ACTION: Amendment of Legal Description of Oakland Operations Office.

SUMMARY: The notice concerning entry into and upon the Department of Energy, Oakland Operations Office (formerly the San Francisco Operations Office) appearing in the **Federal Register** on Tuesday, August 7, 1990, (55 FR 32126) is hereby amended to redefine the legal description of the Oakland Operations Office as an Off-Limits Area in accordance with 10 CFR part 860, making it a federal crime under 42 U.S.C. 2278a for unauthorized persons to enter into or upon the Oakland Operations Office.

FOR FURTHER INFORMATION CONTACT: Robert "Bud" Marsh, (510) 422–2188.

SUPPLEMENTARY INFORMATION: Pursuant to section 229 of the Atomic Energy Act of 1954, (42 U.S.C. 2278a), as implemented by 10 CFR part 860, section 104 of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), and section 301 of the Department of Energy Organization Act (42 U.S.C. 7151), the Department of Energy hereby gives notice that the Oakland Operations Office is designated as an Off-Limits Area and prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.3 and 860.4, into or upon the Oakland Operations Office of the Department of Energy.

The Oakland Operations Office consists of the following specifically described areas in the structure commonly known as the Oakland Federal Building, located at 1301 Clay Street, Oakland, in Alameda County, State of California.

Basement Level: 4,374 net usable square feet of space located within 3 rooms in the northeast side of the basement level of the Oakland Federal Building. The rooms are bounded by an interior wall with a U.S.D.O.E. sign affixed to the entrance door.

4th Floor: 22,908 net usable square feet of space located in the north side of the north tower of the Oakland Federal Building. The side of the space is bounded by interior walls with a U.S.D.O.E. sign affixed to the entrance doors.

7th Floor: 19,625 net usable square feet of space encompassing the entire seventh floor of the north tower of the Oakland Federal Building.

8th Floor: 19,625 net usable square feet of space encompassing the entire eighth floor of the north tower of the Oakland Federal Building.

9th Floor: 19,625 net usable square feet of space encompassing the entire ninth floor of the north tower of the Oakland Federal Building.

Notice stating the pertinent prohibitions of 10 CFR 860.3 and 860.4 and penalties of 10 CFR 860.5 will be posted at all entrances of said areas and at intervals along its perimeters as provided in 10 CFR 860.6.

George L. McFadden, Jr.,

Director, Office of Security Affairs.

[FR Doc. 94–7235 Filed 3–25–94; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Efficiency and Renewable Energy

[Case No. F–065]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Carrier Corporation

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–065) granting a Waiver to Carrier Corporation (Carrier) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Carrier Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Carrier has been granted a Waiver for its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, March 21, 1994.

Frank M. Stewart, Jr.,

Chief of Staff, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Carrier Corporation. (Case No. F–065)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Carrier filed a "Petition for Waiver," dated October 13, 1993, in accordance with § 430.27 of 10 CFR part 430. The Department published in the **Federal Register** on December 27, 1993, Carrier's petition and solicited comments, data and information respecting the petition. 58 FR 68400. Carrier also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on December 17, 1993. 58 FR 68400, December 27, 1993.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Carrier Petition. The FTC did not have any objections to the issuance of the waiver to Carrier.

Assertions and Determinations

Carrier's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Carrier requests the allowance to test using a 45-second blower time delay when testing its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces. Carrier states that since the 45-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 0.6 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5 minute delay. Carrier indicates that it is unable to take advantage of any of these exceptions for its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces.

Since the blower controls incorporated on the Carrier 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 45-second blower time delay when testing the Carrier 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces. Accordingly, with regard to testing the above induced draft roof-top furnaces, today's Decision and Order exempts Carrier from the existing provisions regarding blower controls and allows testing with the 45-second delay.

It is, therefore, ordered that: (1) The "Petition for Waiver" filed by Carrier Corporation. (Case No. F–065) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR part 430, Subpart B, Carrier Corporation, shall be permitted to test its 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if

the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Carrier Corporation shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the 48HJ, 48HM, 48TJ/580D, 48SS/588A, and 48SX/589A induced draft roof-top furnaces manufactured by Carrier Corporation.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective March 21, 1994, this Waiver supersedes the Interim Waiver granted the Carrier Corporation on December 17, 1993. 58 FR 68400, December 27, 1993 (Case No. F–065).

Issued In Washington, DC, March 21, 1994.

Frank M. Stewart, Jr.,

Chief of Staff, Energy Efficiency and Renewable Energy.

[FR Doc. 94–7237 Filed 3–25–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER94–341–000, et al.]

Nevada Power Company, et al.; Electric Rate and Corporate Regulation Filings

March 17, 1994.

Take notice that the following filings have been made with the Commission:

1. Nevada Power Co.

[Docket No. ER94–341–000]

Take notice that on March 4, 1994, Nevada Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Co.

[Docket No. ER94–903–000]

Take notice that on March 10, 1994, Southern California Edison Company (Edison) tendered for filing an amendment to its filing in this docket of a power purchased agreement between Edison and the Nevada Power Company.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 30, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Co.

[Docket No. ER94–1004–000]

Take notice that New England Power Company (NEP), on March 1, 1994, tendered for filing executed Agreements and Certificates of Concurrence for additional customers under NEP's FERC Electric Service Tariffs, Original Volume No. 5 and No. 6. The Tariff No. 5 Service Agreement and Certificates of Concurrence is with The United Illuminating Company. The Tariff No. 6 Service Agreements and Certificates of Concurrence are with Central Vermont Public Service, Green Mountain Power and The United Illuminating Company.

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. William E. Cornelius

[Docket No. ID–1547–003]

Take notice that on March 11, 1994, William E. Cornelius (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—Union Electric Company
Director—General American Life Insurance Company

Comment date: April 1, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Panda-Brandywine, L.P.

[Docket No. QF94–31–001]

On March 11, 1994, Panda-Brandywine, L.P. tendered for filing a supplement to its filing in this docket. The supplement pertains to technical aspects of the qualifying facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: April 7, 1994, 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 18 CFR 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. 94–7183 Filed 3–25–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–277–000, et al.]

Northern Natural Gas Co., et al.; Natural Gas Certificate Filings

March 17, 1994.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP94–277–000]

Take notice that on March 10, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP94–277–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to install and operate a new delivery point to accommodate natural gas deliveries to Northern States Power Company (NSP), under its blanket certificate issued in Docket No. CP82–401–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to install a delivery point to accommodate natural gas deliveries under an existing transportation service agreement. According to Northern NSP has requested the new delivery point to serve residential and commercial end-users north of Brainerd, Minnesota. Northern indicates that the estimated total volume proposed to be delivered to NSP is expected to result in an increase in Northern's peak day deliveries of 10,000 Mcf per day and 991,728 Mcf on an annual basis. Northern estimates the total cost of installing the delivery point to be $191,000.

Comment date: May 2, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Ozark Gas Transmission System

[Docket No. CP94-280-000]

Take notice that on March 11, 1994, Ozark Gas Transmission System (Ozark), 1700 Pacific Avenue, Dallas, Texas 75201, filed in Docket No. CP94-280-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon one lateral line compressor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Ozark states that the 620 horsepower compressor unit which is subject to this abandonment filing is called the Hurley compressor and is located in Section 28, Township 10 North, Range 24 West, Johnson County, Arkansas. Ozark further states that this unit is no longer needed to provide service on the Hurley lateral. Ozark asserts that gas supply produced from the wells located behind this compressor may be delivered without this unit, and therefore, service would not be interrupted upon abandonment of the unit.

Comment date: April 7, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. East Tennessee Natural Gas Co.

[Docket No. CP94-284-000]

Take notice that on March 14, 1994, East Tennessee Natural Gas Company (East Tennessee), Building E, Suite 424, Cross Park II, 9111 Cross Park Drive, Knoxville, Tennessee 37923, filed in Docket No. CP94-284-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to modify certain existing metering facilities under East Tennessee's blanket certificate issued in Docket No. CP82-412-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

East Tennessee proposes to replace existing meter tubes at two locations in order to increase the measurement accuracy of the metering facilities. East Tennessee explains that it transports natural gas for Jamestown Natural Gas (Jamestown) and Middle Tennessee Utility District (MTUD) and delivers the gas at flow rates that exceed the flow rates that can be accurately measured by the existing metering facilities. East Tennessee states that to improve the measurement accuracy of the facilities, East Tennessee would replace (a) One of the existing 2-inch meter tubes with a 4-inch meter tube at the Jamestown Sales Station (Meter No. 75-9084) in Fentress County, Tennessee, and (b) two 4-inch meter tubes with two 6-inch meter tubes at Meter No. 75-9031, Monterey Sales Station in Putnam County, Tennessee, for MTUD. East Tennessee estimates that the cost of renovating each of the facilities is $10,000 for a total of $20,000 which would be absorbed by East Tennessee.

Comment date: May 2, 1994, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Co.

[Docket No. CP94-286-000]

Take notice that on March 14, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP94-286-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by Sale to Amax Oil and Gas Inc. (Amax) certain compression and pipeline facilities, with appurtenances, located in Crockett County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to convey to Amax approximately 112 miles of pipeline and appurtenant facilities, with pipe diameters ranging between 2-inches and 12-inches, and four lateral compressor stations.

Northern states that Amax desires to purchase the Crockett County facilities to allow it to consolidate its processing plants in the Crockett County area. Northern states further that Amax intends to construct facilities to bypass Northern's existing pipeline facilities if Northern does not sell the subject facilities to Amax. The facilities, it is said, would be conveyed to Amax for $3,590,000 at the time of the closing.

Comment date: April 7, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94-7182 Filed 3-25-94; 8:45 am]

BILLING CODE 6717-01-P

[Docket Nos. ST94-3377-000, et al.]

Columbia Gas Transmission Corp.; Self-Implementing Transactions

March 18, 1994.

Take notice that the following transactions have been reported to the Commission as being implemented

pursuant to Part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA), Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to section 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–I" indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under section 284.227 of the Commission's regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Lois D. Cashell,

Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94–3377	Columbia Gas Transmission Corp.	Volunteer Energy Corp.	01–04–94	G–S	4,000	N	F	12–01–93	03–01–94.
ST94–3378	Columbia Gas Transmission Corp.	Bethlehem Steel Corp.	01–04–94	G–S	932	N	F	12–24–93	Indef.
ST94–3379	Columbia Gas Transmission Corp.	Power Gas Marketing.	01–04–94	G–S	1,000	N	F	12–24–93	03–31–94.
ST94–3380	Columbia Gas Transmission Corp.	City of Richmond	01–04–94	B	50,000	N	I	12–15–93	Indef.
ST94–3381	Colorado Interstate Gas Co.	Marathon Oil Co	01–04–94	G–S	4,585	N	I	12–20–93	Indef.
ST94–3382	Panhandle Eastern Pipe Line Co.	Utilicorp Energy Services, Inc.	01–05–94	G–S	25,000	N	I	12–06–93	11–30–95.
ST94–3383	Tennessee Gas Pipeline Co.	Arkla Energy Marketing Co.	01–05–94	G–S	100,000	N	I	12–10–93	Indef.
ST94–3384	Tennessee Gas Pipeline Co.	Distrigas of Massachusetts.	01–05–94	G–S	30,000	N	F	12–17–93	Indef.
ST94–3385	Transok, Inc	ANR Pipeline Co., et al.	01–05–94	C	8,000	N	F	12–01–93	02–28–94.
ST94–3386	Canyon Creek Compression Co.	Union Pacific Fuels, Inc.	01–05–94	G–S	46,000	N	F	01–01–94	01–01–95.
ST94–3387	Texas Gas Transmission Corp.	Columbia Gas Development Corp.	01–05–94	G–S	4,000	N	I	12–12–93	Indef.
ST94–3388	Arkla Energy Resources Co.	Willamette Industries.	01–05–94	G–S	550	N	I	12–01–93	Indef.
ST94–3389	Pacific Gas Transmission Co.	Canwest Gas Supply USA, Inc.	01–06–94	G–S	300,000	N	I	11–01–93	Indef.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3390	Pacific Gas Transmission Co.	Dekalb Energy Co.	01-06-94	G-S	20,000	N	I	11-20-93	Indef.
ST94-3391	Pacific Gas Transmission Co.	Pancanadian Petroleum Co.	01-06-94	G-S	50,000	N	I	11-05-93	Indef.
ST94-3392	Pacific Gas Transmission Co.	Tristar Gas Co ...	01-06-94	G-S	100,000	N	I	11-02-93	Indef.
ST94-3393	Pacific Gas Transmission Co.	U.S. Gas Transportation, Inc.	01-06-94	G-S	200,000	N	I	12-22-93	Indef.
ST94-3394	Pacific Gas Transmission Co.	Western Gas Marketing (USA) Limited.	01-06-94	G-S	100,000	N	I	11-30-93	Indef.
ST94-3395	Great Lakes Gas Trans., L.P..	Mercury Exploration Co., Inc.	01-06-94	G-S	2,000	N	F	12-07-93	10-31-03.
ST94-3396	Transok Gas Transmission Co.	Anr Pipeline Co., et al.	01-06-94	C	100,000	N	I	12-01-93	Indef.
ST94-3397	Transok Gas Transmission Co.	Anr Pipeline Co., et al.	01-06-94	C	50,000	N	I	12-01-93	Indef.
ST94-3398	Northwest Pipeline Corp.	Petro-Canada Hydrocarbons, Inc.	01-06-94	G-S	30,771	N	F	12-11-93	Indef.
ST94-3399	Southern Natural Gas Co.	City of Dalton	01-06-94	G-S	11,279	N	I	12-24-93	Indef.
ST94-3400	Southern Natural Gas Co.	Atlanda Gas Light Co.	01-06-94	G-S	45,877	N	I	12-23-93	Indef.
ST94-3401	Southern Natural Gas Co.	City of Sylacauga.	01-06-94	G-S	1,984	N	I	12-22-93	Indef.
ST94-3402	Southern Natural Gas Co.	Occidental Chemical Corp.	01-06-94	G-S	16,300	N	I	12-20-93	Indef.
ST94-3403	Southern Natural Gas Co.	Temco Metals, Inc.	01-06-94	G-S	100	N	I	12-17-93	Indef.
ST94-3404	Southern Natural Gas Co.	Sonat Marketing Co.	01-06-94	G-S	6,008	N	F	12-11-93	12-31-93
ST94-3405	Southern Natural Gas Co.	City of Wrens	01-06-94	G-S	3,627	N	I	11-09-93	Indef.
ST94-3406	Southern Natural Gas Co.	Southeast Alabama Gas District.	01-06-94	G-S	10,468	N	I	12-10-93	Indef.
ST94-3407	Southern Natural Gas Co.	City of Meigs	01-06-94	G-S	116	N	F	12-01-93	10-31-96.
ST94-3408	Southern Natural Gas Co.	City of Statesboro.	01-06-94	G-S	2,000	N	F	11-01-93	10-31-95.
ST94-3409	ANR Pipeline Co	Amoco Production Co.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3410	ANR Pipeline Co	Andarko Trading Co.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3411	ANR Pipeline Co	Aquila Energy Marketing Corp.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3412	ANR Pipeline Co	Arco Natural Gas Marketing, Inc.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3413	ANR Pipeline Co	BP Gas, Inc	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3414	ANR Pipeline Co	CMS Gas Marketing.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3415	ANR Pipeline Co	Chevron USA, Inc.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3416	ANR Pipeline Co	Cibola Corp	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3417	ANR Pipeline Co	CNG Producing Co.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3418	ANR Pipeline Co	Coast Energy Group, Inc.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3419	ANR Pipeline Co	Coastal Gas Marketing Co.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3420	ANR Pipeline Co	Coenergy Trading Co.	01-06-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3421	ANR Pipeline Co	Conoco, Inc	01-06-94	G-S	N/A	N	I	11-01-93	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94–3422	ANR Pipeline Co	EMC Gas Transmission Co.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3423	ANR Pipeline Co	Enron Gas Marketing, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3424	ANR Pipeline Co	Tenneco Gas Marketing.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3425	ANR Pipeline Co	Frontier, Inc	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3426	ANR Pipeline Co	Gedi	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3427	ANR Pipeline Co	Hadson Gas Systems.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3428	ANR Pipeline Co	Helmerich & Payne Energy Svcs. Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3429	ANR Pipeline Co	Howard Energy Co., Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3430	ANR Pipeline Co	Hunt Oil Co	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3431	ANR Pipeline Co	LL&E Gas Marketing, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3432	ANR Pipeline Co	Maxus Gas Marketing Co.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3433	ANR Pipeline Co	Meridian Oil Trading Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3434	ANR Pipeline Co	Mobil Oil Corp ...	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3435	ANR Pipeline Co	NGC Transportation, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3436	ANR Pipeline Co	NSP Aquisition Corp.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3437	ANR Pipeline Co	Oryx Gas Marketing Ltd Partnership.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3438	ANR Pipeline Co	Pennzoil Gas Marketing.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3439	ANR Pipeline Co	Premier Gas Co	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3440	ANR Pipeline Co	Rangeline Corp .	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3441	ANR Pipeline Co	River Trading	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3442	ANR Pipeline Co	Seagull Marketing Services, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3443	ANR Pipeline Co	Shell Gas Trading.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3444	ANR Pipeline Co	Sioux Pointe, Inc	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3445	ANR Pipeline Co	Tenaska Marketing Ventures.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3446	ANR Pipeline Co	Texaco Gas Marketing, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3447	ANR Pipeline Co	Trinity Pipeline, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3448	ANR Pipeline Co	Unigas Energy, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3449	ANR Pipeline Co	Union Oil Co. of California.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3450	ANR Pipeline Co	Kerr-McGee Corp.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3451	ANR Pipeline Co	Midcon Gas Services.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3452	ANR Pipeline Co	MG Natural Gas Corp.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3453	ANR Pipeline Co	Montain Front Pipeline Co.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3454	ANR Pipeline Co	Ward Gas Services, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3455	ANR Pipeline Co	Transok Gas Co	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3456	ANR Pipeline Co	American Central Gas Co., Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3457	ANR Pipeline Co	Associated Natural Gas, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3458	ANR Pipeline Co	Boyd Rosene & Assocs., Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3459	ANR Pipeline Co	Oxy USA, Inc	01–06–94	G–S	N/A	N	I	11–01–93	Indef.
ST94–3460	ANR Pipeline Co	Woodward Marketing, Inc.	01–06–94	G–S	N/A	N	I	11–01–93	Indef

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3461	Channel Industries Gas Co.	Coastal Gas Marketing Co.	01-07-94	G-T	50,000	N	I	12-08-93	Indef.
ST94-3462	Natural Gas P/L Co. of America.	Hadson Gas Systems, Inc.	01-07-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3463	Natural Gas P/L Co. of America.	Mitchell Energy Corp.	01-07-94	G-S	30,000	N	I	10-01-90	Indef.
ST94-3464	Natural Gas P/L Co. of America.	Midcon Gas Services Corp.	01-07-94	G-S	158,483	A	F	12-01-93	11-30-95.
ST94-3465	Natural Gas P/L Co. of America.	Amoco Energy Trading Corp.	01-07-94	G-S	1,000	N	F	12-01-93	11-30-95.
ST94-3466	Natural Gas P/L Co. of America.	DGS Trading, Inc.	01-07-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3467	Natural Gas P/L Co. of America.	Mitchell Energy Corp.	01-07-94	G-S	100,000	N	I	10-01-90	Indef.
ST94-3468	El Paso Natural Gas Co.	Chevron U.S.A., Inc.	01-07-94	G-S	50,000	N	I	12-11-93	Indef.
ST94-3469	Columbia Gas Transmission Corp.	Consolidated Fuel Corp.	01-07-94	G-ST	N/A	N	I	12-30-93	Indef.
ST94-3470	Columbia Gas Transmission Corp.	Energy Production Co.	01-07-94	G-ST	N/A	N	I	12-30-93	Indef.
ST94-3471	ANR Pipeline Co	Union Pacific Fuels Inc.	01-07-94	G-S	N/A	N	I	11-01-93	Indef.
ST94-3472	Questar Pipeline Co.	Hill Air Force Base.	01-10-94	G-S	12,000	N	I	01-01-94	Indef.
ST94-3473	Enogex Inc	ANR Pipeline Co	01-10-94	C	164	N	I	01-01-94	Indef.
ST94-3474	TransTexas Pipeline.	Trunkline Gas Co.	01-10-94	C	11,615	N	I	12-11-93	Indef.
ST94-3475	Trunkline Gas Co..	Anadarko Trading Co.	01-10-94	G-S	20,000	N	I	12-22-93	Indef.
ST94-3476	Trunkline Gas Co.	George R. Brown Partnership.	01-10-94	G-S	20,000	N	I	12-22-93	Indef.
ST94-3477	Trunkline Gas Co.	Northern Indiana Fuel & Light Co.	01-10-94	G-S	75,000	N	I	12-29-93	Indef.
ST94-3478	Panhandle Eastern Pipe Line Co.	K N Gas Marketing, Inc.	01-10-94	G-S	20,000	N	I	12-11-93	04-30-98.
ST94-3479	Panhandle Eastern Pipe Line Co.	Maxus Gas Marketing Co.	01-10-94	G-S	50,000	N	I	12-11-93	12-09-98.
ST94-3480	Panhandle Eastern Pipe Line Co..	K N Gas Marketing, Inc.	01-10-94	G-S	581,000	N	I	12-10-93	04-30-98.
ST94-3481	Panhandle Eastern Pipe Line Co.	American Central Gas Cos., Inc.	01-10-94	G-S	120,000	N	I	12-10-93	04-30-98.
ST94-3482	Tennessee Gas Pipeline Co.	Athens Tennessee Utilities Board.	01-10-94	G-S	5,429	N	F	01-01-94	Indef.
ST94-3483	Tennessee Gas Pipeline Co.	City of Sheffield .	01-10-94	G-S	4,581	N	F	01-01-94	Indef.
ST94-3484	Tennessee Gas Pipeline Co.	City of Florence Gas Dept.	01-10-94	G-S	1,383	N	F	01-01-94	Indef.
ST94-3485	Tennessee Gas Pipeline Co.	Commonwealth Gas Co.	01-10-94	G-S	190,450	N	I	12-22-93	Indef.
ST94-3486	Natural Gas P/L Co. of America.	Tristar Gas Marketing Co.	01-10-94	G-S	1,000	N	F	10-01-93	11-30-00.
ST94-3487	Natural Gas P/L Co. of America.	Mitchell Marketing Co.	01-10-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3488	Natural Gas P/L Co. of America.	Brooklyn Interstate Nat. Gas Corp.	01-10-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3489	Northern Border Pipeline Co.	Wes Cana Emergy Marketing, Inc.	01-10-94	G-S	25,000	N	I	01-01-94	10-31-04.
ST94-3490	Northern Border Pipeline Co.	Pan-Alberta Gas, Inc.	01-10-94	G-S	200,000	N	I	01-01-94	10-31-01.
ST94-3491	Northern Border Pipeline Co.	Renaissance Energy, Inc.	01-10-94	G-S	9,942	N	I	01-01-94	09-19-03.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3492	Texas Eastern Transmission Corp.	Conoco, Inc	01-10-94	G-S	90,000	N	I	12-13-93	03-31-94.
ST94-3493	Texas Eastern Transmission Corp.	Union Electric Co.	01-10-94	G-S	40,500	N	I	12-28-93	03-31-94.
ST94-3494	Texas Eastern Transmission Corp.	Hadson Gas Systems, Inc.	01-10-94	G-S	100,000	N	I	01-01-94	12-31-01
ST94-3495	Texas Eastern Transmission Corp.	Koch Hydrocarbon Co.	01-10-94	G-S	800,000	N	I	12-14-93	03-31-94.
ST94-3496	Texas Eastern Transmission Corp.	Torch Gas, L.C ..	01-10-94	G-S	175,000	N	I	12-18-93	03-31-94.
ST94-3497	Texas Eastern Transmission Corp.	Aurora Natural Gas & Assoc'd. Prods.	01-10-94	G-S	20,000	N	I	12-09-93	08-31-94.
ST94-3498	Texas Eastern Transmission Corp.	Marathon Oil Co	01-10-94	G-S	48,000	N	I	12-31-93	03-31-94.
ST94-3499	Texas Eastern Transmission Corp.	Libra Marketing Co.	01-10-94	G-S	100,000	N	I	07-01-93	03-31-94.
ST94-3500	Texas Eastern Transmission Corp.	Arkla Energy Marketing Co.	01-10-94	G-S	700,000	N	I	01-01-94	03-31-94.
ST94-3501	Texas Eastern Transmission Corp.	Enserch Gas Co	01-10-94	G-S	145,261	N	I	08-05-93	03-31-94.
ST94-3502	Texas Eastern Transmission Corp.	Bay State Gas Co.	01-10-94	G-S	7,236	N	I	12-18-93	03-31-06.
ST94-3503	Texas Eastern Transmission Corp.	Bay State Gas Co.	01-10-94	G-S	7,522	N	I	12-18-93	04-15-00.
ST94-3504	Texas Eastern Transmission Corp.	Philadelphia electric Co.	01-10-94	G-S	10,000	N	I	12-23-93	03-31-06.
ST94-3505	Texas Eastern Transmission Corp.	Philadelphia Electric Co.	01-10-94	G-S	1,480	N	I	12-23-93	04-15-00.
ST94-3506	Texas Eastern Transmission Corp.	Colonial Gas Co	01-10-94	G-S	52	N	F	06-01-93	10-31-12.
ST94-3507	Texas Eastern Transmission Corp.	Colonial Gas Co	01-10-94	G-S	52	N	F	06-01-93	10-31-12.
ST94-3508	Colorado Interstate Gas Co.	Montana Power Co.	01-10-94	B	4,848	N	I	12-24-93	Indef.
ST94-3509	Gas Co. Of New Mexico.	El Paso Natural Gas Co.	01-11-94	G-HT	6,000	N	I	12-10-93	10-31-03.
ST94-3510	Gas Co. of New Mexico.	El Paso Natural Gas Co.	01-11-94	G-HT	1,500	N	I	01-02-94	Indef.
ST94-3511	Gas Co. of New Mexico.	El Paso Natural Gas Co.	01-11-94	G-HT	1,000	N	I	01-01-94	Indef.
ST94-3512	Westar Transmission Co.	ANR Pipeline Co	01-11-94	C	10,000	N	I	10-01-93	Indef.
ST94-3513	Texas Eastern Transmission Corp.	Con Edison Gas Marketing, Inc.	01-11-94	G-S	150,000	N	I	12-15-93	12-05-94.
ST94-3514	Texas Eastern Transmission Corp.	North Atlantic Utilities.	01-11-94	G-S	31,050	N	F/I	12-10-93	09-30-94
ST94-3515	K N Interstate Gas Trans. Co.	Post Rock Gas, Inc.	01-11-94	G-S	130	N	F	01-01-94	03-31-94.
ST94-3516	K N Interstate Gas Trans. Co.	Tenaska Marketing Ventures.	01-10-94	G-S	484	N	F	12-10-93	12-31-93.
ST94-3517	Natural Gas P/L Co. of America.	Northern Indiana Public Service Co.	01-11-94	G-S	50,000	N	F	12-01-93	11-30-95

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94–3518	Natural Gas P/L Co. of America.	North Shore Gas Co.	01–11–94	G–S	60,000	N	F	12–01–93	11–30–95.
ST94–3519	Natural Gas P/L Co. of America.	Peoples Natural Gas Co.	01–11–94	G–S	12,000	N	F	12–01–93	11–30–99.
ST94–3520	Natural Gas P/L Co. of America.	City of Agenda ..	01–11–94	G–S	125	N	F	12–01–93	12–01–95.
ST94–3521	Natural Gas P/L Co. of America.	Interstate Power Co.	01–11–94	G–S	2,832	N	F	12–01–93	12–01–95.
ST94–3522	Natural Gas P/L Co. of America.	Twin County Gas Co., Inc.	01–11–94	G–S	807	N	F	12–01–93	12–01–95.
ST94–3523	Natural Gas P/L Co. of America.	Pawnee Rock	01–11–94	G–S	308	N	F	12–01–93	12–01–95.
ST94–3524	Natural Gas P/L Co. of America.	City of Salem	01–11–94	G–S	3,000	N	F	12–01–93	12–01–95.
ST94–3525	Natural Gas P/L Co. of America.	City of Spearville	01–11–94	G–S	600	N	F	12–01–93	12–01–95.
ST94–3526	Natural Gas P/L Co. of America.	Central Illinois Public Service Co.	01–11–94	G–S	3,553	N	F	12–01–93	12–01–95.
ST94–3527	Natural Gas P/L Co. of America.	Torch Gas, L.C ..	01–11–94	G–S	1,000	N	F	12–01–93	11–30–00.
ST94–3528	Natural Gas P/L Co. of America.	City of Brighton .	01–11–94	G–S	490	N	F	12–01–93	12–01–95.
ST94–3529	Natural Gas P/L Co. of America.	Arkansas Louisiana Gas Co.	01–11–94	G–S	174	N	F	12–01–93	12–01–95.
ST94–3530	Natural Gas P/L Co. of America.	Peoples Gas Light & Coke Co.	01–11–94	G–S	234,026	N	F	12–01–93	11–30–95.
ST94–3531	Natural Gas P/L Co. of America.	North Shore Gas Co.	01–11–94	G–S	75,180	N	F	12–01–93	11–30–95.
ST94–3532	Natural Gas P/L Co. of America.	City of Frohna ...	01–11–94	G–S	425	N	F	12–01–93	11–30–95.
ST94–3533	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01–11–94	G–S	86,371	N	F	12–01–93	12–01–95.
ST94–3534	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01–11–94	G–S	150,000	N	F	12–01–93	12–01–95.
ST94–3535	Natural Gas P/L Co. of America.	Peoples Natural Gas Co.	01–11–94	G–S	1,402	N	F	12–01–93	12–01–95.
ST94–3536	Natural Gas P/L Co. of America.	Midcom Gas Services Corp.	01–11–94	G–S	1,000	A	F	12–01–93	11–30–00.
ST94–3537	Natural Gas P/L Co. of America.	Marathon Oil Co	01–11–94	G–S	1,000	N	F	12–01–93	12–01–00.
ST94–3538	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01–11–94	G–S	5,000	N	F	12–01–93	12–01–95.
ST94–3539	Tennessee Gas Pipeline Co.	Chesapeake Energy Corp.	01–11–94	G–S	40,000	N	I	01–01–94	Indef.
ST94–3540	Tennessee Gas Pipeline Co.	Huntsville Utilities Gas System.	01–11–94	G–S	24,000	N	I	12–22–93	Indef.
ST94–3541	Tennessee Gas Pipeline Co.	City of Florence Gas Department.	01–11–94	G–S	1,704	N	F	01–01–94	Indef.
ST94–3542	Tennessee Gas Pipeline Co.	North Alabama Gas District.	01–11–94	G–S	7,288	N	F	01–01–94	Indef.
ST94–3543	Columbia Gas Transmission Corp.	Columbia Gas of Ohio, Inc.	01–11–94	B	1,311	Y	F	01–01–94	Indef.
ST94–3544	Columbia Gas Transmission Corp.	Enron Access Corp.	01–11–94	G–S	1,000,000	N	I	01–01–94	Indef.
ST94–3545	Columbia Gas Transmission Corp.	Genstar Stone Products Co.	01–11–94	G–ST	N/A	N	I	01–01–94	Indef.
ST94–3546	Koch Gateway Pipeline Co.	Prior Intrastate Corp.	01–11–94	G–S	2,300	N	F	12–20–93	12–20–94.
ST94–3547	Koch Gateway Pipeline Co.	Chevron U.S.A., Inc.	01–11–94	G–S	900	N	F	12–16–93	Indef.
ST94–3548	Koch Gateway Pipeline Co.	Prior Intrastate Corp.	01–11–94	G–S	7,000	N	F	12–16–93	Indef.
ST94–3549	Koch Gateway Pipeline Co.	Koch Gas Services Co.	01–11–94	G–S	3,000	A	F	12–16–93	05–16–94.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3550	Koch Gateway Pipeline Co.	MG Natural Gas Corp.	01-11-94	G-S	5,000	N	F	12-29-93	Indef.
ST94-3551	Koch Gateway Pipeline Co.	Associated Intrastate Pipeline Co.	01-11-94	G-S	4,000	N	F	12-16-93	12-16-94.
ST94-3552	Koch Gateway Pipeline Co.	Colonial Gas Co	01-11-94	G-S	3,310	N	F	12-17-93	Indef.
ST94-3553	Enogex Inc	Arkla Energy Resources Co.	01-12-94	C	30,000	N	I	01-06-94	Indef.
ST94-3554	Columbia Gas Transmission Corp.	American Standard, Inc.	01-12-94	G-S	1,350	N	F	01-01-94	03-31-94.
ST94-3555	Columbia Gas Transmission Corp.	Eastern Marketing Corp.	01-12-94	G-S	N/A	N	N/A	01-01-94	Indef.
ST94-3556	Columbia Gas Transmission Corp.	Phoenix Diversified Ventures, Inc.	01-12-94	G-S	N/A	N	N/A	01-01-94	Indef.
ST94-3559	Enogex Inc	Panhandle Eastern Pipe Line Co.	01-12-94	C	20,000	N	I	01-02-94	Indef.
ST94-3560	Tejas Gas Pipeline Co.	Texas Eastern Transmission Corp.	01-12-94	C	5,000	N	I	11-23-93	Indef.
ST94-3561	Tennessee Gas Pipeline Co.	KCS Energy Marketing, Inc.	01-13-94	G-S	9,785	N	F	12-14-93	12-31-94.
ST94-3562	Granite State Gas Trans., Inc.	Bay State Gas Co.	01-12-94	B	16,168	Y	I	12-01-93	03-31-95.
ST94-3563	Williston Basin Inter. P/L Co.	Rainbow Gas Co	01-13-94	G-S	355,228	Y	I	12-14-93	07-31-94.
ST94-3564	Tejas Gas Pipeline Co.	Northern Natural Gas Co.	01-13-94	C	17,000	N	I	11-09-93	Indef.
ST94-3565	Northern Natural Gas Co.	Twister Transmission Co.	01-13-94	G-S	30,000	N	F/I	12-16-93	12-15-94.
ST94-3566	Northern Natural Gas Co.	City of Cedar Falls.	01-13-94	G-S	7,410	N	F/I	12-01-93	Indef.
ST94-3567	Stingray Pipeline Co.	Trunkline Gas Co.	01-13-94	K	388,000	N	F	12-01-93	12-01-94.
ST94-3568	Natural Gas P/L Co. of America.	Peoples Gas Light & Coke Co.	01-13-94	G-S	300,000	N	F	12-01-93	11-30-95.
ST94-3569	Natural Gas P/L Co. of America.	City of Salem	01-13-94	G-S	2,000	N	F	12-01-93	12-01-95.
ST94-3570	Natural Gas P/L Co. of America.	Union Electric Co.	01-13-94	G-S	3,250	N	F	12-01-93	12-01-95.
ST94-3571	Natural Gas P/L Co. of America.	Northern Indiana Public Service Co.	01-13-94	G-S	21,000	N	F	12-01-93	11-30-95.
ST94-3572	Natural Gas P/L Co. of America.	Hadson Gas Systems, Inc.	01-13-94	G-S	9,000	N	F	12-01-93	11-30-98.
ST94-3573	Natural Gas P/L Co. of America.	Arcadian Corp ...	01-13-94	G-S	20,000	N	F	12-01-93	12-31-93.
ST94-3574	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-13-94	G-S	10,000	N	F	12-01-93	12-01-95.
ST94-3575	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-13-94	G-S	20,000	N	F	12-01-93	12-01-95.
ST94-3576	Natural Gas P/L Co. of America.	City of Marietta ..	01-13-94	G-S	300	N	F	12-01-93	12-01-95.
ST94-3577	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-13-94	G-S	27,270	N	F	12-01-93	12-01-95.
ST94-3578	Natural Gas P/L Co. of America.	Aluminum Co. of America.	01-13-94	G-S	3,500	N	F	12-01-93	11-30-98.
ST94-3579	Natural Gas P/L Co. of America.	Aluminum Co. of America.	01-13-94	G-S	10,000	N	F	12-01-93	11-30-98.
ST94-3580	Natural Gas P/L Co. of America.	Associated Natural Gas Co.	01-13-94	G-S	3,477	N	F	12-01-93	12-01-95.
ST94-3581	Granite State Gas Trans., Inc.	Northern Utilities, Inc.	01-12-94	C	15,125	A	I	12-01-93	03-31-95.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3582	Columbia Gas Transmission Corp.	Entity Type	01-13-94	G-ST	N/A	N	I	12-23-93	Indef.
ST94-3583	Columbia Gas Transmission Corp.	Entity Type	01-13-94	G-ST	N/A	N	I	12-18-93	Indef.
ST94-3584	Columbia Gas Transmission Corp.	Entity Type	01-13-94	G-S	15,000	N	I	12-23-93	Indef.
ST94-3585	Columbia Gas Transmission Corp.	General Electric .	01-13-94	G-S	10,000	N	I	12-15-93	Indef.
ST94-3586	Columbia Gas Transmission Corp.	T.W. Phillips Gas & Oil Co.	01-13-94	B	9,000	N	F	01-01-94	Indef.
ST94-3587	Texas Gas Transmission Corp.	Cargill, Inc	01-13-94	G-S	1,700	N	F	11-01-93	Indef.
ST94-3588	Western Resources, Inc.	Enron	01-14-94	G-HT	20,000	N	I	12-14-93	03-31-94.
ST94-3589	Lone Star Gas Co.	Oktex Pipeline Co.	01-14-94	C	50,000	N	I	09-01-93	Indef.
ST94-3590	Sabine Pipe Line Co.	Midcoast Energy Resources, Inc.	01-14-94	B	10,000	N	I	01-01-94	Indef.
ST94-3591	Sabine Pipe Line Co.	Phibro Energy USA, Inc.	01-14-94	G-S	100,000	N	I	12-24-93	Indef.
ST94-3592	K N Interstate Gas Trans. Co.	Arkla Energy Marketing Co.	01-14-94	G-S	100,000	N	I	12-13-93	Indef.
ST94-3593	K N Interstate Gas Trans. Co.	K N Energy, Inc .	01-14-94	G-S	144,268	A	F	10-01-93	Indef.
ST94-3594	Great Lakes Gas Trans., L.P.	Coenergy Trading Co.	01-14-94	G-S	20,000	N	F	01-01-94	03-31-94.
ST94-3595	Sabine Pipe Line Co.	KCS Energy Marketing, Inc.	01-14-94	G-S	4,194	N	F	01-01-94	01-31-94.
ST94-3596	Great Lakes Gas Trans., L.P.	Semco Energy Services.	01-14-94	G-S	25,000	N	F	01-01-94	01-31-94.
ST94-3597	Great Lakes Gas Trans., L.P.	Union Gas Limited.	01-14-94	G-S	100,000	N	F	12-29-93	03-31-94.
ST94-3598	Great Lakes Gas Trans., L.P.	Union Gas Limited.	01-14-94	G-S	250,000	N	I	01-08-94	Indef.
ST94-3599	Natural Gas P/L Co. of America.	Minnesota Mining & Manufacturing Co.	01-14-94	G-S	1,100	N	F	12-01-93	11-30-98.
ST94-3600	Natural Gas P/L Co. of America.	Union Oil Co	01-14-94	G-S	27,000	N	F	12-01-93	11-30-00.
ST94-3601	Natural Gas P/L Co. of America.	Texaco Gas Marketing, Inc.	01-14-94	G-S	18,500	N	F	12-01-93	11-30-00.
ST94-3602	Natural Gas P/L Co. of America.	Natural Gas Clearinghouse, Inc.	01-14-94	G-S	50,000	N	I	10-01-90	Indef.
ST94-3603	Natural Gas P/L Co. of America.	Mobil Natural Gas, Inc.	01-14-94	G-S	100,000	N	I	10-01-90	Indef.
ST94-3604	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	01-14-94	G-S	313,535	A	I	01-07-94	08-31-95.
ST94-3605	Williston Basin Inter. P/L Co.	Wyoming Gas Co.	01-14-94	B	6,662	N	I	12-17-93	04-30-95.
ST94-3606	Williston Basin Inter. P/L Co.	Interenergy Corp	01-14-94	G-S	150,000	A	I	12-17-93	12-12-94.
ST94-3607	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01-14-94	G-S	15,458	N	F	12-21-93	Indef.
ST94-3608	Valero Transmission, L.P.	Koch Gateway Pipeline Co.	01-18-94	C	1,300	N	I	01-01-94	Indef.
ST94-3609	Columbia Gas Transmission Corp.	Cenergy, Inc	01-18-94	G-ST	N/A	N	I	01-11-94	Indef.
ST94-3610	Columbia Gas Transmission Corp.	AlliedSignal, Inc .	01-18-94	G-ST	N/A	N	I	01-11-94	Indef.
ST94-3611	Columbia Gas Transmission Corp.	Columbia Gas of Ohio, Inc.	01-18-94	G-S	30,000	Y	F	01-04-94	03-31-94.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3612	Columbia Gas Transmission Corp.	Stand Energy	01-18-94	G-S	110	N	F	12-15-93	04-30-94.
ST94-3613	Columbia Gas Transmission Corp.	Riley Natural Gas Co.	01-18-94	G-S	70,000	N	I	01-01-94	Indef.
ST94-3614	Northern Natural Gas Co.	Lone Star Gas Co.	01-18-94	B	100,000	N	F/I	11-02-93	Indef.
ST94-3615	Northern Natural Gas Co.	Colorado Interstate Gas Co.	01-18-94	G-S	750	N	F/I	12-01-93	Indef.
ST94-3616	Northern Natural Gas Co.	West Texas Utilities Co.	01-18-94	G-S	33,000	N	F/I	12-21-93	Indef.
ST94-3617	Transwestern Pipeline Co.	Tristar Gas Marketing Co.	01-18-94	G-S	5,000	N	F	01-01-94	01-31-94.
ST94-3618	Transwestern Pipeline Co.	Richardson Products Co.	01-18-94	G-S	45,000	N	F	01-01-94	01-31-94.
ST94-3619	Transwestern Pipeline Co.	Clayton Williams Energy Co.	01-18-94	G-S	2,500	N	F	01-01-94	01-31-94.
ST94-3620	Transwestern Pipeline Co.	Lone Star Gas Co.	01-18-94	B	80,000	N	I	12-28-93	Indef.
ST94-3621	Colorado Interstate Gas Co.	USAFA/Fort Carson.	01-18-94	G-S	6,750	N	F	01-01-94	09-30-95.
ST94-3622	Colorado Interstate Gas Co.	Wexpro Co	01-18-94	G-S	11,500	N	F	01-01-94	12-31-00.
ST94-3623	Colorado Interstate Gas Co.	Montana Power Co.	01-18-94	B	3,368	N	I	01-01-94	Indef.
ST94-3624	Kentucky West Virginia Gas Co.	R&D Drilling	01-18-94	G-S	3,000	N	I	07-01-93	Indef.
ST94-3625	Transcontinental Gas P/L Corp.	Colonial Gas Co	01-18-94	G-S	557	N	F	12-09-93	06-01-08.
ST94-3626	U-T Offshore System.	Mobil Natural Gas, Inc.	01-18-94	K-S	7,500	N	F	01-11-94	Indef.
ST94-3627	U-T Offshore System.	Amerada Hess Corp.	01-18-94	K-S	6,070	N	F	12-04-93	Indef.
ST94-3628	High Island Offshore System.	Amerada Hess Corp.	01-18-94	K-S	6,100	N	F	12-01-93	12-15-93.
ST94-3629	High Island Offshore System.	Eastex Hydrocarbons, Inc.	01-18-94	K-S	50,000	N	I	12-09-93	Indef.
ST94-3630	Arkla Energy Resources Co.	City of Winfield ..	01-18-94	G-S	12,500	N	F	11-01-93	Indef.
ST94-3631	Arkla Energy Resources Co.	City of Winfield ..	01-18-94	G-S	2,000	N	I	11-01-93	Indef.
ST94-3632	Algonquin Gas Transmission Co.	Boston Gas Co ..	01-18-94	B	48,234	N	F	12-26-93	Indef.
ST94-3633	Algonquin Gas Transmission Co.	Colonial Gas Co	01-18-94	G-S	7,000	N	I	12-23-93	Indef.
ST94-3634	Trunkline Gas Co.	Indiana Fuel & Light Co.	01-18-94	B	30,000	N	F	01-01-94	Indef.
ST94-3635	Panhandle Eastern Pipe Line Co.	Coenergy Ventures, Inc.	01-18-94	G-S	100,000	N	I	12-19-93	03-31-98.
ST94-3636	Panhandle Eastern Pipe Line Co.	West Bay Exploration.	01-18-94	B	100,000	N	I	12-23-93	12-14-98.
ST94-3637	Transok Gas Transmission Co.	Arkla Energy Resources, et al.	01-19-94	C	100,000	N	I	01-01-94	Indef.
ST94-3638	Delhi Gas Pipeline Corp.	Nat. Gas P/L Co. of America, et al.	01-19-94	C	10,000	N	I	12-16-93	Indef.
ST94-3639	Panhandle Eastern Pipe Line Co.	Suburban Natural Gas Co.	01-19-94	G-S	1,062	N	F	10-29-93	11-30-94.
ST94-3640	Panhandle Eastern Pipe Line Co.	Direct Gas Supply Corp.	01-19-94	G-S	65,000	N	I	11-03-93	04-30-98
ST94-3641	Kern River Gas Transmission Co.	Snyder Oil Corp	01-19-94	G-S	50,000	N	I	12-23-93	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3642	Tennessee Gas Pipeline Co.	Brooklyn Interstate Nat. Gas Corp.	01-19-94	G-S	290	N	F	01-05-94	Indef.
ST94-3643	Tennessee Gas Pipeline Co.	North Alabama Gas District.	01-19-94	G-S	1,078	N	F	01-04-94	Indef.
ST94-3644	Tennessee Gas Pipeline Co.	Connecticut Natural Gas Corp.	01-19-94	G-S	100,000	N	I	12-26-93	Indef.
ST94-3645	Tennessee Gas Pipeline Co.	Pawtucket Power Associates.	01-19-94	G-S	1,100	N	F	01-09-94	Indef.
ST94-3646	Transcontinental Gas P/L Corp.	Providence Gas Co.	01-21-94	G-S	1,825	N	F	01-06-94	06-01-08.
ST94-3647	Transcontinental Gas P/L Corp.	Wickford Energy Marketing, L.C.	01-21-94	G-S	60,000	N	I	01-01-94	Indef.
ST94-3648	Transcontinental Gas P/L Corp.	Coastal Energy Marketing Co.	01-21-94	G-S	1,310,000	N	I	01-01-94	Indef.
ST94-3649	Columbia Gas Transmission Corp.	Lexmark International, Inc.	01-21-94	G-S	210	N	F	01-17-94	Indef.
ST94-3650	Trunkline Gas Co.	Catex Energy, Inc.	01-21-94	G-S	77,625	N	I	01-01-94	Indef.
ST94-3651	Trunkline Gas Co.	Transcontinental Gas Pipe Line Corp.	01-21-94	G	40,000	N	I	01-07-94	Indef.
ST94-3652	Trunkline Gas Co.	Oryx Gas Marketing, L.P.	01-21-94	G-S	20,000	N	I	01-01-94	Indef.
ST94-3653	Valero Transmission, L.P.	Arkla Energy Resources.	01-21-94	C	14,000	N	I	12-29-93	Indef.
ST94-3654	Delhi Gas Pipeline Corp.	Texas Eastern Trans., Corp., et al.	01-21-94	C	40,000	N	I	12-17-93	Indef.
ST94-3655	Northwest Pipeline Corp.	U.S. Gas Transportation, Inc.	01-21-94	G-S	30,000	N	I	12-22-93	Indef.
ST94-3656	Southern Natural Gas Co.	Transcontinental Gas Pipeline Co.	01-21-94	G	25,000	N	I	01-01-94	Indef.
ST94-3657	Natural Gas P/L Co. of America.	Granite City Steel.	01-21-94	G-S	8,000	N	F	12-20-93	03-31-94
ST94-3658	Natural Gas P/L Co. of America.	Vesta Energy Co	01-21-94	G-S	1,000	N	F	01-01-94	11-30-00.
ST94-3659	Natural Gas P/L Co. of America.	International Paper Co.	01-21-94	G-S	10,000	N	F	12-01-93	12-31-98.
ST94-3660	Natural Gas P/L Co. of America.	Peoples Natural Gas Co.	01-21-94	G-S	25,000	N	F	12-01-93	03-31-94.
ST94-3661	Southern Natural Gas Co.	Torch Energy Marketing, Inc.	01-21-94	G-S	100,000	N	I	01-01-94	Indef.
ST94-3662	Southern Natural Gas Co.	Sonat Marketing Co.	01-21-94	G-S	1,638	N	F	01-04-94	01-31-94.
ST94-3663	Southern Natural Gas Co.	Chevron U.S.A., Inc.	01-21-94	G-S	150,000	N	I	12-30-93	Indef.
ST94-3664	Delhi Gas Pipeline Corp.	Arkla Energy Resources.	01-21-94	C	2,000	N	I	12-17-93	Indef.
ST94-3665	Gas Co. of New Mexico.	El Paso Natural Gas Co.	01-24-94	G-HT	500	N	I	01-07-94	Indef.
ST94-3666	Delhi Gas Pipeline Corp.	Arkla Energy Resources.	01-24-94	C	2,000	N	I	12-17-93	Indef.
ST94-3667	Delhi Gas Pipeline Corp.	Texas Eastern Trans. Corp., et al.	01-24-94	C	40,000	N	I	12-17-93	Indef.
ST94-3668	Valero Transmission, L.P.	El Paso Natural Gas Co.	01-24-94	C	6,000	N	I	01-07-94	Indef.
ST94-3669	Valero Transmission, L.P.	El Paso Natural Gas Co.	01-24-94	C	1,100	N	I	11-25-93	Indef.
ST94-3670	Transtexas Pipeline.	Texas Eastern Transmission Corp.	01-24-94	C	5,000	N	I	01-03-94	Indef.
ST94-3671	Arkla Energy Resources Co.	Laclede Gas Co	01-24-94	G-S	70,000	N	I	12-19-93	Indef.
ST94-3672	Sabine Pipe Line Co.	Texaco Gas Marketing, Inc.	01-24-94	G-S	60,000	A	F	01-01-94	02-28-94.
ST94-3673	Tennessee Gas Pipeline Co.	City of Sheffield .	01-24-94	G-S	678	N	F	01-01-94	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3674	Tennessee Gas Pipeline Co.	Meridian Marketing & Trans. Corp.	01-24-94	G-S	1,100	N	F	01-12-94	Indef
ST94-3675	Tennessee Gas Pipeline Co.	Louden Utilities Department.	01-24-94	G-S	7,165	N	F	01-01-94	Indef.
ST94-3676	Northern Natural Gas Co.	Terra International, Inc.	01-24-94	G-S	3,000	N	F/I	01-01-94	03-31-94.
ST94-3677	Northern Nautral Gas Co.	Terra International, Inc.	01-24-94	G-S	5,000	N	F/I	01-01-94	10-15-94.
ST94-3678	Williams Natural Gas Co.	GST Steel	01-24-94	G-S	3,800	N	F	01-01-94	03-01-94.
ST94-3679	Williams Natural Gas Co.	Utilicorp Energy Services, Inc.	01-24-94	G-S	5,682	N	F	01-01-94	02-01-94.
ST94-3680	Williams Natural Gas Co.	Greeley Gas Co	01-24-94	G-S	700	N	I	11-01-93	09-30-98.
ST94-3681	Williams Natural Gas Co.	Weyerhaeuser Paper Co.	01-24-94	G-S	59	N	F	01-01-94	Indef.
ST94-3682	Natural Gas P/L Co. of America.	National Gas Resources, L.P.	01-24-94	G-S	1,000	N	F	12-11-93	12-31-00.
ST94-3683	Natural Gas P/L Co. of America.	International Paper Co.	01-24-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3684	Natural Gas P/L Co. of America.	MG Natural Gas Corp.	01-24-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3685	Natural Gas P/L Co. of America.	Hadson Gas Systems, Inc.	01-24-94	G-S	30,000	N	F	12-01-93	11-30-98.
ST94-3686	Natural Gas P/L Co. of America.	Northern Indiana Public Service Co.	01-24-94	G-S	40,000	N	F	12-01-93	03-31-98.
ST94-3687	Natural Gas P/L Co. of America.	Dow Hydrocarbons & Resources, Inc.	01-24-94	G-S	10,000	N	F	12-01-93	11-30-97.
ST94-3688	Natural Gas P/L Co. of America.	Industrial Energy Applications, Inc.	01-24-94	G-S	1,770	N	F	12-01-93	11-30-94.
ST94-3689	Natural Gas P/L Co. of America.	Midcon Gas Services Corp.	01-24-94	G-S	50,000	A	F	12-01-93	11-30-98.
ST94-3690	Natural Gas P/L Co. of America.	City of Corning ..	01-24-94	G-S	200	N	F	12-01-93	11-30-95.
ST94-3691	Natural Gas P/L Co. of America.	Tenaska Marketing Ventures.	01-24-94	G-S	1,000	N	F	01-01-94	11-30-00.
ST94-3692	Natural Gas P/L Co. of America.	City of Sullivan ..	01-24-94	G-S	500	N	F	12-01-93	12-01-95.
ST94-3693	Natural Gas P/L Co. of America.	NGC Transportation, Inc.	01-24-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3694	Tejas Gas Pipeline Co.	Northern Natural Gas Co.	01-25-94	C	3,000	N	I	12-01-93	Indef.
ST94-3695	Valero Transmission, L.P.	Koch Gateway Pipeline Co.	01-25-94	C	4,000	N	I	01-08-94	Indef.
ST94-3696	Valero Transmission, L.P.	Transcontinental Gas Pipeline Corp.	01-25-94	C	10,000	N	I	01-12-94	Indef.
ST94-3697	Valero Transmission, L.P.	Trunkline Gas Co.	01-25-94	C	5,000	N	I	01-07-94	Indef.
ST94-3698	Northwest Pipeline Corp.	Entrade Corp	01-25-94	G-S	43,400	N	I	01-06-94	Indef.
ST94-3699	El Paso Natural Gas co.	Mitchell Marketing Co.	01-25-94	G-S	51,500	N	I	12-30-93	Indef.
ST94-3700	Transcontinental Gas P/L Corp.	Eagle Natural Gas Co.	01-25-94	G-S	10,000	N	I	01-01-94	Indef.
ST94-3701	Columbia Gas Transmission Corp.	Riley Natural Gas Co.	01-25-94	G-ST	N/A	N	I	01-15-94	Indef.
ST94-3702	Columbia Gas Transmission Corp.	Tenneco Gas Marketing Co.	01-25-94	G-S	500,000	N	I	12-01-93	Indef.
ST94-3703	Panhandle Eastern Pipe Line Co.	Miami Valley Resources, Inc.	01-25-94	G-S	8,176	N	F	10-01-93	03-31-94.
ST94-3704	Panhandle Eastern Pipe Line Co.	Quantum Chemical Corp.	01-25-94	G-S	16,412	N	F	11-01-93	03-31-95.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94–3705	Panhandle Eastern Pipe Line Co.	Anadarko Trading Co.	01–25–94	G–S	272,000	N	F	10–29–93	03–31–94.
ST94–3706	Panhandle Eastern Pipe Line Co.	Northern Indiana Fuel & Light Co.	01–25–94	G–S	3,000	N	F	01–01–94	12–31–98.
ST94–3707	Williams Natural Gas Co.	Americus Gas Co., Inc.	01–25–94	G–S	390	N	I	10–01–93	Indef.
ST94–3708	Williams Natural Gas Co.	City of Argonia ..	01–25–94	B	72	N	I	11–01–93	Indef.
ST94–3709	Williams Natural Gas Co.	Wakita Utilities Authority.	01–25–94	G–S	352	N	I	10–01–93	Indef.
ST94–3710	Williams Natural Gas Co.	Western Resources, Inc.	01–25–94	G–S	230,282	N	I	10–01–93	10–01–94.
ST94–3711	Williams Natural Gas Co.	City of Viola	01–25–94	G–S	84	N	I	10–01–93	Indef.
ST94–3712	Williams Natural Gas Co.	Nelagoney Rural Gas.	01–25–94	G–S	21	N	I	10–01–93	Indef.
ST94–3713	Williams Natural Gas Co.	Rural Water, Sewer, Gas & Waste.	01–25–94	G–S	90	N	I	10–01–93	Indef.
ST94–3714	Williams Natural Gas Co.	City of Oilton	01–25–94	G–S	30	N	I	01–01–94	Indef.
ST94–3715	Williams Natural Gas Co.	City of Orlando ..	01–25–94	G–S	113	N	I	10–01–93	Indef.
ST94–3716	Williams Natural Gas Co.	City of Plattsburg	01–25–94	G–S	1,720	N	F	10–01–93	Indef.
ST94–3717	Williams Natural Gas Co.	Ramona Public Works Authority.	01–25–94	G–S	60	N	I	11–01–93	Indef.
ST94–3718	Williams Natural Gas Co.	City of Liberal	01–25–94	G–S	290	N	F	10–01–93	Indef.
ST94–3719	Williams Natural Gas Co.	Mannford Public Works Authority.	01–25–94	G–S	1,339	N	I	10–01–93	Indef.
ST94–3720	Williams Natural Gas Co.	City of Mulberry .	01–25–94	G–S	290	N	F	10–01–93	Indef.
ST94–3721	Williams Natural Gas Co.	Mulhall Natural Gas Co.	01–25–94	G–S	142	N	I	10–01–93	Indef.
ST94–3722	Williams Natural Gas Co.	City of Danville ..	01–25–94	G–S	38	N	I	10–01–93	Indef.
ST94–3723	Williams Natural Gas Co.	City of Ford	01–25–94	G–S	146	N	I	11–02–93	Indef.
ST94–3724	Williams Natural Gas Co.	Freedom Municipal Trust.	01–25–94	G–S	227	N	I	10–01–93	Indef.
ST94–3725	Williams Natural Gas Co.	City of Gate	01–25–94	G–S	110	N	I	10–01–93	Indef.
ST94–3726	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–94	B	2,343	N	F	10–01–93	Indef.
ST94–3727	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–94	B	4,092	N	F	10–01–93	Indef.
ST94–3728	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–94	B	2,838	N	F	10–01–93	Indef.
ST94–3729	Williams Natural Gas Co.	Copan Public Works Authority.	01–25–94	B	420	N	I	10–01–93	Indef.
ST94–3730	Williams Natural Gas Co.	City of Burlington	01–25–94	B	171	N	I	10–01–93	Indef.
ST94–3731	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–94	B	18,122	N	F	10–01–93	Indef.
ST94–3732	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–94	B	3,897	N	F	10–01–93	Indef.
ST94–3733	Williams Natural Gas Co.	City Utilities of Springfield.	01–25–94	B	895	N	F	10–01–93	Indef.
ST94–3734	Williams Natural Gas Co.	Arkla Gas Co	01–25–94	G–S	2,055	N	I	11–01–93	Indef.
ST94–3735	Williams Natural Gas Co.	Avant Utilities Authority.	01–25–94	G–S	174	N	I	10–01–93	Indef.
ST94–3736	Williams Natural Gas Co.	Billings Public Works.	01–25–94	G–S	304	N	I	10–01–93	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3737	Webb/Duval Gatherers.	Texas Eastern Gas Pipeline Co.	01-26-94	C	100,000	N	I	01-01-94	08-31-97.
ST94-3738	Williams Natural Gas Co.	City of Kechi	01-26-94	G-S	300	N	I	11-01-93	Indef.
ST94-3739	Williams Natural Gas Co.	Kansas Municipal Gas Agency.	01-26-94	G-S	294	N	I	10-01-93	Indef.
ST94-3740	Williams Natural Gas Co.	Kansas Municipal Gas Agency.	01-26-94	G-S	138	N	F	10-01-93	Indef.
ST94-3741	Williams Natural Gas Co.	Peoples Natural Gas Co.	01-26-94	G-S	471	N	I	10-01-93	Indef.
ST94-3742	Williams Natural Gas Co.	Public Service Co. of Colorado.	01-26-94	G-S	148	N	I	10-01-93	Indef.
ST94-3743	Williams Natural Gas Co.	Western Resources, Inc.	01-26-94	G-S	34,300	N	I	01-18-94	10-01-94.
ST94-3744	Williams Natural Gas Co.	Western Resources, Inc.	01-26-94	G-S	15,041	N	I	01-18-94	10-01-94.
ST94-3745	Northern Border Pipeline Co.	Sioux Pointe Inc	01-26-94	G-S	100,000	N	I	01-17-94	09-29-94.
ST94-3746	Sabine Pipe Line Co.	Mitchell Marketing Co.	01-26-94	G-S	40,000	N	I	01-19-94	Indef.
ST94-3747	Natural Gas P/L Co. of America.	Laclede Gas Co	01-26-94	G-S	60,000	N	F	11-01-93	10-31-98.
ST94-3748	Natural Gas P/L Co. of America.	Eastex Hydrocarbons, Inc.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3749	Natural Gas P/L Co. of America.	Interstate Power Co.	01-26-94	G-S	6,949	N	F	12-01-93	12-01-95.
ST94-3750	Natural Gas P/L Co. of America.	Entex	01-26-94	G-S	1,100	N	F	12-01-93	11-30-95.
ST94-3751	Natural Gas P/L Co. of America.	City of Corn	01-26-94	G-S	389	N	F	12-01-93	12-01-95.
ST94-3752	Natural Gas P/L Co. of America.	City of Grand Tower.	01-26-94	G-S	430	N	F	12-01-93	12-01-95.
ST94-3753	Natural Gas P/L Co. of America.	Continental Natural Gas, Inc.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3754	Natural Gas P/L Co. of America.	City of Nashville	01-26-94	G-S	4,275	N	F	12-01-93	02-28-98.
ST94-3755	Natural Gas P/L Co. of America.	O&R Energy, Inc	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3756	Natural Gas P/L Co. of America.	Olympic Fuels Co.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3757	Natural Gas P/L Co. of America.	Texarkoma Transportation Co.	01-26-94	G-S	20,000	N	F	12-01-93	03-31-94.
ST94-3758	Natural Gas P/L Co. of America.	Wisconsin Southern Gas Co., Inc.	01-26-94	G-S	38,000	N	F	12-01-93	11-30-95.
ST94-3759	Natural Gas P/L Co. of America.	City of Nebraska City.	01-26-94	G-S	2,300	N	F	12-01-93	12-01-98.
ST94-3760	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-26-94	G-S	100,000	N	F	12-01-93	12-01-95.
ST94-3761	Natural Gas P/L Co. of America.	City Marietta	01-26-94	G-S	279	N	F	12-01-93	12-01-95.
ST94-3762	Natural Gas P/L Co. of America.	Torch Energy Marketing, Inc.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3763	Natural Gas P/L Co. of America.	Associated Natural Gas, Inc.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3764	Natural Gas P/L Co. of America.	Valero Gas Marketing, L.P.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3765	Natural Gas P/L Co. of America.	Laclede Gas Co	01-26-94	G-S	60,000	N	F	11-01-93	10-31-98.
ST94-3766	Natural Gas P/L Co. of America.	Tenneco Gas Marketing Co.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3767	Natural Gas P/L Co. of America.	Coastal Gas Marketing Co.	01-26-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3768	Natural Gas P/L Co. of America.	Northern Indiana Public Service Co.	01-26-94	G-S	65,000	N	F	12-01-93	11-30-95.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3769	Natural Gas P/L Co. of America.	Arcadian Corp ...	01-26-94	G-S	8,000	N	F	01-07-94	01-31-94.
ST94-3770	Natural Gas P/L Co. of America.	Gedi, Inc	01-26-94	G-S	3,000	N	F	12-01-93	11-30-94.
ST94-3771	Natural Gas P/L Co. of America.	Michigan Consolidated Gas Co.	01-26-94	G-S	50,000	N	F	12-01-93	11-30-98.
ST94-3772	Florida Gas Transmission Co.	National Gas Resources, L.P.	01-27-94	G-S	50,000	N	I	01-01-94	Indef.
ST94-3773	Florida Gas Transmission Co.	Valero Industrial Gas, L.P.	01-27-94	B	1,000	N	I	01-01-94	Indef.
ST94-3774	Florida Gas Transmission Co.	Interstate Natural Gas Corp.	01-27-94	G-S	100,000	N	I	01-01-94	Indef.
ST94-3775	Florida Gas Transmission Co.	Chevron USA, Inc.	01-27-94	G-S	150,000	N	I	01-01-94	Indef.
ST94-3776	Florida Gas Transmission Co.	Jacksonville Electric Authority.	01-27-94	G-S	5,000	N	I	01-01-94	Indef.
ST94-3777	Florida Gas Transmission Co.	City of Lakeland	01-27-94	G-S	12,451	N	I	01-04-94	Indef.
ST94-3778	Northern Border Pipeline Co.	Renaissance Energy Ltd.	01-27-94	G-S	10,000	N	I	01-01-94	10-31-04.
ST94-3779	Florida Gas Transmission Co.	Valero Gas Marketing, L.P.	01-27-94	G-S	100,000	N	I	01-22-94	Indef.
ST94-3780	Western Resources, Inc.	Golden Gas Energies, Inc.	01-27-94	C	20,000	N	I	05-01-90	Indef.
ST94-3781	Western Resources, Inc.	Texaco Gas Marketing, Inc.	01-27-94	C	10,000	N	I	05-01-90	Indef.
ST94-3782	Western Resources, Inc.	Rangeline Corp .	01-27-94	C	30,000	N	I	11-01-90	Indef.
ST94-3783	Western Resources, Inc.	Nimrod Natural Gas Corp.	01-27-94	C	8,000	N	I	12-01-91	Indef.
ST94-3784	Western Resources, Inc.	Energy Dynamics, Inc.	01-27-94	C	10,000	N	I	12-01-90	Indef.
ST94-3785	Western Resources, Inc.	NGC Transportation, Inc.	01-27-94	C	15,000	N	I	05-01-90	Indef.
ST94-3786	Western Resources, Inc.	Aquila Energy Marketing.	01-27-94	C	30,000	N	I	10-01-88	Indef.
ST94-3787	Columbia Gas Transmission Corp.	Yankee Gas Services Co.	01-27-94	G-S	50,000	N	I	01-01-94	Indef.
ST94-3788	Natural Gas P/L Co. of America.	Texarcoma Transportation Co.	01-27-94	G-S	1,000	N	F	12-01-93	Indef.
ST94-3789	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-27-94	G-S	70,000	N	F	01-18-94	01-19-94.
ST94-3790	Natural Gas P/L Co. of America.	Mobil Natural Gas Inc.	01-27-94	G-S	1,000	N	F	12-01-93	11-30-00.
ST94-3791	Canyon Creek Compression Co.	Chevron USA, Inc.	01-27-94	G-S	500	N	F	01-01-94	05-31-94.
ST94-3792	Tennessee Gas Pipeline Co.	Catex Energy, Inc.	01-27-94	G-S	36,000	N	F	01-01-94	Indef.
ST94-3793	Tennessee Gas Pipeline Co.	Appalachian Gas Sales.	01-27-94	G-S	50,000	N	F	01-07-94	01-31-94.
ST94-3794	Tennessee Gas Pipeline Co.	Atlas Gas Marketing Inc.	01-27-94	G-S	2,000	N	F	01-02-94	01-31-94.
ST94-3795	Brooklyn Union Gas Co.	Transcontinental Gas P/L Co., et al.	01-27-94	G-HT	50,000	N	I	08-01-93	07-31-94.
ST94-3796	Brooklyn Union Gas Co.	Transcontinental Gas P/L Co., et al.	01-27-94	G-HT	50,000	N	I	07-01-93	07-31-94.
ST94-3797	Louisiana Resources P/L Co., L.P.	Appalachian Gas Sales Corp.	01-28-94	C	40,000	N	I	11-01-93	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3798	Louisiana Resources P/L Co., L.P.	Trunkline Gas Co.	01-28-94	C	50,000	N	I	11-01-93	Indef.
ST94-3799	Louisiana Resources P/L Co., L.P.	Chevron USA, Inc.	01-28-94	C	150,000	N	I	11-01-93	Indef.
ST94-3800	Valero Transmission, L.P.	Northern Natural Gas Co.	01-28-94	C	6,000	N	I	01-06-94	Indef.
ST94-3801	Valero Transmission, L.P.	Northern Natural Gas Co.	01-28-94	C	6,000	N	I	01-06-94	Indef.
ST94-3802	Northern Natural Gas Co.	Wescana Energy Marketing (US), Inc.	01-28-94	G-S	10,000	N	I	12-29-93	03-28-94.
ST94-3803	Tennessee Gas Pipeline Co.	City of Sheffield .	01-28-94	G-S	835	N	I	01-01-94	Indef.
ST94-3804	Tennessee Gas Pipeline Co.	O&R Energy	01-28-94	G-S	13,200	N	F	01-01-94	Indef.
ST94-3805	Tennessee Gas Pipeline Co.	City of Florence Alabama Gas Dept.	01-28-94	G-S	6,913	N	F	01-01-94	Indef.
ST94-3806	Tennessee Gas Pipeline Co.	Clinton Gas Marketing, Inc.	01-28-94	G-S	1,000	N	F	01-14-94	Indef.
ST94-3807	Tennessee Gas Pipeline Co.	Essex County Gas Co.	01-28-94	G-S	2,455	N	F	01-10-94	Indef.
ST94-3808	Tennessee Gas Pipeline Co.	Norht Atlantic Utilities, Inc.	01-28-94	G-S	160	N	F	01-10-94	Indef.
ST94-3809	Tennessee Gas Pipeline Co.	Interstate Gas Marketing Inc.	01-28-94	G-S	10,000	N	F	01-01-94	Indef.
ST94-3810	Tennessee Gas Pipeline Co.	North Atlantic Utilities, Inc.	01-28-94	G-S	1,329	N	F	01-01-94	Indef.
ST94-3811	Arkla Energy Resources Co.	Blue Jay Gas Co	01-28-94	G-S	10,000	N	I	01-01-94	Indef.
ST94-3812	Arkla Energy Resources Co.	Triark Gathering Co.	01-28-94	G-S	50,000	N	I	01-01-94	Indef.
ST94-3813	Arkla Energy Resources Co.	Blue Jay Gas Pool.	01-28-94	G-S	75,000	A	I	01-01-94	Indef.
ST94-3814	Stingray Pipeline Co.	Oxy USA, Inc	01-28-94	K-S	10,000	N	I	01-01-94	Indef.
ST94-3815	Canyon Creek Compression Co.	Midcon Gas Services Corp.	01-28-94	G-S	193,000	N	I	01-01-94	Indef.
ST94-3816	Natural Gas P/L Co. of America.	Catex Energy Inc	01-28-94	G-S	1,000	N	F	12-01-93	11-30-95.
ST94-3817	Natural Gas P/L Co. of America.	Texarkoma Transportation Co.	01-28-94	G-S	20,000	N	F	12-01-93	03-31-94.
ST94-3818	Natural Gas P/L Co. of America.	Gedi, Inc	01-28-94	G-S	3,000	N	F	12-01-93	11-30-94.
ST94-3819	Columbia Gas Transmission Corp.	Transco Energy Marketing Co.	01-28-94	G-S	N/A	N	I	01-18-94	Indef.
ST94-3820	Columbia Gas Transmission Corp.	Power Gas Marketing & Trans., Inc.	01-28-94	G-S	N/A	N	I	01-20-94	Indef.
ST94-3821	Columbia Gas Transmission Corp.	Xenergy	01-28-94	G-S	10,000	N	I	01-15-94	Indef.
ST94-3822	Columbia Gas Transmission Corp.	Kalida Natrual Gas Co., Inc.	01-28-94	G-S	N/A	N	I	01-26-94	Indef.
ST94-3823	Trunkline Gas Co.	Aig Trading Corp	01-28-94	G-S	103,500	N	I	12-30-93	
ST94-3824	Trunkline Gas Co.	Associated Natrual Gas, Inc.	01-28-94	G-S	51,750	N	I	12-30-93	Indef.
ST94-3825	Trunkline Gas Co.	Yuma Gas Corp	01-28-94	G-S	155,250	N	I	12-30-93	Indef.
ST94-3826	Algonquin Gas Transmission Co.	CNG Gas Services.	01-28-94	B	34	N	I	01-01-94	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3827	Algonquin Gas Transmission Co.	CNG Gas Services.	01-28-94	B	1,017	N	I	01-01-94	Indef.
ST94-3828	Algonquin Gas Transmission Co.	Direct Gas Supply Corp.	01-28-94	G-S	85,255	N	I	01-09-94	Indef.
ST94-3829	Algonquin Gas Transmission Co.	Consolidated Edison Co. of NY, Inc.	01-28-94	B	4,132	N	F	01-13-94	Indef.
ST94-3830	Algonquin Gas Transmission Co.	Bristol & Warren Gas Co.	01-28-94	B	1,972	N	F	01-01-94	Indef.
ST94-3831	Algonquin Gas Transmission Co.	Providence Gas Co.	01-28-94	B	8,415	N	F	01-07-94	Indef.
ST94-3832	El Paso Natural Gas Co.	Redwood Resources, Inc.	01-28-94	G-S	2,575	N	I	01-01-94	Indef.
ST94-3833	Williston Basin Inter. P/L Co.	Interenergy Corp	01-28-94	G-S	154,500	A	I	12-30-93	05-31-95.
ST94-3834	Williston Basin Inter. P/L Co.	CENEX	01-28-94	G-S	12,000	A	I	01-01-94	12-31-94.
ST94-3835	Williston Basin Inter. P/L Co.	Prairielands Energy Marketing, Inc.	01-28-94	G-S	600	A	F	01-01-94	02-28-94.
ST94-3836	Williston Basin Inter. P/L Co.	Koch Hydrocarbon Co.	01-28-94	G-S	1,601	A	F	01-01-94	03-31-94.
ST94-3837	Channel Industries Gas Co.	Florida Gas Transmission Co.	01-28-94	C	75,000	N	I	12-31-93	Indef.
ST94-3838	Channel Industries Gas Co.	Northern Natural Gas Co.	01-28-94	C	75,000	N	I	01-01-94	Indef.
ST94-3839	Equitrans, Inc	Equitable Gas Co.	01-31-94	G-S	88,560	N	I	01-01-94	Indef.
ST94-3840	Equitrans, Inc	Appalachian Gas Sales.	01-31-94	G-S	5,121	N	I	01-18-94	Indef.
ST94-3841	K N Interstate Gas Trans. Co.	Aurora Natural Gas & Assoc. Prod.	01-31-94	G-S	5,000	N	I	01-01-94	Indef.
ST94-3842	K N Interstate Gas Trans. Co.	Northwestern Public Service Co.	01-31-94	G-S	20,000	N	I	10-01-93	Indef.
ST94-3843	Pacific Interstate Offshore Co.	Southern California Gas Co.	01-31-94	G-S	26	N	I	01-01-94	12-31-98.
ST94-3844	Texas Eastern Transmission Corp.	H & N Gas LTD .	01-31-94	G-S	100,000	N	I	01-01-94	12-15-94.
ST94-3845	Texas Eastern Transmission Corp.	Coastal Gas Marketing Co.	01-31-94	G-S	103,500	N	F	01-05-94	09-30-94.
ST94-3846	Texas Eastern Transmission Corp.	Direct Gas Supply Corp.	01-31-94	G-S	25,875	N	F	01-05-94	09-30-94.
ST94-3847	Texas Eastern Transmission Corp.	Columbia Gas Transmission Corp.	01-31-94	G	517	N	F	11-01-93	10-31-03.
ST94-3848	Texas Eastern Transmission Corp.	Columbia Gas of Ohio, Inc.	01-31-94	G-S	30,594	N	F	01-01-94	03-31-94.
ST94-3849	Panhandle Eastern Pipe Line Co.	Catex Energy, Inc.	01-31-94	G-S	15,000	N	I	01-01-94	12-31-99.
ST94-3850	Panhandle Eastern Pipe Line Co.	Olympic Fuels Co.	01-31-94	G-S	10,000	N	I	01-01-94	12-31-98.
ST94-3851	Panhandle Eastern Pipe Line Co.	Mountain Iron & Supply Co.	01-31-94	G-S	1,000	N	F	01-01-94	12-31-94.
ST94-3852	Panhandle Eastern Pipe Line Co.	Coenergy Trading Co.	01-31-94	G-S	25,000	N	F	01-01-94	03-31-94.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94-3853	Panhandle Eastern Pipe Line Co.	Arkla Energy Marketing Co.	01-31-94	G-S	60,000	N	I	01-09-94	04-30-98.
ST94-3854	Panhandle Eastern Pipe Line Co.	East Ohio Gas Co.	01-31-94	G-S	25,000	N	I	01-08-94	02-28-94.
ST94-3855	Panhandle Eastern Pipe Line Co.	United Cities Gas Co.	01-31-94	G-S	2,550	N	F	11-01-93	03-31-94.
ST94-3856	Panhandle Eastern Pipe Line Co.	Seagull Marketing Services, Inc.	01-31-94	G-S	100,000	N	I	01-01-94	04-30-98.
ST94-3857	Texas Eastern Transmission Corp.	Gaslantic Corp ..	01-31-94	G-S	10,000	N	I	01-06-94	03-31-94.
ST94-3858	Iroquois Gas Trans. System, L.P.	Tenngasco Corp	01-31-94	G-S	576,000	Y	I	01-01-94	Indef.
ST94-3859	Iroquois Gas Trans. System, L.P.	Continental Energy Marekting, Inc.	01-31-94	G-S	6,753	N	I	01-01-94	02-01-94.
ST94-3860	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-31-94	G-S	19,000	N	F	12-01-93	12-01-95.
ST94-3861	Natural Gas P/L Co. of America.	Northern Illinois Gas Co.	01-31-94	G-S	30,897	N	F	12-01-93	12-01-95.
ST94-3862	Natural Gas P/L Co. of America.	Monarch Gas Co	01-31-94	G-S	5,000	N	F	12-01-93	01-31-94.
ST94-3863	Natural Gas P/L Co. of America.	Penford Products Co.	01-31-94	G-S	6,700	N	F	12-01-93	01-31-97.
ST94-3864	Natural Gas P/L Co. of America.	Iowa-Illinois Gas & Elect. Co.	01-31-94	G-S	96,900	N	F	12-01-93	11-30-95.
ST94-3865	Natural Gas P/L Co. of America.	North Candian Marketing.	01-31-94	G-S	1,000	N	F	12-01-93	12-31-93.
ST94-3866	Natural Gas P/L Co. of America.	Cenergy, Inc	01-31-94	G-S	1,000	N	F	12-01-93	11-30-93.
ST94-3867	Natural Gas P/L Co. of America.	Western Resources Co.	01-31-94	G-S	619	N	F	12-01-93	12-01-95.
ST94-3868	Natural Gas P/L Co. of America.	Union Pacific Fuels, Inc.	01-31-94	G-S	1,000	N	F	01-01-94	12-31-00.
ST94-3869	Natural Gas P/L Co. of America.	O & R Energy, Inc.	01-31-94	G-S	1,300	N	F	01-06-94	01-31-94.
ST94-3870	Natural Gas P/L Co. of America.	O & R Energy, Inc.	01-31-94	G-S	7,000	N	F	01-06-94	01-31-94.
ST94-3871	Channel Industries Gas Co.	Brooklyn Inter. Natrual Gas Corp.	01-31-94	G-I	50,000	N	I	01-01-94	Indef.
ST94-3872	Midcon Texas Pipeline Corp.	Natural Gas P/L Co. of America.	01-31-94	C	300,000	N	I	01-01-94	Indef.
ST94-3873	Florida Gas Transmission Co.	Transco Energy Marketing Co.	01-31-94	G-S	50,000	N	I	01-01-94	Indef.
ST94-3874	Florida Gas Transmission Co.	Peninsula Energy Services Co.	01-31-94	G-S	10,000	N	I	01-01-94	Indef.
ST94-3875	Florida Gas Transmission Co.	Louisiana Municipal Natural Gas.	01-31-94	G-S	5,000	N	I	01-12-94	Indef.
ST94-3876	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	01-31-94	C	375,000	N	I	01-01-94	Indef.
ST94-3877	Delhi Gas Pipeline Corp.	Transwestern Pipeline Co., et al.	01-31-94	C	250,000	N	I	01-01-94	Indef.
ST94-3878	Delhi Gas Pipeline Corp.	Arkla Energy Resources, et al.	01-31-94	C	350,000	N	I	01-01-94	Indef.
ST94-3879	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	01-31-94	C	50,000	N	I	01-01-94	Indef.
ST94-3880	Enogex Inc	Williams Natural Gas Co.	01-31-94	C	200,000	N	I	01-19-94	Indef.
ST94-3881	Tennessee Gas Pipeline Co.	Associated Natural Gas, Inc.	01-31-94	G-S	10,906	N	I	01-07-94	Indef.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST94–3882	Texas Gas Transmission Corp.	Chesapeake Energy Corp.	01–31–94	G–S	200,000	N	F	01–15–94	Indef.
ST94–3883	Texas Gas Transmission Corp.	Northwestern Mutural Life Insur. Co.	01–31–94	G–S	20,000	N	I	01–19–94	Indef.
ST94–3884	Texas Gas Transmission Corp.	Energy Development Corp.	01–31–94	G–S	15,000	N	I	01–26–94	Indef.
ST94–3885	Transcontinental Gas P/L Corp.	Brooklyn Union Gas Co.	01–31–94	G–S	2,510,000	N	I	01–21–94	Indef.
ST94–3886	Transcontinental Gas P/L Corp.	Washington Gas Light Co.	01–31–94	B	465,000	N	I	01–19–94	Indef.
ST94–3887	Transcontinental Gas P/L Corp.	City of Roanoke	01–31–94	G–S	727	N	F	01–18–94	01–17–94.
ST94–3888	Transcontinental Gas P/L Corp.	Mid Louisiana Marketing Co.	01–31–94	G–S	3,000,000	N	I	01–13–94	Indef.

[1] Notice of transaction does not constitute a determination that filings comply with commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).
[2] Estimated maximum daily volumes includes reported by the filing company in MMBTU, MCF and DT.
[3] Affiliation of Reporting Company to entities involved in the transaction. A "Y" indicates affiliation, and "A" indicates marketing affiliation, and a "N" indicates no affiliation.

[FR Doc. 94–7047 Filed 3–25–94; 8:45 am]
BILLING CODE 6717–01–P

[Docket No. CP94–270–000, et al.]

Transcontinental Gas Pipe Line Corp., et al.; Natural Gas Certificate Filings

March 21, 1994.

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Corporation

[Docket No. CP94–270–000]

Take notice that on March 7, 1994, Transcontinental Gas Pipe Line Corporation (TGPL), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP94–270–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an interruptible transportation service provided to Damson Oil Corporation (Damson) under TGPL's Rate Schedule X–260, all as more fully set forth in the application on file with the Commission and open to public inspection.

TGPL proposes to abandon an interruptible transportation service provided to Damson under TGPL's Rate Schedule X–260. It is stated that no service to any of its customers would be affected and no facilities would be abandoned.

Comment date: April 11, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Texas Eastern Transmission Corporation

[Docket No. CP94–281–000]

Take notice that on March 11, 1994, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP94–281–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add an existing delivery point to its service agreement with North Jersey Associates Limited Partnership (NJ), acting by and through its Managing Partner, Intercontinental Energy Corporation (IEC), under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Eastern states that the delivery point would provide additional flexibility of service to NJ. In addition, there would be no impact on its peak or annual deliveries or on any of its other customers.

Comment date: May 5, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. ANR Pipeline Company

[Docket No. CP94–290–000]

Take notice that on March 16, 1994, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP94–290–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon one of two 547-horsepower compressor units at the Southwest Cedardale Compressor Station located in Woodward County, Oklahoma, by relocating that compressor unit to the Quinlan Compressor Station, also in Woodward County, all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR states that the two 547-horsepower units certificated in 1975 provide compression in excess of future production levels in the area and the one remaining unit is sufficient to compress the volumes being delivered to the station. ANR also states that additional compression is needed at the Quinlan station.

Comment date: April 11, 1994, in accordance with Standard Paragraph F at the end of this notice.

4. ANR Storage Company

[Docket No. CP94–291–000]

Take notice that on March 16, 1994, ANR Storage Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP94–291–000 a request pursuant to Section 157.205 of the Commission's Regulations to increase the authorized maximum volume of natural gas to be stored in its northern Michigan storage fields, under ANR's blanket certificate issued in Docket No. CP82–523–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to change the maximum inventory level of the storage fields as follows:

Current	Proposed				
	Maximum depth Storage field (Ft, TVD)	Maximum inventory (MMcf)	Maximum reservoir pressure (psia)	Maximum Inventory (MMcf)	Maximum reservoir pressure (psia)
Rapid River 35	6,599	16,976	4,649	17,327	4,649
Cold Springs 12	6,699	27,227	4,642	28,884	4,642
Cold Springs 31	6,840	5,734	4,630	5,302	4,630
Excelsior 6/East Kalkaska 1	6,718	11,089	4,615	12,310	4,615
Maximum Inventory Totals	.....	61,026	.....	63,823	.....

ANR states that engineering evaluation and actual operational experience has indicated that the size of ANR's Cold Springs 12, Rapid River 35 and Excelsior 6/East Kalkaska fields are slightly larger than predicted when originally authorized. These increases are partially offset by the slightly smaller estimate for the Cold Springs 31 field, it is stated. ANR states that it does not propose to increase the maximum authorized reservoir pressure, construct any new facilities, or impact the storage services ANR currently provides its existing customers. ANR indicates that these changes in maximum inventory levels would conform to the actual operational characteristics of the fields and would provide ANR greater operational flexibility by allowing ANR to use the maximum storage capability, within allowable pressures, of each of its storage fields.

Comment date: May 5, 1994, in accordance with Standard Paragraph G at the end of this notice.

5. Riverside Gas Storage Company

Docket No. CP94–292–000

Take notice that on March 17, 1994, Riverside Gas Storage Company (Riverside), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP94–292–000 an application pursuant to section 7 of the Natural Gas Act, and part 157 and subpart G of part 284 of the Commission's Regulations for a certificate of public convenience and necessity to develop, construct, own and operate an underground gas storage field and related facilities in Greene and Fayette Counties, Pennsylvania and for a blanket certificate to render firm and interruptible storage services on a non-discriminatory open-access basis, all as more fully set forth in the application on file with the Commission and open to public inspection.

Riverside requests authorization to acquire, develop, own and operate an underground gas storage field and to provide a total of 3,100 MMcf annually of natural gas storage service. It is stated that the field will have a capacity of 5,100 MMcf of which 3,100 MMcf will represent working gas and 2,000 MMcf will represent cushion gas. It is further stated that Riverside will acquire or drill 21 injection/withdrawal wells, and install any necessary pipeline and compression facilities. In addition, it is stated that the Riverside storage field will be attached to the interstate pipeline system of Texas Eastern Transmission Corporation.

Riverside proposes to offer two firm storage services: 90-day withdrawal service under Rate Schedule 90SS and 30-day withdrawal service under Rate Schedule 30SS. Riverside states that these services will permit year-round injections and withdrawal of gas subject to the requirement that customers must inject 100 percent of contract entitlements on one occasion during the summer period of each year and must withdraw at least 75 percent of contract entitlements on one occasion during the winter period of each year.

Riverside proposes to operate under a part 284 blanket certificate, and in compliance with Order No. 636, Riverside's proposed FERC gas Tariff includes provisions regarding capacity release, and the right of first refusal for customers under expiring long-term contracts that wish to retain all or a portion of capacity rights.

In addition, Riverside proposes initial certificate rates for firm storage service which are based on a straight fixed variable classification with fixed costs being recovered through the deliverability and capacity charges and variable costs recovered through the injection and withdrawal charges. It is stated that Riverside will allocate 40 percent of fixed costs to the deliverability rate component and 60 percent of fixed costs to the space component of firm storage rates.

Riverside states that it will also offer interruptible storage service under Rate Schedule ISS–1. It is stated that the rates for interruptible storage service are designed on the 100 percent load factor derivation of the proposed firm storage rates. Riverside states that it will credit 90 percent of net interruptible revenues to firm storage customers.

It is stated that Riverside held an open season in July 1993. Riverside states that based on the expressed level of customer demand, Riverside proposes to offer 2.54 Bcf of base-load storage service under Rate Schedule 90SS, with an aggregate Maximum Daily Injection Quantity of 29,210 Dth and an aggregate Maximum Daily Withdrawal Quantity of 29,210 Dth, and to offer 560 MMcf of peak storage service under Rate Schedule 30SS, with an aggregate Maximum Daily Injection Quantity of 19,320 Dth and an aggregate Maximum Daily Withdrawal Quantity of 19,320 Dth.

Comment date: April 11, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7181 Filed 3–25–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. PR93–3–000]

Montana Power Co.; Notice of Staff Panel

March 22, 1994.

Take notice that a Staff Panel shall be convened in accordance with the Commission order[1] in the above-captioned docket to allow opportunity for written comments and for the oral presentation of views, data, and arguments regarding the fair and equitable rates to be established for system-wide transportation service under section 311 of the Natural Gas Policy Act of 1978 on Montana Power Company's system. The Staff Panel will not be a judicial or evidentiary-type hearing and there will be no cross-examination of persons presenting statements. Members participating on the Staff Panel before whom the presentations are made may ask questions. If time permits, Staff Panel members may also ask such relevant questions as are submitted to them by participants. Other procedural rules relating to the panel will be announced at the time the proceeding commences.

The Staff Panel will be held on Thursday, June 30, 1994, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

The parties also agreed to certain filing (in-hand) dates prior to the Staff Panel proceeding to assist the Panel in developing a record. Those dates are as follows:

April 29, 1994—Montana Power files written presentation
May 5, 1994—Intervenor discovery request
May 19, 1994—Montana Power response to discovery
June 2, 1994—Intervenor files written presentation
June 8, 1994—Montana Power discovery request
June 14, 1994—Intervenor response to discovery
June 28, 1994—Montana Power responsive presentation
June 30, 1994—Staff Panel

Attendance is open to all interested parties and staff. Any questions regarding these proceedings should be directed to Mark Hegerle at (202) 208–0927.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7180 Filed 3–25–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES94–17–001]

UtiliCorp United Inc.; Amended Application

March 22, 1994.

Take notice that on March 17, 1994, UtiliCorp United Inc. (UtiliCorp) filed an amendment to its February 28, 1994, application under section 204 of the Federal Power Act seeking authorization to issue up to $1.2 million of its Common Stock (approximately 40,000 shares) for the acquisition of a heating, ventilating and air conditioning company. By its amendment, UtiliCorp requests exemption from the Commission's negotiated placement regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 30, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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. 94–7179 Filed 3–25–94; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Salt Lake City Area Integrated Projects Electric Power Marketing Draft Environmental Impact Statement

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of availability and notice of public hearings.

SUMMARY: In 1980, the Western Area Power Administration (Western) began examining its marketing criteria for long-term capacity and energy sales from the Salt Lake City Area Integrated Projects (SLCA/IP) due to the impending expiration of existing long-term contracts in 1989. Western proceeded to develop the Post-1989 General Power Marketing Criteria and Allocation Criteria for the Salt Lake City Area, and completed an environmental assessment (EA) in late 1985. In response to controversy over the potential environmental effects of the proposed marketing criteria, Western announced in the **Federal Register** on April 4, 1990, its intent to prepare an environmental impact statement (EIS) on its power marketing and allocation criteria (55 FR 12550). Following extensive public involvement and analysis, Western's SLCA/IP Electric Power Marketing Draft EIS has been prepared and is now available for public review and comment.

Five public hearings will be held to discuss the alternatives presented in the draft SLCA/IP Electric Power Marketing EIS, and allow the public to ask

[1] See Montana Power Company, 62 FERC ¶ 61,289 (1993).

questions and provide formal comments for the record. A 90-day comment period will extend until June 29, 1994.

During the public hearings, written and oral statements will be accepted. A court reporter will record the proceedings. Persons, organizations, or agencies wishing to make oral statements will be asked to register at the door prior to the beginning of the hearing. Western will respond to comments in the final EIS. There will be an informal public information session before each hearing where the public can discuss aspects of the draft EIS with Western representatives at several information stations.

DATES AND ADDRESSES: The dates and locations of the hearings are listed below. All public information sessions begin at 6 p.m. All public hearings will begin an hour later at 7 p.m.

April 11: Denver West Marriott, 1717 Denver West Marriott Blvd., Denver, Colorado

April 12: Albuquerque Convention Center, 401 2nd Street NW., Albuquerque, New Mexico

April 18: Quality Inn City Center, 154 West 600 South, Salt Lake City, Utah

April 26: Best Western Woodland Plaza, 1175 West Route 66, Flagstaff, Arizona

April 27: YWCA of the USA, 9440 North 25th Avenue, Phoenix, Arizona

Copies of the draft EIS have been distributed to interested parties on the EIS mailing lists and to various reading rooms. Copies of the draft EIS, supporting documents, and referenced material are available for public review at the locations listed below:

Arizona

Flagstaff Public Library, Reference Desk, 300 West Aspen, Flagstaff, AZ 86001

Phoenix Public Library, Business/Science Department, 12 East McDowell, Phoenix, AZ 85004

Page Public Library, Reference Desk, 697 Vista, Page, AZ 86040

Colorado

Denver Public Library, Government Publications, 1357 Broadway, Denver, CO 80203

Montrose Public Library, Reference Desk, 343 South 1st Street, Montrose, CO 81401

New Mexico

University of New Mexico, Government Publications, Albuquerque, NM 87131–1466.

Utah

Salt Lake City Public Library, Reference Desk, 209 East 500 South, Salt Lake City, UT 84111

Uintah County Library, Reference Desk, 155 East Main Street, Vernal, UT 84078

In addition to Western's Salt Lake City Area Office, copies of the draft EIS and supporting documents are also available for public review at:

Western Area Power Administration, Loveland Area Office, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986

Western Area Power Administration, Headquarters Office, 1627 Cole Boulevard, Building 19, Room 175, Golden, CO 80401

Western Area Power Administration, Phoenix Area Office, 615 South 43rd Avenue, Phoenix, AZ 85009–5313

U.S. Department of Energy, Forrestal Building, Reading Room 1E–190, 1000 Independence Avenue SW., Washington, DC 20585

Copies of the draft EIS and supporting documents are available upon request from the address listed below.

FOR FURTHER INFORMATION CONTACT: Western maintains a mailing list of parties and persons interested in the SLCA/IP Electric Power Marketing EIS. If you are interested in being included on the mailing list, seek further information, wish to submit written comments, or want to request a copy of the draft EIS, please call or write: Mr. David Sabo, Manager, Environmental and Public Affairs, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, (801) 524–5493.

For general information on DOE's NEPA review procedures or status of a NEPA review, contact: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: In 1980, Western began examining its marketing criteria for long-term capacity and energy sales from the SLCA/IP. Existing long-term contracts were due to expire in 1989, and sufficient time was needed for customers to make other contractual arrangements based on their final allocations of SLCA/IP power. Western proceeded to develop the Post-1989 General Power Marketing Criteria and Allocation Criteria for the Salt Lake City Area, and completed an EA in late 1985. DOE approved a finding of no significant impact on January 8, 1986. In response to controversy over the potential environmental effects of the proposed marketing criteria, Western announced its intent to prepare an EIS on its power marketing and allocation criteria in the April 4, 1990, Federal Register (FR) (55 FR 12550).

Western's Salt Lake City Area Office markets electricity produced at hydroelectric facilities operated by the Bureau of Reclamation largely on the Upper Colorado River. The facilities are known collectively as the SLCA/IP and include dams equipped for power generation on the Green, Gunnison, Rio Grande, and Colorado Rivers. These facilities are located in the States of Arizona, Colorado, New Mexico, Utah, and Wyoming. Of these facilities, only the Glen Canyon Unit, the Flaming Gorge Unit, and the Aspinall Unit (which includes Blue Mesa, Morrow Point, and Crystal Dams) are currently influenced by Western power marketing and transmission decisions. The operation of these facilities and their potential environmental impacts are analyzed in the draft EIS. Up to nine hydropower operational scenarios were developed for each generation facility to assess the range of possible operational impacts.

Western developed seven EIS alternatives, called commitment level alternatives, which reflect the range of combinations of capacity and energy which would feasibly and reasonably fulfill Western's firm power marketing responsibilities, needs, and statutory obligations. Operational scenarios at each facility were combined to form various SLCA/IP supply options, which were in turn paired with the commitment level alternatives in order to conduct air quality, economic, and financial analyses. The draft EIS evaluates the potential impacts of these alternatives, including no action, no socioeconomics, air resources, water resources, ecological resources, cultural resources, land use, recreation, and visual resources.

Western is actively seeking public input on the draft EIS in order to make a decision on a preferred alternatives. No preferred alternative is identified in the draft EIS for this reason. A decision on a preferred alternative will be made after considering comments on the draft EIS, and that alternative will be identified in the final EIS.

Issued at Washington, DC, March 23, 1994.

Joel K. Bladow,

Assistant Administrator for Washington Liaison.

[FR Doc. 94–7266 Filed 3–24–94; 11:13 am]

BILLING CODE 6450–01–P–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

March 21, 1994.

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 contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0480.

Title: Application for Earth Station Authorization or Modification of Station License.

Form Number: FCC Form 493.

Action: Revision of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 2,500 responses; 24 hours average burden per response; 60,000 hours total annual burden.

Needs and Uses: FCC Form 493 is a multipurpose application form used to request Commission authorization for new or modified radio station facilities under Part 25. The form is used for a number of satellite services governed by Part 25 covering several classes of stations. Part 25 services include Domestic Fixed-Satellite Service; International Fixed-Satellite Service; Radiodetermination-Satellite Service; and Mobile Satellite Service. FCC Form 493 is used to apply for a license to construct and/or operate a transmit/receive earth station, a transmit-only earth station; to register a domestic receive-only earth station; to license an international receive only earth station; or to modify a granted license or registration. On 10/21/93, the Commission adopted a Report and Order establishing rules to govern the licensing and regulation of non-voice non-geostationary mobile-satellite service systems (NVNG MSS). Applicants will use FCC Form 493 to apply for approval for transceivers in the NVNG MSS. Several questions on the form require applicants to submit further information in the form of exhibits. Applicants are advised to refer to 47 CFR Part 25 before completing the form to determine whether other showings are necessary in addition to that specified in the form. FCC Form 493 will be used by FCC staff to determine the applicant's eligibility to operate earth station facilities and to receive requested modifications to earth station facilities. The agency would not be able to determine the applicant's eligibility for acquiring an authorization without this information.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–7143 Filed 3–25–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–009548–047.

Title: United States Atlantic & Gulf Ports/Eastern Mediterranean & North African Freight Conference.

Parties:

Farrell Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Waterman Steamship Corporation

Synopsis: The proposed amendment modifies the geographic scope of the Agreement to include ports and inland points in Romania.

Agreement No.: 207–011436–001.

Title: Hornet Shipping Company Limited/Lauritzen Reefers A/S Joint Service Agreement.

Parties:

Hornet Shipping Company Limited
Lauritzen Reefers A/S.
Pacific Shipping Limited

Synopsis: The proposed amendment modifies the geographic scope of the Agreement to include the southbound trade from the United States West Coast to ports and points in Peru. The parties have requested a shortened review period.

Agreement No.: 224–002758–013.

Title: Port of Oakland/American President Lines, Inc. Terminal Agreement.

Parties:

Port of Oakland
American President Lines, Inc.

Synopsis: The proposed amendment amends the Agreement to provide for a reduced tariff wharfage rate of 80 percent of the full tariff rate to be assessed to Philippines, Micronesia & Orient Lines for shipments of tropical fruit, N.O.S. destined for Overland Common Points.

Agreement No.: 224–200853.

Title: Port of New York & New Jersey/Gulf & Atlantic Maritime Services, Inc. Incentive Agreement.

Parties:

Port of New York & New Jersey ("Port")
Gulf & Atlantic Maritime Services, Inc. ("Gulf & Atlantic")

Synopsis: The Agreement provides for the Port to pay Gulf & Atlantic a container incentive of $20.00 for each import container and $30.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1994, provided each container is shipped by rail to or from points more than 260 miles from the Port.

Dated: March 22, 1994.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94–7188 Filed 3–25–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

CBT Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or

control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 11, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CBT Corporation, Paducah, Kentucky, to acquire United Commonwealth Bank, FSB, Murray, Kentucky, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 22, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-7210 Filed 3-25-94; 8:45 am]

BILLING CODE 6210-01-F

Prescott Bancshares, Inc.,; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 22, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Prescott Bancshares, Inc., Prescott, Arkansas, to become a bank holding company by acquiring 100 percent of the voting shares of First State Holding Company of Prescott, Prescott, Arkansas, and thereby indirectly acquire Bank of Prescott, Prescott, Arkansas.

Board of Governors of the Federal Reserve System, March 22, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-7212 Filed 3-25-94; 8:45 am]

BILLING CODE 6210-01-F

Union Bank of Switzerland; Notice of Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 18, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Union Bank of Switzerland, Zurich, Switzerland, to engage *de novo* through its subsidiary UBS Asset Management (New York) Inc., in community development activities through UBS Community Development Corporation pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 22, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-7211 Filed 3-25-94; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

Business Advisory Board

Meeting Notice: Notice is hereby given that the General Services Administration (GSA) Business Advisory Board meeting has been rescheduled from April 1 to April 8, 1994, from 8 a.m. to 4 p.m. at the General Services Administration Building at 18th and F Streets, room 5141A, Washington, DC 20405. Notice is required by the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the implementing regulation, 41 CFR 101–6.

The purpose of this meeting is to provide a forum to discuss the development of asset management principles that will guide the management of GSA's real property portfolio. The agenda for this meeting

will include discussions on and recommendations of asset management principles to guide GSA's ownership enterprise.

The meeting will be open to the public.

For further information, contact Deborah Schilling (202) 501–9192 of the Public Buildings Service, Real Estate Reinvention Task Force, GSA, Washington, DC 20405.

Dated: March 21, 1994.

David L. Bibb,

Deputy Commissioner, Public Buildings Service.

[FR Doc. 94–7176 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Workshop on the Role of Biomarkers in Field Studies of Environmentally-Associated Cancers; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) in association with the University of South Florida, College of Public Health, announces the following meeting.

Name: The Role of Biomarkers in Field Studies of Environmentally-Associated Cancers.

Times and Dates: 8 a.m.–5:45 p.m., May 10, 1994. 8 a.m.–4:30 p.m., May 11, 1994.

Place: Days Hotel at Lenox, 3377 Peachtree Road, NE, Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This workshop is to assist ATSDR in developing standardized batteries of biomarkers which complement available clinical tests to identify cancers (of selected anatomic sites) and associated premalignant conditions, in environmental health field studies.

Matters To Be Considered: Participants will be divided into the following three work groups:

Work group 1: Cancers of Childhood.
Work group 2: Cancers among Adults of Reproductive Age.
Work group 3: Cancers among Older Adults.

Each work group will prioritize and group anatomic sites for purposes of discussion. The following three topics will be discussed:

(1) Currently-available biomarkers and other clinical tests to identify cancers and associated premalignant conditions.

(2) Study design considerations for environmental health field studies:

a. Population size and characteristics.

b. Baseline "core" information (confounders).

c. Time factors (cross-sectional, real time, latency).

d. Disease-free persons who later are affected.

(3) Long-term research issues.

a. Periodicity of reexaminations.

b. Specimen banking.

c. Analyses performed with new tests at a later date.

d. Ethics of consent, disclosure, interpretation.

Contact Person for More Information: Joyce Smith, Division of Health Studies, ATSDR (MS E31), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639–6200.

Dated: March 22, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 94–7193 Filed 3–25–94; 8:45 am]

BILLING CODE 4163–70–M

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research.

Times and Dates: 8:30 a.m.–5 p.m., April 14, 1994. 8:30 a.m.–12 noon, April 15, 1994.

Place: Sheraton Suites Hotel, 801 North St. Asaph Street, Alexandria, Virginia 22314.

Status: One to the pubic, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with providing advice and recommendations to the Secretary of Health and Human Services (HHS); the Assistant Secretary for Health; the Director, CDC; and the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), on the establishment of a research agenda and the conduct of a research program pertaining to energy-related analytic epidemiologic studies. The committee will take into consideration information and proposals provided by the Department of Energy (DOE), the Advisory Committee for Environment Safety and Health which was established by DOE under the guidelines of a Memorandum of Understanding between HHS and DOE, and other agencies and organizations, regarding the direction HHS should take in establishing the research agenda and in the development of a research plan.

Matters To Be Discussed: The National Center for Environmental Health (NCEH) will make presentations on additions to their research agenda and progress of current studies. Additional agenda items will include: public involvement activities, the National Institute for Occupational Safety and Health activities, and ATSDR updates.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway NE., (F–35), Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: March 22, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control Prevention (CDC).

[FR Doc. 94–7200 Filed 3–25–94; 8:45 am]

BILLING CODE 4163–18–M

Lead and Arsenic Speciation; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Lead and Arsenic Speciation.

Time and Date: 1 p.m.–3 p.m., April 14, 1994.

Place: Alice Hamilton Laboratory, Conference Room C, NIOSH, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available.

Purpose: The purpose is to conduct an open meeting for a peer review of a NIOSH project entitled "Lead and Arsenic Speciation." This project concerns a laboratory investigation to separate and quantify inorganic lead and arsenic by species. Viewpoints and suggestions from industry, labor, academic, other government agencies, and the public are invited.

CONTACT PERSON FOR ADDITIONAL INFORMATION:
G. Edward Burroughs, NIOSH, CDC, 4676 Columbia Parkway, Mailstop R7, Cincinnati, Ohio 45226, telephone 513/841–4275.

Dated: March 21, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–7192 Filed 3–25–94; 8:45 am]

BILLING CODE 4163–19–M

Food and Drug Administration

[Docket No. 94N–0107]

Chelsea Laboratories, Inc.; Withdrawal of Approval of 26 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 26 abbreviated new drug applications (ANDA's) held by Chelsea Laboratories, Inc., 896 Orlando Ave., West Hempstead, NY 11552 (Chelsea).

Chelsea notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: April 27, 1994.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: Chelsea informed FDA that the drugs listed in the table in this document are no longer marketed and requested that FDA withdraw approval of the applications. Chelsea has also, by its request, waived its opportunity for a hearing.

ANDA no.	Drug
70–000	Sulfamethoxazole and Trimethoprim Tablets, U.S.P, 800 milligrams (mg)/160 mg
70–002	Sulfamethoxazole and Trimethoprim Tablets, U.S.P, 400 mg/80 mg
71–603	Clofibrate Capsules, U.S.P., 500 mg
71–635	Indomethacin Capsules, 50 mg
85–167	Procainamide Hydrochloride Capsules, U.S.P., 250 mg
85–815	Amitriptyline Hydrochloride Tablets, 50 mg
85–816	Amitriptyline Hydrochloride Tablets, 10 mg
85–817	Amitriptyline Hydrochloride Tablets, 25 mg
85–819	Amitriptyline Hydrochloride Tablets, 75 mg
85–820	Amitriptyline Hydrochloride Tablets, 100 mg
86–150	Probenecid Tablets, 500 mg
86–151	Phenylbutazone Tablets, U.S.P., 100 mg
86–161	Methylprednisolone Tablets, 4 mg
86–237	Butalbital, Aspirin, and Caffeine Tablets, U.S.P., 50 mg/325 mg/40 mg
86–705	Hydroxyzine Pamoate Capsules, U.S.P., 50 mg
86–827	Hydroxyzine Hydrochloride Tablets, U.S.P., 10 mg
86–829	Hydroxyzine Hydrochloride Tablets, U.S.P., 25 mg
86–836	Hydroxyzine Hydrochloride Tablets, U.S.P., 50 mg
86–840	Hydroxyzine Pamoate Capsules, U.S.P., 25 mg
86–865	Chlorpropamide Tablets, 100 mg
87–020	Procainamide Hydrochloride Capsules, U.S.P., 375 mg
87–021	Procainamide Hydrochloride Capsules, U.S.P., 500 mg
87–078	Spironolactone Tablets, 25 mg
87–082	Chlorthalidone Tablets, 50 mg
87–756	Phenylbutazone Capsules, U.S.P., 100 mg
87–785	Quinidine Gluconate Sustained Release Tablets, U.S.P., 324 mg

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective April 27, 1994.

Dated: March 14, 1994.

Roger Williams,

Acting Director, Center for Drug Evaluation and Research.

[FR Doc. 94–7203 Filed 3–25–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Cancer Institute; Meeting President's Cancer Panel

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, April 7–8, 1994 at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20892.

This meeting will be open to the public on April 7–8, 1994 from 8 am to approximately 5 pm. The topic will be Avoidable Causes of Cancer. Attendance by the pubic will be limited to space available.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Nora Winfrey, (301/496–1148), in advance of the meeting.

Dr. Maureen O. Wilson, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, room 4B43, National Institutes of Health, Bethesda, Maryland 20892 (301/496–1148) will provide a roster of the Panel members and substantive program information upon request.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

Dated: March 22, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–7175 Filed 3–25–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), April 27–29, 1994, National Institutes of Health, Building 5, room 127, Bethesda, Maryland 20892. This meeting will be open to the public on April 27 from 7 p.m. to 9:30 p.m. and April 28 from 9 a.m. to 12 noon and 2 p.m. to 5 p.m. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on April 27 from 9:30 p.m. to 10:30 p.m.; April 28 from 12 noon to 2 p.m. and 5 p.m. to 6 p.m. and on April 29 from 9 a.m. to adjournment for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigations, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, room 9A19, Bethesda, Maryland 20892. For any further information, and for individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, please contact Dr. Allen Spiegel, Scientific Review Administrator, Board of Scientific Counselors, National Institutes of Health, Building 10, room 9N–222, Bethesda, Maryland 20892, (301) 496–4128, two weeks prior to the meeting date.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: March 19, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–7169 Filed 3–25–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the Board of Scientific Counselors, NIDCD

Pursuant to Public Law 92–463, notice is hereby given of the meeting of

the Board of Scientific Counselors, NIDCD, April 21, 1994. The meeting will be conducted as a telephone conference call originating from Building 31C, room 3C05, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

The meeting will open to the public from 1 p.m. to 2:45 p.m. to present reports and discuss issues related to business of the Board. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public from 2:45 p.m. until adjournment at approximately 3 p.m. The closed portion of the meeting will be for the review, discussion, and evaluation of the programs of the Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from Jay Moskowitz, Ph.D., Executive Secretary of the Board of Scientific Counselors, NIDCD, Building 31, room 3C02, Bethesda, Maryland 20892.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Moskowitz at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: March 19, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–7171 Filed 3–25–94; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Extramural Science Advisory Board, National Institute on Drug Abuse on April 18–19, from 9 a.m. to 5 p.m. at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The Extramural Science Advisory Board will discuss NIDA's program areas and extramural programs. This meeting will be open to the public on the dates indicated above; however, attendance by the public will be limited to space available.

A summary of the meeting and a roster of committee members may be obtained from Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443–2755).

Substantive program information may be obtained from Ms. Jacqueline P. Downing, room 10A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301/443–1056).

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

Dated: March 22, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–7174 Filed 3–25–94; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health, National Library of Medicine; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Library of Medicine, on May 12 and May 13, 1994, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to 12:45 p.m. and from 1:45 to 4:45 p.m. on May 12 and from 8:30 a.m. to approximately 12 noon on May 13 for the review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jackie Duley at 301–496–4441 in advance of the meeting.

In accordance with provisions set forth in sec. 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on May 12, from approximately 12:45 p.m. to 1:45 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Daniel R. Masys, Director, Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496–4441, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: March 19, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–7170 Filed 3–25–94; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Supplemental Awards to Current Community Partnership Demonstration Program Grantees

AGENCY: Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Availability of Supplemental Funds for Currently Funded Grantees in the Center for Substance Abuse Prevention's (CSAP) Community Partnership Demonstration Grant Program.

SUMMARY: This notice informs the public that CSAP is making available approximately $600,000 in Fiscal Year 1994 for approximately 12 supplemental awards to existing grantees in its Community Partnership Program (CPP). The supplemental funding is intended to permit currently-funded CPP grantees to build an ongoing communication-centered activity on their existing infrastructure to further the accomplishment of their project's alcohol, tobacco, and other drug prevention goals.

Only currently funded CPP grantees are eligible to apply for supplemental funding. Eligibility is restricted because the limited funds available can be used most effectively to demonstrate communications-centered approaches by creating optimal conditions for success in the existing partnerships, where the necessary infrastructure and organizational capacity to develop such approaches are already in place. The existing Community Partnerships have exhibited interest in and the need for communications components to supplement their existing array of strategies, and many have participated in relevant training offered by CSAP and other organizations. This restriction thus will allow more thorough demonstrations of the effects of communication-centered approaches by linking them to existing partnerships, their needs assessments and evaluation

measures, rather than starting such projects from the beginning.

To apply for a supplemental award, a CPP grantee must have a minimum of one full project year remaining in the current grant as of September 30, 1994. Awards will be limited to one year and can not exceed a total of $50,000 in direct and indirect costs. The receipt date for applications is April 29, 1994. The application receipt and review and the award process will be handled in an expedited manner. Applications will be reviewed for merit by a panel of expert Federal and non-Federal reviewers, and supplements will be awarded on the basis of merit and availability of funds no later than September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. David Robbins at (301) 443–9438 (Community Prevention and Demonstration Branch, Division of Community Prevention and Training) or Ms. Joan White Quinlan at (301) 443–9936 (Public Education Branch, Division of Public Education and Dissemination), CSAP, Rockwall II, 5600 Fishers Lane, Rockville, MD 20857.

Authority: Awards will be made under the authority of sections 501(d)(5) and 515(b)(3) and (9) of the Public Health Service Act, as amended.

The Catalog of Federal Domestic Assistance (CFDA) number for the CPP is 93.194.

Dated: March 22, 1994.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 94–7204 Filed 3–25–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for a Permit To Allow Incidental Take of the Endangered Stephens' Kangaroo Rat by Pacific Gateway Homes Ltd., in the City of Corona, Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The notice advises the public that Pacific Gateway Homes, Ltd., Partners (Applicant) 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 of 1973, as amended (Act). The application has been assigned permit number PRT–787915. The requested permit would authorize the incidental take of the endangered Stephens' kangaroo rat (*Dipodomys stephensi*) in the city of Corona, Riverside County, California. The proposed incidental take would occur as a result of clearing, grading, and construction activities in Stephens' kangaroo rat habitat for a single-family home subdivision, Tentative Tract Map 27796.

The Service also announces the availability of an Environmental Assessment (EA) for the proposed issuance of the incidental take permit. 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 and EA should be received on or before April 27, 1994.

ADDRESSES: Comments regarding the application or adequacy of the EA should be addressed to Mr. Gail Kobetich, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Field Office, 2740 Loker Avenue West, Carlsbad, California 92008. Please refer to permit No. PRT–787915 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. John Bradley, U.S. Fish and Wildlife Service, Carlsbad Field Office, 2740 Loker Avenue West, Carlsbad, California 92008 (619–431–9440). Individuals wishing copies of the application or EA for review should immediately contact the above individual.

SUPPLEMENTARY INFORMATION:

Background

Under section 9 of the Act, "taking" of Stephens' kangaroo rats, an endangered species, is prohibited. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are in 50 CFR 17.22.

The Applicant proposes to implement a Habitat Conservation Plan (HCP) for the Stephens' kangaroo rat that will allow clearing, grading, and construction of a single-family home subdivision, Tentative Tract Map 27796, in the city of Corona, Riverside County, California. The permit would authorize the destruction of up to 26.6 acres of occupied Stephens' kangaroo rat habitat, which is estimated to included 60 to 220 Stephens' kangaroo rats. The permit would be in effect for 24 months. The application includes an HCP and Implementation Agreement.

The Applicant proposes to mitigate for the incidental take prior to site disturbance by: (1) Acquiring 26.6 acres of occupied Stephens' kangaroo rat habitat within a Stephens' kangaroo rat Study Area administered by the Riverside County Habitat Conservation Agency (RCHCA) to be managed in perpetuity to benefit the Stephens' kangaroo rat; (2) implementing this requirement by payment of $232,750 to the RCHCA for the habitat acquisition; (3) paying $23,275 to the RCHCA for the long-term management of the acquired habitat; and (4) providing evidence conforming acquisition of the habitat within 180 days of payment of the mitigation fee.

The EA considers the environmental consequences of six alternatives, including the proposed action and no-action alternatives. The proposed action is the issuance of a permit under section 10(a) of the Act that would authorize removal of 26.6 acres of Stephens' kangaroo rat habitat during development of the subdivision. The proposed action would result in minimizing incidental take by limitations on and monitoring of proposed construction activities. Mitigation under the proposed action would enhance Stephens' kangaroo rat conservation by the acquisition and management of 26.6 acres of habitat to be managed for the Stephens' kangaroo rat. Under the no-action alternative, the project would not occur and the permit would not be issued. The present habitat fragmentation and isolation due to off-road vehicle use, surrounding development, and other on-site disturbances would remain under the no-action alternative, and the Stephens' kangaroo rat population on the site likely would disappear in time. In addition, proposed funding for acquisition of habitat within the RCHCA reserve areas would not be available. The third alternative is to completely avoid occupied habitat on the project site. A fourth alternative is to redesign the project to reduce the amount of direct take on the site. A fifth alternative is to trap and relocate Stephens' kangaroo rats as a means of avoiding the killing or serious injury of the animals. The sixth alternative is to obtain a take allocation from the city of Corona as a co-permittee to the existing RCHCA 10(a) incidental take permit and HCP.

Dated: March 22, 1994.

Don Weathers,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 94–7194 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf Gas and Oil Lease Sales

AGENCY: Minerals Management Service, Interior

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf gas and oil lease sales to be held during the bidding period from May 1, 1994, through October 31, 1994. The list of Restricted Joint Bidders published October 8, 1993, the **Federal Register** at 58 FR 52505 covered the period of November 1, 1993, through April 30, 1994.

Group I. Chevron Corporation Chevron U.S.A. Inc.

Group II. Exxon Corp.; Exxon San Joaquin Production Co.

Group III. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil and Gas Inc.; Shell Onshore Ventures Inc.

Group IV. Mobil Oil Corp.; Mobil Oil; Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group V. BP American Inc.; The Standard Oil Co.; BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.

Dated: March 22, 1994.

Tom Fry,

Director, Minerals Management Service.

[FR Doc. 94-7178 Filed 3-25-94; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-645 (Final)]

Certain Calcium Aluminate Flux From France

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of the remaining portion of final antidumping investigation No. 731-TA-645 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France of certain calcium aluminate flux, provided for in subheading 2523.10.00 of the Harmonized Tariff Schedule of the United States. For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: March 23, 1994.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-205-3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative final determination by the Department of Commerce that imports of certain calcium aluminate flux from France are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 31, 1993, by Lehigh Portland Cement Company, Allentown, PA.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation has already been prepared, and a public version was issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing on CA flux in connection with its hearing on the other section of the CA cement/CAC clinker investigation beginning at 9:30 a.m. on March 31, 1994, at the U.S. International Trade Commission Building. The Commission, by a unanimously vote, has determined that the 7-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1), and (d)(2), as amended (19 C.F.R. 201.35(a), (c)(1), and (d)(2), as amended.). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 29, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 24, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony in camera.

Written Submissions

Each party is encouraged to submit a prehearing brief on CA flux to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is March 29, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must

conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is April 7, 1994; witness testimony must be filed no later than two (2) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 7, 1994. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI 4 service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: March 23, 1994.

Donna R. Koehnke

Secretary

[FR Doc. 94-7274 Filed 3-25-94; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 25, 1994, Mallinckrodt Specialty Chemicals Company, Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 27, 1994.

Dated: March 18, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94-7167 Filed 3-25-94; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 11, 1994, Sigma Chemical Company, 3500 DeKalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Methyl-2, 5-dimethoxyamphetamine (7395).	I
2, 5-Dimethoxyamphetamine (7396).	I
3, 4-Methylenedioxyamphetamine (7400).	I
3, 4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexyl]piperdine (7470).	I
Etorphine (except HCl) (9056)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
1-Methyl4phenyl-4-propionoxypiperidine (9661).	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Beta-hydroxyfentanyl (9830)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Fenethylline (1503)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at

the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 27, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 18, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–7168 Filed 3–25–94; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4) and (6) of section 552b of Title 5, United States Code.

1. *Date*: April 25–26, 1994.
   Time: 9 a.m. to 5:30 p.m.
   Room: 430.
   Program: This meeting will review applications submitted to Public Humanities Projects programs during the March 1994 deadline, submitted to the Division of Public Programs, for projects beginning after June 1, 1994.
2. *Date*: April 28–29, 1994.
   Time: 9 a.m. to 5:30 p.m.
   Room: 430.
   Program: This meeting will review applications submitted to Public Humanities Projects program during the March 1994 deadline, submitted to the Division of Public Programs, for projects beginning after June 1, 1994.

David Fisher,

Advisory Committee Management Officer.

[FR Doc. 94–7177 Filed 3–25–94; 8:45 am]

BILLING CODE 7536–01–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 of 1980 (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 40—Domestic Licensing of Source Material.
   NRC Form 244—Registration Certificate—Use of Depleted Uranium Under General License.
   NRC Form 484—Sample Format for Reporting Detection Monitoring Data.
3. *The form number if applicable:* NRC Forms 224 and 484.
4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Renewal applications are submitted every five years. NRC Form 244 is submitted when depleted uranium is received or transferred under general license. NRC Form 484 is submitted to report ground-water monitoring data necessary to implement EPA ground-water standards.
5. *Who will be required or asked to report:*
   10 CFR part 40: Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source and byproduct material.
   NRC Form 244: Persons receiving, possessing, using, or transferring depleted uranium under the general license established in 10 CFR 40.25(a).
   NRC Form 484: Uranium recovery facility licensees reporting ground-water monitoring data pursuant to 10 CFR 40.65.
6. *An estimate of the number of annual response:*
   10 CFR part 40: 577.
   NRC Form 244: 40.
   NRC Form 484: Included in 10 CFR part 40, above.
7. *An estimate of the total number of hours needed annually to complete the requirement or request:*
   10 CFR part 40: 19,645 (Approximately 12.6 hours per response for applications and reports plus approximately 73.2 hours annually per recordkeeper).
   NRC Form 244: 40 (an average of one hour per response).
   NRC Form 484: Included in 10 CFR part 40, above.
8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Not applicable.

9. *Abstract:* 10 CFR part 40 establishes requirements for licenses for the receipt, possession, use, and transfer of radioactive source and byproduct material. NRC Form 244 is used to report receipt and transfer of depleted uranium under general license, as required by 10 CFR part 40. NRC Form 484 is used to report certain ground-water monitoring data required by 10 CFR part 40 for uranium recovery licensees. The information is used by NRC to make licensing and other regulatory determinations concerning the use of radioactive source and byproduct material. The revision reflects an increase in burden primarily because of the addition of burden estimates for decommissioning financial assurance provisions and emergency plans. There is a revised estimate of the number of labelings or markings of industrial products or devices containing depleted uranium under § 40.35(b). There is a small increase in the burden estimate for Form 244 because a greater number of the forms are now being received from 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:

Troy Hillier, Office of Information and Regulatory Affairs (3150–0020 and 3150–0031), 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 18th day of March, 1994.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 94–7207 Filed 3–25–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket 70–36]

Environmental Statements; Availability, etc.: Combustion Engineering, Inc.

The U.S. Nuclear Regulatory Commission is considering the renewal of Special Nuclear Material License SNM–33 for the continued operation of the Combustion Engineering, Inc. (CE), Hematite Nuclear Fuel Manufacturing Facility, for 10 years.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is the renewal of License SNM–33, allowing CE to continue manufacturing low-enriched nuclear fuel for 10 years. The current license authorizes CE to receive, possess, use, and transfer special nuclear material in accordance with 10 CFR part 70 and source material in accordance with 10 CFR part 40. This license also allows CE to delivery radioactive material to a carrier for transportation in accordance with 10 CFR part 71. CE produces low-enriched (≤5 percent U–235) ceramic nuclear fuel for light-water cooled reactors.

The Need for the Proposed Action

The proposed action is needed for CE to continue to produce low-enriched nuclear fuel pellets which will ultimately be used by commercial nuclear power plants to produce electricity. Since CE is one of only a few facilities that manufacture nuclear fuel in this country, there remains a need for the fuel by the nuclear power industry.

Environmental Impacts of the Proposed Action

Airborne effluents from process areas and process equipment involving uranium in a dispersible form are subject to air filtering, prior to release to the atmosphere. Effluents from the process areas are continuously collected on a particulate filter and are analyzed for gross alpha activity. The monitoring data for 1982 through September 1993 demonstrates that the levels of gross alpha activity released from the site do not exceed the limits specified in 10 CFR part 20, Appendix B, Table II, Column 1.

There are no planned releases of radioactive liquid wastes from routine production processes. Liquids with low-uranium content, such as mop water, cleanup water, and grinder coolant water, are collected and then evaporated to recover the uranium. Liquids with higher uranium content are processed to recover the uranium, usually by precipitation and filtration. Process filtrates, including wet recovery system filtrate and spent scrubber solutions, are routed to a calibrated tank, mixed, sampled, and the filtrates are then evaporated, solidified with concrete, and packaged for shipment to a licensed burial site.

A potential source of radioactive liquid waste is from the laundry, sink and shower areas, and the chemistry laboratory. The laundry water is filtered and sampled prior to discharge to the sanitary sewer system. The water from change room sinks and showers is also discharged through the sanitary waste system. Effluents from the sanitary waste system enter the site creek immediately below the site pond dam. A grab sample of the water is taken each week and analyzed for gross alpha and beta activities. The chemistry laboratory discharges to the storm drain system. While analytical residues are recycled to recover the uranium and therefore do not contribute to the effluents, when the laboratory glassware is cleaned, small amounts of liquids wash down the sinks and are discharged to the storm drain system. The storm drain system discharges into the site pond which overflows to form the site creek. The overflow is sampled weekly and analyzed for gross alpha and beta.

Liquid effluent sample data for 1982 through September 1993 was reviewed and indicates that the results are a small fraction of the values set forth in 10 CFR part 20, Appendix B, Table II, Column 2.

CE conducts an environmental sampling program to determine if site operations are impacting the environment. Air, soil, vegetation, surface water, and ground water samples are collected from various locations on or near the plant site. Review of the data for 1982 through September 1993 indicates there is no significant impact to the environment from manufacturing operations.

A dose assessment was performed to evaluate the impact from site operations to the maximally exposed individual who would be the nearest resident. The maximally exposed individual is located 950 feet (290 m), west-northwest of the plant site. The effective whole body dose for the maximally exposed individual is 3.31E–02 mrem/year. The critical organ for this exposure would be the lungs, with a dose of 1.90E–01 mrem/year. The annual dose received by the nearest resident is below the federal dose limits set forth in 10 CFR part 20 and 40 CFR part 190, 500 mrem/year and 25 mrem/year, respectively.

Conclusion

Liquid and airborne effluents released to the environment are well below all regulatory limits. Results of the environmental monitoring program have shown that environmental radiation levels are not increasing as a result of site operations. The total whole body dose received by the maximally exposed individual from site operations is well below federal limits. Therefore, the staff concludes that the impact to the environment and to human health and

safety from manufacturing nuclear fuel at this site has been minimal.

Alternatives to the Proposed Action

The alternative to the proposed action would be to deny the license renewal. Not renewing the operating license would cause CE to cease operations and begin decontamination and decommissioning activities at the site. While terminating licensed activities at CE may create a minimal positive effect on the immediate environment, the socioeconomic impact of denying the license would adversely affect the area because CE is one of the largest employers in the area. This alternative would be considered if there were public health and safety issues that could not be resolved to the satisfaction of the NRC.

Agencies and Persons Consulted

Staff utilized the application dated November 22, 1989, and additional information dated October 11, and December 16, 1991, and December 10, 1993. Staff toured the CE facility on August 18 and 19, 1990. The region III inspector and CE staff were consulted in preparing this document. The staff also contacted personnel from the State of Missouri, Department of Natural Resources, Air Pollution Control Program.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License SNM–33. On the basis of the assessment, the Commission has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC, and the Local Public Document Room located at the Jefferson College Library, 1000 Viking Drive, Hillsboro, MO.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this renewal may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the Federal Register, be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852), and on the licensee (Combustion Engineering, Inc., P.O. Box 107, Hematite, Missouri, 63047); and must comply with the requirements for requesting a hearing set forth in the Commission's regulation, 10 CFR part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the requestor must address in detail, are:

1. The interest of the requestor in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;
3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 17th day of March 1994.

Robert C. Pierson,

Chief, Licensing Branch, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 94–7209 Filed 3–25–94; 8:45 am]

BILLING CODE 7590–01–M

Supplement 6 to Generic Letter 89–10; Issued

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Supplement 6 to Generic Letter 89–10, "Information on Schedule and Grouping, and Staff Responses to Additional Public Questions." This generic letter supplement is available in the Public Document Rooms under accession number 9402280155. The resolution of public comments received on this generic letter supplement is discussed in a memorandum to the Chairman of the Committee to Review Generic Requirements which is also available in the Public Document Rooms under accession number 9403110179. This generic letter supplement is also discussed in Commission information paper SECY–93–041 which is also available in the Public Document Rooms under accession number 9403100037.

DATES: The generic letter supplement was issued on March 8, 1994.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Thomas G. Scarbrough—(301) 504–2794.

SUPPLEMENTARY INFORMATION: None.

Dated at Rockville, Maryland, this 21st day of March 1994.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Acting Chief, Generic Communications Branch, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 94–7206 Filed 3–25–94; 8:45 am]

BILLING CODE 7590–01–M

[EA 93–236]

Order Requiring the Removal of An Individual From NRC-Licensed or Regulated Activities and Order Directing Review of Personnel Security Files (Effective Immediately)

In the matter of: Nuclear Support Services, Inc. Hershey, PA.

I

Nuclear Support Services, Inc. (NSSI) of Hershey, Pennsylvania, provides health physics personnel and support to various nuclear power plants. To perform these services, these NSSI personnel require unescorted access authorization to NRC-licensed or regulated nuclear power plants. As of January 3, 1990, the provisions of the NRC Fitness-For-Duty (FFD) rule (10 CFR part 26) became effective for personnel (including contractors) granted unescorted access authorization to nuclear power plants.

II

Mr. Robert C. Dailey was the NSSI Security Officer from November 1989 to May 1991. While in that position, Mr. Dailey provided letters to NRC reactor licensees requesting unescorted access authorization for NSSI personnel and certifying that these personnel met all applicable FFD and access authorization requirements. A licensee's granting of unescorted access authorization to NSSI

personnel who did not meet the FFD requirements would constitute a violation of 10 CFR part 26 requirements.

On August 14, 1991, two NRC licensees (Northern States Power Company (NSP) and Wisconsin Electric Power Company (WEPC)) submitted Licensee Event Reports to the Commission because an NSSI employee had been improperly granted unescorted access to the NSP Prairie Island plant and the WEPC Point Beach plant based on written requests for such access from Mr. Dailey. These requests stated that the employee met all of the FFD requirements for unescorted access. However, in fact, the employee had four past drug-related access denials at other nuclear power plants since 1987. Both Licensee Event Reports noted that NSSI was aware of the past denials.

An NSSI letter dated August 8, 1991, from Fred H. Ershine, NSSI Senior Vice President and Chief Operating Officer, to Mr. Thomas R. Eells, Security Representative for WEPC, stated that the incident that required WEPC to submit a report to the NRC was caused by the former NSSI Security Officer not properly documenting or following up on the report of derogatory information and/or materials concerning prior FFD violations with the appropriate individuals at each nuclear plant.

An investigation was initiated by the NRC Office of Investigations (OI). The OI investigation concluded that Mr. Dailey had sent on three occasions to Point Beach, and one occasion to Prairie Island, letters stating that the person for whom he was requesting unescorted access had met all applicable FFD requirements and had no previous positive drug or alcohol use test results within the previous five years. The OI investigation concluded that the letters sent by Mr. Dailey were inaccurate because the person did have positive drug or alcohol use test results.

Despite what was contained in the access authorization request letters, Mr. Dailey told the OI investigator during a January 1993 interview that he had verbally advised the appropriate NSP and WEPC security personnel of the past positive test results. These licensee representatives denied being advised of such information. In Mr. Dailey's statement to the OI investigator, which was subsequently determined to be false, Mr. Dailey deliberately provided to the NRC investigator material information that he knew was inaccurate. This constitutes a violation of 10 CFR 50.5(a)(2).

In addition, WEPC and NSP notified NRC in LERs dated August 14, 1991 that several individuals were recommended by NSSI for unescorted access without revealing their past access denials or past positive drug/alcohol tests.

III

Mr. Dailey, as the NSSI security manager, was responsible for the administration of the NSSI security screening program including determining the qualifications of applicants for unescorted access into the protected and vital areas of NSSI's client-owned nuclear power plants and for requesting such access from NSSI's clients. In the matters described in section II of this Order, Mr. Dailey was acting for and on behalf of NSSI. As such, his actions are imputed to NSSI since a corporation can only act through its agents and employees. Therefore, Mr. Dailey and NSSI violated 10 CFR 50.5.

The NRC must be able to rely on licensee contractors and contractor personnel, in addition to licensees, to comply with NRC requirements including the requirement to provide information and maintain records that are complete and accurate in all material respects. Mr. Dailey's violation of 10 CFR 50.5 has raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC, an employer, or a licensee with regard to NRC-licensed or regulated activities. Consequently, I lack the requisite assurance that NRC-licensed and regulated activities can be conducted by Mr. Dailey in compliance with the Commission's requirements. Therefore, I find that the significance of the conduct described above is such that the public health, safety, and interest require that NSSI be directed to remove Mr. Dailey from participation in NRC-licensed or regulated activities for a period of five years from the date of this Order, effective immediately.

In addition, the conduct of Mr. Dailey raises serious concerns about the adequacy of the NSSI security screening program during his tenure as Security Officer (November 1989 to May 1991). Therefore, the public health, safety and interest require that we order NSSI to review security records in which Mr. Dailey was involved to assure that NSSI personnel granted unescorted access to NRC-licensed nuclear plants met access authorization and fitness-for-duty requirements.

IV

Accordingly, pursuant to sections 62, 63, 81, 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 26.27 and 10 CFR 50.5, it is hereby ordered, effective immediately, that:

A.1. Nuclear support Services, Inc., remove Robert C. Dailey from participation in NRC-licensed or regulated activities for a period of five years from the date of this Order.

A.2. Nuclear Support Services, Inc., shall, if contacted by another person considering employing Robert C. Dailey in NRC-licensed or regulated activities, advise that person of the existence of condition A. 1 of this order as well as the existence and conditions of the Order issued to Mr. Dailey. This condition is to remain in effect for a period of five years from the date of this Order.

B.1. Nuclear Support Services, Inc., shall notify the NRC of the names of licensees who employ or have employed NSSI personnel whose recommendation for access authorization was handled by Mr. Dailey or by NSSI during Mr. Dailey's tenure as NSSI Security Officer between November 1989 and May 31, 1991.

B.2. Nuclear Support Services, Inc., shall complete a review of all NSSI personnel security files processed during the period of November 1989 through May 31, 1991, to ensure that, based upon the information in the files, any NSSI personnel recommended for unescorted access to NRC-licensed nuclear plants during that period met applicable 10 CFR part 26 Fitness-for-Duty requirements and access authorization requirements for unescorted access in accordance with requirements applicable to NSSI's clients' security plans as prescribed in such clients' contracts with NSSI.

B.3. Nuclear Support Services, Inc., shall advise the NRC, in writing, of the results of the review required by conditions B.1 and 2. within 60 days of the date of this Order.

B.4. Nuclear Support Services, Inc., shall also, within 7 days of NSSI's discovery, advise the appropriate nuclear power plant licensees and the NRC of any personnel identified during the review described above who were recommended for unescorted access authorization by NSSI but did not meet part 26 requirements or access authorization requirements at the time the NSSI request was submitted to the licensee.

B.5. Nuclear Support Services, Inc. shall provide an audit plan to the NRC, to verify the accuracy of information obtained by NSSI in its background inquiries which formed the basis for its access decisions during the period

from November 1989 to May 31, 1991. The plan shall be submitted within 30 days of the date of this Order and include the sample size, the milestones and schedule for completing the audit, qualifications of the auditors, and the basis for concluding that the audit plan will provide assurance that NSSI's records are complete and accurate. Following NRC approval of the plan, it shall be implemented. The results of the audit shall be provided to the applicable licensees and the NRC within 7 days of the completion of the audit.

B.6. Submittals to the NRC required by the above conditions shall be provided to the Chief, Safeguards Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Regional Administrator, Region III.

The Director, Office of enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Nuclear Support Services, Inc., of good cause.

V

In accordance with 10 CFR 2.202, Nuclear Support Services, Inc., must, and Robert C. Dailey or any other person adversely affected by this Order may submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Nuclear Support Services, Inc., Robert C. Dailey, or any other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532–4351, and to Nuclear Support Services, Inc., if the answer or hearing request is by a person other than Nuclear Support Services, Inc. If a person other than Nuclear Support Services, Inc., or Robert C. Dailey requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Nuclear Support Services, Inc., Robert C. Dailey, or any other person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Nuclear Support Services, Inc., Robert C. Dailey or any other person adversely affected by this Order may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of a portion of the Order on the ground that the Order, including the need for immediate effectiveness for a part of the Order, is not based on adequate evidence but on mere suspicion, unfounded allegations or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for a hearing shall not stay the immediately effective part of this order.

Dated at Rockville, Maryland this 22nd day of March 1994.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

[FR Doc. 94–7208 Filed 3–25–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, Apr. 7, 1994,
Thursday, Apr. 28, 1994.

The meetings will start at 10:45 a.m. and will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: March 17, 1994.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 94–7091 Filed 3–25–94; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33791; File No. SR–Amex–93–47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Temporary Accelerated Approval to Proposed Rule Change by American Stock Exchange, Inc. Relating to an Extension of Its Pilot Program Which Permits Specialists To Grant Stops in a Minimum Fractional Change Market

March 21, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 29, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange requests permanent approval of the pilot program which amended Amex Rule 109 to permit a specialist, upon request, to grant stops in a minimum fractional change market.[3] In the alternative, the Exchange proposes a one-year extension of the pilot program. The complete text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 21, 1993, the Commission extended its pilot approval of amendments to Exchange Rule 109 until March 21, 1994.[4] The amendments permit a specialist, upon request, to grant a stop[5] in a minimum fractional change market[6] for any order of 2,000 shares or less, up to a total of 5,000 shares for all stopped orders, provided there is an order imbalance, without obtaining prior Floor Official approval. A Floor Official, however, must authorize a greater order size or aggregate share threshold.

During the course of the pilot program, the Exchange has closely monitored compliance with the rule's requirements; analyzed the impact on orders on the specialist's book resulting from the execution of stopped orders at a price that is better than the stop price; and reviewed market depth in a stock when a stop is granted in a minimum fractional change market. The Exchange believes that the amendments to Rule 109 have provided a benefit to investors by providing an opportunity for price improvement, while increasing market depth and continuity without adversely affecting orders on the specialist's book. The Exchange's findings in this regard have been forwarded to the Commission under separate cover.

The Exchange is therefore proposing permanent approval of the amendments to Rule 109. In the alternative, the Exchange is requesting an extension of the pilot program for an additional one-year period, if the Commission feels that further study and monitoring of the effects of the pilot program are necessary.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposed amendments to Rule 109 are consistent with these objectives in that they are designed to allow stops, in minimum fractional change markets, under limited circumstances that provide for the possibility of price improvement to customers whose orders are granted stops.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–93–47 and should be submitted by April 18, 1994.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] The Amex received approval to amend Rule 109, on a pilot basis, in Securities Exchange Act Release No. 30603 (April 17, 1992), 57 FR 15340 (April 27, 1992) (File No. SR–Amex–91–05) ("1992 Approval Order"). The Commission subsequently extended the Amex's pilot program in Securities Exchange Act Release Nos. 32185 (April 21, 1993), 58 FR 25681 (April 27, 1993) (File No. SR–Amex–93–10) ("April 1993 Approval Order"); and 32664 (July 21, 1993), 58 FR 40171 (July 27, 1993) (File No. SR–Amex–93–22) ("July 1993 Approval Order"). Commission approval of these amendments to Rule 109 expires on March 21, 1994. The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program to continue without interruption. *See* letter from Claudia Crowley, Special Counsel, Legal & Regulatory Policy Division, Amex, to Beth Stekler, Attorney, Division of Market Regulation, SEC, dated March 4, 1994.

[4] See July 1993 Approval Order, *supra*, note 3.

[5] When a specialist agrees to a floor broker's request to "stop" an order, the specialist is obligated to execute the order at the best bid or offer, or better if obtainable. See Amex Rule 109(a).

[6] Amex Rule 127 sets forth the minimum fractional changes for securities traded on the Exchange.

applicable to a national securities exchange and, in particular, with section 6(b)(5)[7] and section 11(b)[8] of the Act. The Commission believes that the amendments to Rule 109 should further the objectives of section 6(b)(5) and section 11(b) through pilot program procedures designed to allow stops, in minimum fractional change markets, under limited circumstances that provide the possibility of price improvement to customers whose orders are granted stops.[9]

In its orders approving the pilot procedures,[10] the Commission asked the Amex to study the effects of stopping stock in a minimum fractional change market. Specifically, the Commission requested information on: (1) The percentage of stopped orders executed at the stop price, versus the percentage of such orders receiving a better price; (2) whether limit orders on the specialist's book were being bypassed due to the execution of stopped orders at a better price (and, to this end, the Commission requested that the Amex conduct a one-day review of all book orders in the ten stocks receiving the greatest number of stops); (3) market depth, including a comparison of the size of stopped orders to the size of the opposite side of the quote and to any quote size imbalance, and including an analysis of the ratio of the size of the bid to the size of the offer; and (4) specialist compliance with the pilot program's procedures.

On March 12, 1993, June 28 and July 1, 1993, and October 15, 1993 and January 5, 1994, the Exchange submitted to the Commission monitoring reports regarding the amendments to Rule 109. The Commission believes that, although these monitoring reports provide certain useful information concerning the operation of the pilot program, the Amex must provide further data, particularly about Rule 109's impact on limit orders on the specialist's book, before the commission can fairly and comprehensively evaluate the Amex's use of the pilot procedures. To allow such additional information to be gathered and reviewed, without compromising the benefit that investors might receive under Rule 109, as amended, the Commission believes that it is reasonable to extend the pilot program until March 21, 1995. During this extension, the Commission expects the Amex to respond fully to the concerns set forth below.

First, the January monitoring report indicates that approximately three-quarters of orders stopped in minimum fractional change markets received price improvement. The Commission, therefore, believes that the pilot procedures provide a benefit to investors by offering the possibility of price improvement to customers whose orders are granted stops in minimum fractional change markets. According to the latest Amex report, moreover, nearly all stopped orders were for 2,000 shares or less. In this respect, the amendments to Rule 109 should mainly affect small public customer orders, which the Commission envisioned could most benefit from professional handling by the specialist. During the pilot extension, the commission requests that the Amex continue to monitor the percentage of stopped orders that are for 2,000 shares or less.

Second, the Amex preliminarily believes that, with respect to a significant majority of stops granted under these amendments to Rule 109, customer limit orders existing on the specialist's book were not disadvantaged.[11] This conclusion is based on the Exchange's review of limit orders on the opposite side of the market at the time a stop was granted pursuant to this pilot program. As part of its one-day review of the ten stocks receiving the greatest number of stops, the Amex determined how often book orders which might have been entitled to an execution had the order not been stopped, in fact, were executed at their limit price by the close of the day's trading.[12] The Commission does not consider that data to be conclusive given the narrow scope of the Exchange's analysis of the pilot program's impact.

The Commission historically has been concerned that book orders may get bypassed when stock is stopped, especially in a minimum fractional change market.[13] Based on the Amex's experience to date, the Commission believes that additional data is necessary before the Commission can determine whether there are sufficient grounds to conclude that this long-standing concern has been alleviated. Thus to ensure that Rule 109, as amended, will not potentially harm public customers with limit orders on the specialist's book, the Amex should provide detailed facts supporting its arguments about the impact of its pilot procedures. The Commission therefore requests that the Amex conduct another review of this issue. At a minimum, the Amex should determine how often limit orders against which stock is stopped in a minimum fractional change market are executed by the close of the day's trading.[14] Further, the Amex should conduct, on a date to be selected by the Commission, another one-day review of all book orders in the ten stocks receiving the greatest number of stops, and should submit to the Commission both raw trade data for,[15] and a description of the final disposition of,[16] each such order.

In terms of market depth, the Amex's January monitoring report suggests that stock tends to be stopped in minimum fractional change markets where there is a significant disparity (in both absolute and relative terms) between the number of shares bid for and the number of

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[7] 15 U.S.C. 78f (1988).

[8] 15 U.S.C. 78k (1988).

[9] For a description of Amex procedures for stopping stock in minimum fractional change markets, and of the Commission's rationale for approving those procedures on a pilot basis, see 1992 Approval Order, *supra*, note 3. The discussion in the aforementioned order is incorporated by reference into this order.

[10] See supra, note 3.

[11] When stock is stopped, book orders on the opposite side of the market that are entitled to immediate execution lose their priority. If the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

As for book orders on the same side of the market as the stopped stock, the Commission believes that Rule 109's requirements make it unlikely that these limit orders would not be executed. Under the Amex's pilot program, an order can be stopped only if a substantial imbalance exists on the opposite side of the market. See infra, text accompanying notes 19–25. In those circumstances, the stock would probably trade away from the large imbalance, resulting in execution of orders on the book.

[12] Beyond the one-day review, the Amex could make this determination only for those stocks in which the electronic display book had been implemented. For other stocks, the Amex determined how often an equivalent volume (i.e., the same number of shares as the stopped order) was executed at the opposite side's limit price by the close of the day's trading.

[13] See, e.g., SEC, Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).

[14] Specifically, the Amex would first calculate the total number of shares of limit orders against which stock is stopped in minimum fractional change markets. The Amex would then determine how many of those shares actually are executed by the close of the day's trading. As noted above, see *supra* note 12, electronic display book technology is necessary to determine the final disposition of limit orders. The Amex expects the electronic book to be implemented Floor-wide by mid-1994. Telephone conversation between Claudia Crowley, Special Counsel, Legal & Regulatory Policy Division, Amex, and Beth Stekler, Attorney, Division of Market Regulation, on March 11, 1994. As the phase-in of the electronic book continues, the Amex should provide the Commission with complete information for all stocks in which it has the capability to monitor the final disposition of limit orders, even if it has not yet completed Floor-wide implementation of the electronic book.

[15] In this regard, the Commission requests that the Amex submit the documentation the Amex is relying upon to support its conclusions about the final disposition of these limit book orders. See *infra*, note 16.

[16] See *supra*, note 14.

shares offered.[17] That report also suggests that, given the depth of the opposite side of the market, orders affected by the Rule 109 pilot tend to be relatively small.[18] The Amex repeatedly has stated, both to the Commission[19] and to its members,[20] that specialists can only stop stock in a minimum fractional change market when (1) an imbalance exists on the opposite side of the market and (2) such imbalance is of sufficient size to suggest the likelihood of price improvement.[21]

The Commission believes that the requirement of a sufficient market imbalance is a critical aspect of the pilot program.[22] Such a requirement is necessary to ensure that stops are only granted, in a minimum fractional change market, when the benefit (*i.e.*, price improvement) to orders being stopped far exceeds the potential of harm to orders on the specialist's book.[23] To evaluate how this standard is being applied in practice, the Commission requests that the Amex conduct another comprehensive quantitative analysis of market depth. In its next monitoring report, the Amex should provide, in chart form, a comparison of the size of the stopped order to any quote size imbalance.[24] The chart also should include the ratio of the size of the bid to the size of the offer.[25] The Amex should concentrate an orders for 2,000 shares or less, and should provide the requested information in the form of an average for all buy orders stopped, and the for all sell orders stopped, in that size range.

Finally, the Amex report describes its efforts regarding compliance with the pilot procedures. To alleviate confusion about how to evidence Floor Official approval (which, as noted above, a specialist must obtain to stop any order for more than 2,000 shares, or a total of more than 5,000 shares for all stopped orders), the Exchange has developed new manual and automated reports, which serve as a written audit trail for surveillance purposes. As a result, the Commission believes that the Amex has sufficient means to determine whether a specialist complied with the amendments' order size and aggregate share thresholds and, if not, whether Floor Official approval was obtained for larger parameters. The Commission also notes the Amex's on-going effort to keep its specialists properly informed about the pilot program's requirements. In this context, the Amex has distributed Information Circulars.[26] and held continuing educational sessions on the pilot program and its requirements for stopping stock in minimum fractional change markets.

During the pilot extension, the Commission requests that the Amex continue to monitor closely specialist compliance with Rule 109's procedures. As before, the Amex should determine how often orders requiring Floor Official approval to be stopped do not receive such approval. In so doing, the Amex should distinguish between instances where the specialist did not ask for permission and those where it was denied (and, if so, on what grounds). The Amex should gather and report information about the market conditions prevailing at the time of each instance of specialist non-compliance with these procedures and the action taken by the Exchange in response thereto.

The Commission requests that the Amex submit a report describing its findings on these matters, specifically: (1) The effect of Rule 109, as amended, on limit book orders and (2) specialist compliance with the pilot procedures, by December 31, 1994. In addition, if the Exchange determines to request an extension of the pilot program beyond March 21, 1995, the Commission requests that the Amex also submit a proposed rule change by December 31, 1994.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[27]

It is therefore ordered, pursuant to section 19(b)(2)[28] that the proposed rule change (SR–Amex–93–47) is hereby approved until March 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7214 Filed 3–25–94; 8:45 am]

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[17] There is a direct relationship between such a quote size imbalance and the likelihood of price improvement. A large imbalance on one side of the market suggests that subsequent transactions will take place on the other side. In those circumstances, it could be appropriate to grant a stop, since the delay might allow the specialist to execute the order at a better price for the customer.

[18] A relatively large order might begin to counteract the pressure the imbalance on the opposite side of the market is putting on the stock's price. Accordingly, it might not be as appropriate to stop such an order.

[19] See letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated January 6, 1992 (Amendment No. 1 to File No. SR–Amex–91–05). Amendment No. 1 formally incorporated the requirement that the indicia of market depth discussed below must, without exception, be satisfied before a specialist is permitted to stop stock in a minimum fractional change market.

[20] See Amex Information Circular Nos. 92–74 (April 24, 1992) and 93–333 (April 7, 1993).

[21] For further discussion of the relationship between quote size imbalance and the likelihood of price improvement, see *supra* note 17.

[22] In extending a comparable pilot program on the New York Stock Exchange, the Commission placed similar emphasis on the critical nature of the sufficient size standard when stopping stock in minimum fractional change markets. *See* Securities Exchange Act Release No. 32031 (March 22, 1993), 58 FR 16563 (March 29, 1993) (File No. SR–NYSE–93–18).

[23] *See supra*, text accompanying notes 11–16.

[24] Every time a specialist stops an order to buy, the Amex should calculate the size of that stopped order as a percentage of the quote size imbalance, i.e., the difference between the size of the offer and the size of the bid.

Every time a specialist stops an order to sell, the Amex should calculate the size of that stopped order as a percentage of the quote size imbalance, i.e., the difference between the size of the bid and the size of the offer.

[25] Every time a specialist stops an order to buy, the Amex should calculate the size of the bid as a percentage of the size of the offer.

Every time a specialist stops an order to sell, the Amex should calculate the size of the offer as a percentage of the size of the bid.

[26] See *supra*, note 20.

[27] No comments were received in connection with the proposed rule change which implemented these procedures. See 1992 Approval Order, *supra*, note 3.

[28] 15 U.S.C. 78s(b)(2) (1988).

[29] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–33790; File No. SR–CHX–93–30]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by Chicago Stock Exchange, Inc., Relating to an Extension of a Pilot Program for Stopped Orders in Minimum Variation Markets

March 21, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act;;),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 9, 1993, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On March 16, 1994, the Exchange submitted

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

Amendment No. 1 to the proposed rule change to make certain technical corrections to the text of the original filing.[3] The CHX has requested accelerated approval of the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot program for stopped orders in minimum variation markets for an additional one (1) year period. The pilot program is currently set forth in interpretation and policy .03 to Rule 37 of Article XX of the CHX rules. This is the third requested extension of the pilot, originally approved on January 14, 1992.[4] The first requested extension of the pilot was approved on March 10, 1993.[5] The second requested extension of the pilot was approved on June 11, 1993.[6] The pilot program is set to expire on March 21, 1994.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot program implemented to establish a procedure regarding the execution of "stopped" market orders in minimum variation markets (usually an ⅛th spread market). In 1992, the Exchange adopted interpretation and policy .03 to Rule 37 of Article XX, on a pilot basis, to permit stopped market orders in minimum variation markets.[7] Prior to the pilot program, no Exchange rule required specialists to grant stops in minimum variation markets if an out-of-range execution would result. While the Exchange has a policy regarding the execution of stopped market orders generally, the Exchange believes it is necessary to establish a separate policy for executing stopped market ordes when there is a minimum variation market.

The Exchange's general policy regarding the execution of stopped orders is to execute them based on the next primary market sale. If this policy were used in a minimum variation market, it would cause the anomalous result of requiring the execution of all pre-existing orders, even if those orders are not otherwise entitled to be filled.[8]

The Exchange's proposed policy would prevent unintended results by continuing a pilot program, established in 1992, for stopped market orders in minimum variation markets.[9] Specifically, the pilot program would require the execution of stopped market orders in minimum variation markets after a transaction takes place on the primary market at the stopped price or worse (higher for buy orders and lower for sell orders), or after the applicable Exchange share volume is exhausted. In no event would a stopped order be executed at a price inferior to the stopped price.[10] In the Exchange's view, the proposed policy would continue to benefit customers because they might receive a better price than the stop price, yet it also protects Exchange specialists by eliminating their exposure to executing potentially large amounts of pre-existing bids or offers when such executions would otherwise not be required under Exchange rules.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) (5) in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that no burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments were received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–93–30

[3] See letter from David T. Rusoff, Foley & Lardner, to Sandra Sciole, Special Counsel, Division of Market Regulation, SEC, dated March 15, 1994 ("Amendment No. 1").

[4] See Securities Exchange Act Release No. 30189 (January 14, 1992), 57 FR 2621 (January 22, 1992) (File No. SR–MSE–91–10) ("1992 Approval Order").

[5] See Securities Exchange Act Release No. 31975 (March 10, 1993), 58 FR 14230 (March 16, 1993) (File No. SR–MSE–93–04) ("March 1993 Approval Order").

[6] See Securities Exchange Act Release No. 32457 (June 11, 1993), 58 FR 33681 (June 18, 1993) (File No. SR–MSE–93–14) ("June 1993 Approval Order").

[7] See 1992 Approval Order, *supra*, note 4.

[8] For example, assume the market in ABC stock is 20–20⅛; 50 x 50 with ⅛th being out of range. A customer places an order with the Exchange specialist to buy 100 shares of ABC at the market, and a stop is effected. The order is stopped at 20⅛, and the Exchange specialist includes the order in his or her quote by bidding the 100 shares at 20. If the next sale on the primary market is for 100 shares at 20, adopting the Exchange's existing general policy to minimum variation markets would require the specialist to execute the stopped market order at 20. However, because the stopped market order does not have time or price priority, its execution would trigger the requirement for the Exchange specialist to execute all pre-existing bids (in this case, 5,000 shares) based on the Exchange's rules of priority and precedence. This is so even though the pre-existing bids were not otherwise entitled to be filled.

In the above example, Exchange Rule 37 (Article XX) requires the Exchange specialist to fill orders at the limit price only if such orders would have been filled had they been transmitted to the primary market. Therefore, the 100 share print at 20 in the primary market would cause at most 100 of the 5,000 share limit order to be filled on the Exchange. However, the Exchange's general policy regarding stopped orders, if applied to minimum variation markets, would require the 100 share stopped market order to be filled, and, as a result, all pre-existing bids at the same price to be filled in accordance with Exchange Rule 16 (Article XX).

[9] See 1992 Approval Order, *supra*, note 4.

[10] Exchange Rule 28 (Article XX) states:

An agreement by a member or member organization to "stop" securities at a specified price shall constitute a guarantee of the purchase or sale by him or it of the securities at the price or its equivalent in the amount specified.

If an order is executed at a less favorable price than that agreed upon, the member or member organization which agreed to stop the securities shall be liable for an adjustment of the differences between the two prices.

and should be submitted by April 18, 1994.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with section 6(b) (5) [11] and Section 11(b) [12] of the Act. The Commission believes that proposed interpretation and policy .03 to Rule 37 should further the objectives of section 6(b) (5) and section 11(b) through pilot program procedures designed to allow stops, in minimum variation markets, under limited circumstances that offer primary market price protection for customers whose orders are granted stops, while still adhering to traditional auction market rules of priority and precedence.[13]

In its orders approving the pilot procedures,[14] the Commission asked the CHX to study the effects of stopping stock in a minimum variation market. Specifically, the Commission requested information on (1) the percentage of stopped orders executed at the stop price, versus the percentage of such orders receiving a better price; (2) whether limit orders on either side of the specialist's book were being bypassed due to the execution of stopped orders at a better price (and to this end, the Commission requested that the CHX conduct a one-day review of all book orders in the five stocks receiving the greatest number of stops); and (3) specialist compliance with the pilot program's procedures.

On March 2, 1993, June 1, 1993, and December 6, 1993, the Exchange submitted to the Commission monitoring reports regarding its proposed interpretation of Rule 37. The Commission believes that, although these monitoring reports provide certain useful information concerning the operation of the pilot program, the CHX must provide further data before the Commission can fairly and comprehensively evaluate the CHX's use of the pilot procedures. To allow such additional information to be gathered and reviewed, the Commission believes that it is reasonable to extend the pilot program until March 21, 1995. During this extension, the Commission expects the CHX to respond fully to the concerns set forth below.

First, the December monitoring report indicates that less than half of orders stopped in minimum variation markets received price improvement. However, given that the CHX's prior results were substantially higher, the Commission believes that further study is necessary. The Commission also notes that, under the Exchange's procedures, whether a stopped order receives price improvement depends largely on price movements in the primary market,[15] and not on the effectiveness of the pilot program itself. Thus during the pilot extension, the Commission requests that the Exchange instead calculate the percentage of stopped orders that do not benefit from the CHX proposal (*i.e.*, orders which receive an out-of-range execution despite having been stopped).[16] In addition, the CHX should continue to monitor the percentage of stopped orders which are for 2,000 shares or less.

Second, the CHX does not appear to believe that its proposed policy significantly disadvantages customer limit orders existing on the specialist's book.[17] This conclusion is based on the Exchange's review of limit orders on the opposite side of the market at the time a stop was granted pursuant to the pilot program. As part of its review, the CHX determined how often book orders which might have been entitled to an execution had the order not been stopped, in fact, were executed at their limit price by the close of the day's trading. Although the results of that review suggest a few limit orders, potentially, may have been disadvantaged, that data is not conclusive give the relatively small sample of orders used to analyze the pilot program's impact.

The Commission historically has been concerned that book orders may get bypassed when stock is stopped, especially in a minimum variation market.[18] Based on the CHX's experience to date, the Commission believe that additional data is necessary before the Commission can determine whether there are sufficient grounds to conclude that this long-standing concern has been alleviated. Thus to ensure that Rule 37, as amended, does not result in potential harm to public customers with limit orders on the specialist's book, the CHX should provide detailed facts supporting its arguments about the impact of its pilot procedures. The Commission therefore requests that the CHX conduct a more thorough review of this issue. At a minimum, the CHX should determine how often limit orders against which stock is stopped in a minimum variation market are executed by the close of the day's trading.[19] Further, the CHX should conduct, on a date to be selected by the Commission, another one-day review of all book orders in the five stocks receiving the greatest number of stops, and should submit to the Commission both raw trade data for,[20] and a description of the final disposition of,[21] each such order.

In terms of the pilot program's effect on limit orders on the same side of the market as the stopped stock, the CHX report suggests that a substantial majority of limit orders at the bid (for stopped buy orders) or offer (for stopped sell orders) with time priority were

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[11] 15 U.S.C. 78f (1988).

[12] 15 U.S.C. 78k (1988).

[13] For a description of CHX procedures for stopping stock in minimum variation markets, and of the Commission's rationale for approving those procedures on a pilot basis, *see* 1992 Approval Order, *supra*, note 4. The discussion in the aforementioned order is incorporated by reference into this order.

[14] See *supra*, notes 4–6.

[15] The Commission notes that this pilot program is intended to prevent orders from being executed outside the primary market range for the day (*i.e.*, from establishing a new high or new low). Consistent with that policy, the CHX requires the specialist to execute stopped stock based on the next primary market sale. Specifically, if the next sale is at a better price, the stopped stock may, depending on the depth of the specialist's limit order book at that price, receive price improvement. However, if the next primary market sale is at the stop price (or worse), the order receives the stop price. In the Commission's opinion, if an order is executed at the stop price because the next sale creates a new primary market range, the pilot program may still have provided a benefit to investors, by preventing what would have been an out-of-range execution.

[16] The Commission notes that, in a minimum variation market, a stopped order could ultimately receive an out-of-range execution if, by the close, (1) the primary market has not traded at the stop price and (2) *all* pre-existing limit orders on the CHX specialist's book at the better price have not been executed.

[17] When stock is stopped, book orders on the opposite side of the market that are entitled to immediate execution lose their priority. If the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

As for book orders on the same side of the market as the stopped stock, the Commission believes that the proposed requirements make it unlikely that these limit orders would be bypassed. Under the Exchange's pilot procedures, a stopped order can receive price improvement only if all preexisting CHX share volume at that price has been exhausted.

[18] See, e.g., SEC, Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).

[19] As before, the CHX would first identify all limit orders against which stock is stopped in minimum variation markets. The CHX could then determine how many of those *orders* actually are executed by the close of the day's trading. In the alternative, the CHX could make the same determination on an aggregate *share* basis.

[20] In this regard, the Commission requests that the CHX submit the documentation the CHX is relying upon to support its conclusions about the final disposition of these limit orders. See *Infra*, note 21.

[21] See *supra*, note 19.

executed by the close. During the pilot extension, the Commission requests that the CHX gather and report information on (1) the average number of limit orders and average number of shares on the book ahead of the stopped stock and (2) how much of that pre-existing volume typically is executed by the close. Moreover, the CHX should determine how often, as percentage of total stops granted, the pre-existing volume is executed in its entirety.

Finally, the CHX has responded to the Commission's questions about compliance with the pilot program procedures; at this time, the Exchange staff is not aware of any market surveillance investigations or customer complaints relating to the practice of stopping stock in minimum variation markets.[22] During the pilot extension, the Commission requests that the CHX continue to monitor closely specialist compliance with Rule 37's procedures. As before, the CHX report should describe each instance of specialist non-compliance with these procedures and any action taken by the Exchange in response thereto.

The Commission requests that the CHX submit a report describing its findings on these matters by December 31, 1994. In addition, if the Exchange determines to request an extension of the pilot program beyond March 21, 1995, the Commission requests that the CHX also submit a proposed rule change by December 31, 1994.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the Federal Register for the full comment period and were approved by the Commission.[23]

It is therefore ordered, pursuant to section 19(b)(2)[24] that the proposed rule change (SR–CHX–93–30) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

[22] Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on March 17, 1994.

[23] No comments were received in connection with the proposed rule change which implemented these procedures. *See* 1992 Approval Order, *supra*, note 4.

[24] 15 U.S.C. 78s(b)(2) (1988).

[25] 17 CFR 200.30–3(a)(12) (1991).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7164 Filed 3–25–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33792; File No. SR–NYSE–94–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by New York Stock Exchange, Inc., Relating to an Extension of Its Pilot Program for Stopping Stock Under Amendments to Rule 116.30.

March 21, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 14, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of extending the pilot for amendments to Rule 116.30 for an additional year until March 21, 1995.[1] The amendments permit a specialist, upon request, to grant a stop in a minimum variation market for any order of 2,000 shares or less, up to a total of 5,000 shares for all stopped orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The practice of "stopping" stock by specialists on the Exchange refers to a guarantee by the specialist that an order the specialist receives will be executed at no worse a price than the contra side price in the market when the specialist receives the order, with the understanding that the order may in fact receive a better price.

Formerly, Exchange Rule 116.30 permitted a specialist to stop stock only when the quotation spread was at least twice the minimum variation (i.e., for most stocks, at least a ¼ point), with the specialist then being required to narrow the quotation spread by making a bid or offer, as appropriate, on behalf of the order that is being stopped.

For three years, on March 21, 1991, March 16, 1992, and March 22, 1993, the Commission approved, on a one-year pilot basis each time, amendments to the rule which permit a specialist to stop stock in a minimum variation market (generally referred to as an "⅛th point market").[2] The Exchange sought these amendments on the grounds that many orders would receive an improved price if stopping stock in ⅛th point markets were permitted. The amendments to Rule 116.30 permit a specialist, upon request, to stop individual orders of 2,000 shares or less, up to an aggregate of 5,000 shares when multiple orders are stopped, in an ⅛th point market. A specialist may stop an order pursuant to a specified larger order size threshold, or a specified larger aggregate share threshold, after obtaining Floor Official approval.

On February 12, 1993, the Exchange requested that the Commission grant permanent approval to the amendments to Rule 116.30.[3] At that time, the Commission staff requested that the Exchange extend the pilot for an additional year to allow the Commission more time to consider the Exchange's request to make the amendments to Rule 116.30 permanent. The Commission staff has again requested that the

[1] The NYSE received approval to amend Rule 116.30, on a pilot basis, in Securities Exchange Act Release No. 28999 (March 21, 1991), 56 FR 12964 (March 28, 1991) (File No. SR–NYSE–90–48) ("1991 Approval Order"). The Commission subsequently extended the NYSE's pilot program in Securities Exchange Act Release Nos. 30482 (March 16, 1992), 57 FR 10198 (March 24, 1992) (File No. SR–NYSE–92–02) ("1992 Approval Order"); and 32031 (March 22, 1993), 58 FR 16563 (March 29, 1993) (File No. SR–NYSE–93–18) ("1993 Approval Order"). Commission approval of these amendments to Rule 116.30 expires on March 21, 1994. The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program to continue without interruption.

[2] See 1991, 1992 and 1993 Approval Orders, *supra*, note 1.

[3] See File No. SR–NYSE–93–11.

Exchange extend the pilot for the same reason. Therefore, the Exchange is now proposing to extend the effectiveness of the amendments to Rule 116.30 for an additional year through March 21, 1995.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and, in general, to protect investors and the public interest. The Exchange's proposal to extend amendments to Rule 116.30 is consistent with these objectives in that it permits the Exchange to better serve its customers by enabling specialists to execute customer orders at improved prices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–06 and should be submitted by April 18, 1994.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with section 6(b)(5)[4] and section 11(b)[5] of the Act. The Commission believes that the amendments to Rule 116.30 should further the objectives of section 6(b)(5) and section 11(b) through pilot program procedures designed to allow stops, in minimum variation markets, under limited circumstances that provide the possibility of price improvement to customers whose orders are granted stops.[6]

In its orders approving the pilot procedures,[7] the Commission asked the NYSE to study the effects of stopping stock in a minimum variation market. Specifically, the Commission requested information on (1) the percentage of stopped orders executed at the stop price, versus the percentage of such orders receiving a better price; (2) market depth, including a comparison of the size of stopped orders to the size of the opposite side of the quote and to any quote size imbalance, and including an analysis of the ratio of the size of the bid to the size of the offer; (3) whether limit orders on the specialist's book were being bypassed due to the execution of stopped orders at a better price (and, to this end, the Commission requested that the NYSE conduct a one-day review of all book orders in the ten stocks receiving the greatest number of stops); and (4) specialist compliance with the pilot program's procedures.

On February 13, 1992, November 5, 1992, and October 15, 1993, the Exchange submitted to the Commission monitoring reports regarding the amendments to Rule 116.30. The Commission believes that, although these monitoring reports provide certain useful information concerning the operation of the pilot program, the NYSE must provide further data, particularly about Rule 116.30's impact on limit orders on the specialist's book, before the Commission can fairly and comprehensively evaluate the NYSE's use of the pilot procedures. To allow such additional information to be gathered and reviewed, without compromising the benefit that investors might receive under Rule 116.30, as amended, the Commission believes that it is reasonable to extend the pilot program until March 21, 1995. During this extension, the Commission expects the NYSE to respond fully to the concerns set forth below.

First, the October monitoring report indicates that approximately half of eligible orders (i.e., orders for 2,000 shares or less) stopped in minimum variation markets received price improvement. The Commission, therefore, believes that the pilot procedures provide a benefit to investors by offering the possibility of price improvement to customers whose orders are granted stops in minimum variation markets. According to the latest NYSE report, moreover, virtually all stopped orders were for 2,000 shares or less. In this respect, the amendments to Rule 116.30 should mainly affect small public customer orders, which the Commission envisioned could most benefit from professional handling by the specialist. During the pilot extension, the Commission requests that the NYSE continue to monitor the percentage of stopped orders that are for 2,000 shares or less.

Second, in terms of market depth, the NYSE's October monitoring report suggests that stock tends to be stopped in minimum variation markets where there is a significant disparity (in both absolute and relative terms) between the number of shares bid for and the number offered.[8] That report also suggests that, given the depth of the opposite side of the market, orders affected by the Rule 116.30 pilot tend to be relatively small.[9] For a substantial majority of stops granted, the size of the stopped order was less than, or equal to, 25% of the size of the opposite side quote. Based on such data, the NYSE concludes that the imbalances on the

[4] 15 U.S.C. 78f (1988).

[5] 15 U.S.C. 78k (1988).

[6] For a description of NYSE procedures for stopping stock in minimum variation markets, and of the Commission's rationale for approving those procedures on a pilot basis, see 1991 Approval Order, *supra*, note 1. The discussion in the aforementioned order is incorporated by reference into this order.

[7] See *supra*, note 1.

[8] As part of its initial proposed rule change, the NYSE provided the following example illustrating the relationship between quote size imbalance and the likelihood of price improvement: Assume that the market for a given stock is quoted 30 to 30⅛, with 1,000 shares bid for and 20,000 shares offered. The large imbalance on the offer side of the market suggests that subsequent transactions will be on the bid side. Accordingly, the NYSE states that it might be appropriate to stop a market order to buy, since the delay might allow the specialist to execute the buyer's order at a lower price. After granting such a stop, the specialist would be required to increase his quote by the size of the stopped buy order, thereby adding depth to the bid side of the market.

[9] A relatively large order might begin to counteract the pressure the imbalance on the opposite side of the market is putting on the stock's price. Accordingly, it might not be as appropriate to stop such an order.

opposite side of the market from the orders stopped were of sufficient size to suggest the likelihood of price improvement to customers.[10]

The Commission believes that the requirement of a sufficient market imbalance is a critical aspect of the pilot program.[11] Such a requirement is necessary to ensure that stops are only granted, in a minimum variation market, when the benefit (i.e., price improvement) to orders being stopped far exceeds the potential for harm to orders on the specialist's book.[12] To evaluate how this standard is being applied in practice, the Commission requests that the NYSE conduct another comprehensive quantitative analysis of market depth. In its next monitoring report, the NYSE should provide, in chart form, a comparison of the size of the stopped order to any quote size imbalance.[13] The chart also should include the ratio of the size of the bid to the size of the offer.[14] The NYSE should concentrate on orders for 2,000 shares or less, and should provide the requested information in the form of an average for all buy orders stopped, and then for all sell orders stopped, in that size range.

Third, the NYSE does not believe that the amendments to Rule 116.30 significantly disadvantage customer limit orders existing on the specialist's book.[15] This conclusion is based on the Exchange's review of limit orders against which orders receiving price improvement were stopped pursuant to this pilot program. As part of its review, the NYSE determined how often such book orders were executed at their limit price by the close of the day's trading. The Commission does not consider that data to be conclusive, because it does not reflect the disposition of book orders in those circumstances (approximately half of all stops granted) where the stopped order did not receive price improvement.[16]

The Commission has historically been concerned that book orders get bypassed when stock is stopped, especially in a minimum variation market.[17] Based on the NYSE's experience to date, the Commission believes that additional data is necessary before the Commission can determine whether there are sufficient grounds to conclude that this long-standing concern has been alleviated. Thus to ensure that Rule 116.30, as amended, does not harm public customers with limit orders on the specialist's book, the NYSE should provide detailed facts supporting its arguments about the impact of the pilot procedures. The Commission therefore requests that the NYSE conduct another review of this issue. At a minimum, the NYSE should determine how often limit orders against which stock is stopped in a minimum variation market are executed by the close of the day's trading.[18] Further, the NYSE should conduct, on a date to be selected by the Commission, another one-day review of all book orders in the ten stocks receiving the greatest number of stops, and should submit to the Commission both raw trade data for,[19] and a description of the final disposition of,[20] each such order.

Finally, the NYSE report describes its compliance efforts (e.g., automated surveillance, review of Floor Official records, information memos, continuing education). The Commission believes that these programs provide specialists with adequate notice of their responsibilities. Similarly, the Exchange has sufficient means to determine whether a specialist complied with the amendments' order size and aggregate share thresholds and, if not, whether Floor Official approval was obtained for larger parameters.

During the pilot extension, the Commission requests that the NYSE will continue to monitor closely specialist compliance with Rule 116.30's procedures. As before, the NYSE should determine how often orders requiring Floor Official approval to be stopped do not receive such approval. In so doing, the NYSE should distinguished between instances where the specialist did not ask for permission and those where it was denied (and, if so, on what grounds). The NYSE should gather and report information about the market conditions prevailing at the time of each instance of specialist non-compliance with these procedures and the action taken by the Exchange in response thereto.

The Commission requests that the NYSE submit a report describing its findings on these matters, specifically (1) the effect of Rule 116.30, as amended, on limit book orders and (2) specialist compliance with the pilot program procedures, by December 31, 1994. In addition, if the Exchange determines to request an extension of the pilot program beyond March 21, 1995, the Commission requests that the NYSE also submit a proposed rule change by December 31, 1994.

The Commission finds food cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment

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[10] The NYSE has stated, both to the Commission and to its members, that specialists should only stop stock in a minimum variation market when an imbalance exists on the opposite side of the market and such imbalance is of sufficient size to suggest the likelihood of price improvement. See e.g., letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Mary N. Revell, Branch Chief, Division of Market Regulation, SEC, dated December 27, 1990; NYSE information memo #1809, dated September 12, 1991.

[11] For a discussion of the relationship between quote size imbalance and the likelihood of price improvement, see *supra*, note 8.

In extending a comparable pilot program by the American Stock Exchange, the Commission placed similar emphasis on the critical nature of the sufficient size standard when stopping stock in minimum variation markets. See Securities Exchange Act Release No. 32664 (July 21, 1993), 58 FR 40171 (July 27, 1993) (File No. SR–Amex–93–22).

[12] See *infra*, text accompanying notes 15–20.

[13] Every time a specialist stops an order to buy, the NYSE should calculate the size of that stopped order as a percentage of the quote size imbalance, i.e., the difference between the size of the offer and the size of the bid.

Every time a specialist stops an order to sell, the NYSE should calculate the size of that stopped order as a percentage of the quote size imbalance, i.e., the difference between the size of the bid and the size of the offer.

[14] Every time a specialist stops an order to buy, the NYSE should calculate the size of the bid as a percentage of the size of the offer.

Every time a specialist stops an order to sell, the NYSE should calculate the size of the offer as a percentage of the size of the bid.

[15] When stock is stopped, book orders on the opposite side of the market that are entitled to immediate execution lose their priority. If the stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

As for book orders on the same side of the market as the stopped stock, the Committee believes that Rule 116.30's requirements make it unlikely that these limit orders would not be executed. Under the NYSE pilot program, an order can be stopped only if a substantial imbalance exists on the opposite side of the market. See *supra*, notes 10–14 and accompanying text. In those circumstances, the stock would probably trade away from the large imbalance, resulting in execution of orders on the book.

[16] See *infra*, note 18.

[17] See, e.g., SEC, Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).

[18] Specifically, the NYSE would first calculate the total number of shares of limit orders against which stock is stopped in minimum variation markets (including book orders on the opposite side of the market from stopped orders which do not receive price improvement). The NYSE would then determine how many of those shares actually are executed by the close of the day's trading.

[19] In this regard, the Commission requests that the NYSE submit the documentation the NYSE is relying upon to support its conclusions about the final disposition of these limit book orders. See *Infra*, note 20.

[20] See *supra*, note 18.

period and were approved by the Commission.[21]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[22] that the proposed rule change (SR–NYSE–94–06) is approved for a one year period ending on March 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7166 Filed 3–25–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20150; 812–8754]

Atlas Advisers, Inc., et al.; Notice of Application

March 21, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICATIONS: Atlas Advisers, Inc. (the "Adviser"); Atlas Securities, Inc. (the "Distributor"); and Atlas Assets, Inc. ("Atlas Assets"), on behalf of itself and any other open-end investment company which is or may in the future become a member of the same "group of investment companies," as that phrase is defined by rule 11a–3(a)(5), and which decides in the future to issue multiple classes of shares on a basis that is the same in all material respects to that described in the application (the "Funds").

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds to issue and sell multiple classes of shares representing interests in the same portfolios of securities, assess a CDSC on certain redemptions, and waive the CDSC in certain instances.

FILING DATE: The application was filed on December 30, 1993, and amended on March 2, 1994 and March 18, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 April 15, 1994, 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 who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 1901 Harrison Street, Oakland, California 94612.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Atlas Assets is an open-end, management investment company organized as a Maryland corporation. Atlas Assets is organized as a series fund, and currently issues shares in twelve series (the "Portfolios"). Portfolios that are money market funds are referred to herein as "Money Market Portfolios." The Adviser serves as the investment adviser to Atlas Assets. The Distributor serves as the principal underwriter of the shares of Atlas Assets.

2. The Portfolios, other than the Money Market Portfolios, currently offer their shares at net asset value plus a front-end sales charge. The Money Market Portfolios issue their shares at net asset value without the imposition of a front-end sales charge. Atlas Assets is subject to a distribution plan pursuant to rule 12b–1 under which each Portfolio may reimburse the Distributor up to .25% per year of its average daily net assets for actual expenditures made by the Distributor on behalf of that Portfolio for distribution and shareholder services.

3. Applicants request an order to permit the Funds to issue and sell multiple classes of shares, assess a CDSC on certain redemptions, and waive the CDSC in certain instances.

4. Under applicants' proposal, the Funds initially may offer shares either: (a) Subject to a conventional front-end sales load and a rule 12b–1 distribution or service fee at an annual rate of up to .25% of the average daily net assets ("Class A shares"); or (b) subject to a CDSC (which applicants expect will range from 3% on redemptions made during the first year following purchase to 1% on redemptions made during the fifth year since purchase), a rule 12b–1 service fee at an annual rate of up to .25%, and a rule 12b–1 distribution fee at an annual rate of up to .75%, of average daily net assets ("Class B shares"). Existing shares will become Class A shares upon implementation of the proposed multi-class distribution system. Applicants also may establish one or more additional classes of shares, the terms of which may differ from the classes of shares described herein only as described in condition 1 below.

5. The CDSC will be imposed on the lesser of the aggregate net asset value of the shares being redeemed either at the time of purchase or redemption. No CDSC will be imposed on shares acquired more than a fixed number of years prior to the redemptions or on shares derived from the reinvestment of distributions. No CDSC will be imposed on an amount that represents capital appreciation.

6. Applicants request the ability to waive or reduce the CDSC in the following instances: (a) Redemptions following the death or disability of a shareholder within the meaning of section 72(m)(7) of the Internal Revenue Code, as amended (the "Code"), if redemption is made within one year of death or disability; (b) redemptions in connection with a lump-sum or other distribution following retirement or, in the case of an IRA or Keogh Plan or a custodial account pursuant to section 403(b)(7) of the Code, after attaining age 59½; and (c) redemptions that result from a tax-free return of an excess contribution pursuant to section 408(d)(4) or (5) of the Code or from the death or disability of an employee.

7. All or part of the proceeds from a redemption of Class B shares may be reinvested within 30 days of redemption (or such other time period as a Fund may establish) into Class B shares of any Fund at net asset value. The Distributor will refund from its own assets the CDSC imposed at the time of redemption by crediting the shareholder's account with additional shares in an amount equal to the CDSC. Upon any such reinvestment, the amount reinvested will be subject to the same CDSC to which such amount was subject prior to the redemption.

8. Class B shares of a Fund held for the Class B CDSC period will

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[21] No comments were received in connection with the proposed rule change which implemented these procedures. See 1991 Approval Order, *supra*, note 1.

[22] 15 U.S.C. 78s(b)(2) (1988).

[23] 17 CFR 200.30–3(a)(12) (1991).

automatically convert to Class A shares of such Fund at the relative net asset values of each of the classes. The purpose of the conversion feature is to relieve the Class B shareholders from remaining subject to the asset-based sales charge for longer than the CDSC period.

9. Each class of shares will be exchangeable only for shares of the same class of other Funds. Applicants only will permit exchanges into shares of Money Market Portfolios having rule 12b–1 plans if either the time period during which the shares of the money market funds are held is included with the time period during which the exchanged shares were held in the calculation of the CDSC, or such time period is not included but the amount of the CDSC is reduced by the amount of any rule 12b–1 payments made by the money market funds with respect to those shares. Applicants may choose not to offer an exchange privilege for single class Money Market Portfolios. Applicants will comply with rule 11a–3 as to all exchanges.

10. Class A, Class B, and additional classes of shares created in the future will each represent interests in the same portfolio of investments, and will be identical in all respects except: (a) Each class of shares would have different designation; (b) each class of shares might be sold under different sales arrangements (e.g., subject to a front-end sales load, a CDSC, a front-end sales load and a CDSC, or at net asset value); (c) each class of shares would bear any payments incurred in connection with a rule 12b–1 plan or non-rule 12b–1 shareholder services plan related to that class (and any other costs relating to obtaining shareholder approval of the rule 12b–1 plan for that class or an amendment to its rule 12b–1 plan); (d) each class of shares would bear expenses specifically attributable to the particular class ("Class Expenses"), as described in the following paragraph; (e) the fact that classes will vote separately with respect to a Fund's rule 12b–1 plan and/or shareholder services plan, except as provided in condition 15 below; (f) each class of shares would have different exchange privileges; and (g) each class of shares might have different conversion features.

11. Class Expenses may include the following: (a) Transfer agency fees as identified by the transfer agent as being attributable to a specific class; (b) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders; (c) Blue Sky registration fees incurred by a class of shares; (d) SEC registration fees incurred by a class of shares; (e) the expenses of administrative personnel and services as required to support the shareholders of a specific class; (f) litigation, tax liens or other legal expenses relating solely to one class of shares; (g) directors' fees incurred as a result of issues relating to one class of shares; and (h) other expenses that are subsequently identified and determined to be properly allocated to one class of shares which shall be approved by the SEC pursuant to an amended order.

Applicants' Legal Analysis

1. Applicants request an order exempting them from the provisions of sections 18(f)(1), 18(g), and 18(i) of the Act to the extent that the proposed issuance and sale of various classes of shares representing interests in the same Fund might be deemed: (a) to result in a "senior security" within the meaning of section 18(g); (b) prohibited by section 18(f)(1); and (c) to violate the equal voting provisions of section 18(i).

2. Applicants believe that the proposed multi-class arrangement will better enable the Funds to meet the competitive demands of today's financial services industry. Under the multi-class arrangement, an investor will be able to choose the method of purchasing shares that is most beneficial given the amount of his or her purchase, the length of time the investor expects to hold his or her shares, and other relevant circumstances. The proposed arrangement would permit the Funds to facilitate both the distribution of their securities and provide investors with a broader choice as to the method of purchasing shares without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

3. The proposed allocation of expenses and voting rights relating to the rule 12b–1 plans in the manner described is equitable and would not discriminate against any group of shareholders. In addition, such arrangements should not give rise to any conflicts of interest because the rights and privileges of each class of shares are substantially identical.

4. Applicants believe that the proposed multi-class arrangement does not present the concerns that section 18 of the Act was designed to address. The multi-class arrangement will not increase the speculative character of the shares of the Fund. The multi-class arrangement does not involve borrowing, nor will it affect the Funds' existing assets or reserves, and does not involve a complex capital structure. Nothing in the multi-class arrangement suggests that it will facilitate control by holders of any class of shares.

5. Applicants submit that the requested exemption to permit the Funds to implement the proposed CDSCs is appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The proposed CDSC arrangements will provide shareholders the option of having their full payment invested for them at the time of their purchase of shares of the Funds with no deduction of an initial sales charge.

Applicants' Conditions

Applications agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same protrfolio of investments of a Fund and be identical in all respects, except as set forth below. The only differences among various classes of shares of the same Fund will relate solely to: (a) the designation of each class of shares of a Fund; (b) expenses assessed to a class as a result of a rule 12b–1 plan providing for a distribution fee or a service fee or a shareholder services plan (e.g., Class B and Class A shares may pay different rule 12b–1 service fees and/or rule 12b–1 distribution fees); (c) different Class Expenses for each class of shares, which will be limited to: (i) Transfer Agency fees as identified by the transfer agent as being attributable to a specific class; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders; (iii) Blue Sky registration fees incurred by a class of shares; (iv) SEC registration fees incurred by a class of shares; (v) the expenses of administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation, tax liens or other legal expenses relating solely to one class of shares; and (vii) directors' fees incurred as a result of issues relating to one class of shares; (d) the fact that the classes will vote separately with respect to a Fund's rule 12b–1 plan or shareholder services plan, except as provided in condition 15 below; (e) different exchange privileges; and (f) the conversion feature applicable to certain classes of shares. Any additional incremental expenses not specifically identified above that are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The directors of each of the Funds, including a majority of the independent directors, shall have approved the multi-class arrangement, prior to the implementation of the multi-class arrangement by a particular Fund. The minutes of the meetings of the directors of each of the Funds regarding the deliberations of the directors with respect to the approvals necessary to implement the multi-class arrangement will reflect in detail the reasons for determining that the proposed multi-class arrangement is in the best interest of both the Fund and their respective shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the directors of the affected Fund, including a majority of the independent directors. Any person authorized to direct the allocation and disposition of monies paid or payable by a Fund to meet Class Expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purpose for which the expenditures were made.

4. On an ongoing basis, the directors of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts among the interests of the various classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Adviser and the Distributor at their own expense will remedy the conflict up to and including establishing a new registered management investment company.

5. If any class will be subject to a shareholder services plan, the shareholder services plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

6. The directors of the Funds will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only distribution or shareholder servicing expenditures properly attributable to the sale of servicing of one class of shares will be used to justify any distribution or shareholder servicing fee charged to shareholders of that class of shares. Expenditures not related to the sale or servicing of a specific class of shares will not be presented to the directors to support any fees charged to shareholders of that class of shares. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends paid by a Fund with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that Class Expenses and costs and distribution fees associated with any rule 12b–1 plan and shareholder services plan relating to a particular class will be borne exclusively by each respective class.

8. The methodology and procedures for calculating the net asset value and dividends, and distributions of the various classes and the proper allocation of income and expenses among the classes has been reviewed by an expert (the "Expert"). The Expert has rendered a report to the applicants, which has been provided to the staff of the SEC, stating that the methodology and procedures are adequate to ensure that the calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon this review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Experts with respect to such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the SEC staff upon the written request for these work papers by a senior member of the Division of Investment Management or of a Regional Office of the SEC, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of income and expenses among the classes of shares, and this representation has been concurred with by the Expert in its initial report referred to in condition 8 above and will be concurred with by the Expert, or appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. The applicants will take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

10. The prospectuses of the Funds, if such is the case, will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different levels of compensation with respect to one particular class of shares over another class in the Fund.

11. The Distributor will adopt compliance standards as to when shares of a particular class may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to those standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Funds with respect to the multi-class arrangement will be set forth in guidelines that will be furnished to the directors.

13. Each Fund will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, CDSCs, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each Fund will disclose the respective expenses and performance data applicable to each class of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to the classes of shares of the Fund. To the extent any

advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will disclose the expenses and/or performance data applicable to all classes of shares of such Fund. The information provided by applicants for publication in any newspaper or similar listing of a Fund's net asset value or public offering price will separately present this information for each class of shares.

14. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, section 26 of the NASD's Rules of Fair Practice), if any that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

15. If a Fund adopts and implements any amendment to its rule 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a shareholder services plan) that would increase materially the amount that may be borne by the class of shares ("Target Class") into which the class of shares with a conversion feature ("Purchase Class") will convert under the plan, existing Purchase Class shares will stop converting into Target Class shares unless the Purchase Class shareholders, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to the Target Class as it existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class shares will convert into New Target Class shares. A New Target Class or New Purchase Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors reasonably believe will not be subject to federal taxation. In accordance with condition 4 above, any additional cost associated with the creation, exchange, or conversion of New Target Class shares or New Purchase Class shares will be borne solely by the Adviser and the Distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

16. Applicants will comply with proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1989), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

17. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b–1 plans or shareholder services plans in reliance on the exemptive order.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–7165 Filed 3–25–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 93–48; Notice 2]

Cosco, Inc.; Denial of Petition For Determination of Inconsequential Noncompliance

Cosco, Inc. (Cosco) of Columbus, Indiana determined that some of its child safety seats failed to comply with the flammability requirements of 49 CFR 571.213, "Child Restraint Systems," Federal Motor Vehicle Safety Standard No. 213, and filed an appropriate report pursuant to 49 CFR part 573. Cosco also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on July 7, 1993, and an opportunity afforded for comment (58 FR 36510). No comments were received. This notice denies the petition.

Paragraph S5.7 of Standard No. 213 states that "[e]ach material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302 (571.302)." Paragraph S4.3(a) of Standard No. 302 states that "[w]hen tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 4 inches per minute."

Between November 1, 1989, and March 31, 1993, Cosco produced 133,897 add-on (as opposed to built-in) child restraint seats, with shoulder harness straps which it has determined do not comply with the flammability requirements of Standard No. 213. The principal restraining mechanism on the noncompliant seats is a soft-shield harness assembly. The soft-shield harness assembly consists of a buckle, a soft molded urethane shield, and two straps, protruding to the top of the shield, which go over the child's shoulders through slots in the back of the child restraint and attach to a metal bar, which in turn is attached to an adjustment strap. Indications of a possible noncompliance came to light during testing of the seats by NHTSA at Detroit Testing Laboratory in February 1993, and retesting at U.S. Testing Laboratory. The harness straps burned at a rate of 4.3 inches per minute. This formed the basis of NHTSA investigation NCI 3269.

Cosco supported its petition for inconsequential noncompliance with the arguments set forth below. Cosco also submitted photographs of the noncompliant seats, photographs of the tests being conducted on the seats, and test data. These materials were available for review in the NHTSA docket during the comment period.

The company began its petition by agreeing

> generally that requiring child restraints to meet the [FMVSS] 302 standard does further the purpose of the standard when considering such child restraint components as vinyl or fabric pads or their foam contents. Cosco also concedes that the applicability of the standard to the harness systems of certain child restraints furthers the purpose of the standard, such as five-point harness systems which attach to, or pass through, the seating surface of the child restraint where sources of ignition such as cigarettes or matches could become entrapped.

Cosco's principal argument dealt with the improbability that the restraints would ignite. In support of this, it submitted that:

> [I]t is not physically possible for the harness straps of the soft shield to ignite or burn unless the entire child restraint or the automobile seat upon which it is installed is already burning.
>
> The configuration and placement of the straps of the Cosco soft-shield assembly are

such that these straps cannot come into contact with an independent source of ignition, such as a cigarette or match, which would result in any burning of the harness strap.

These are the only two possible causes for the ignition of the shoulder straps of Cosco soft-shield child restraints. The first is fire already consuming the child restraint and/or the vehicle seat upon which the child restraint is installed is on fire. It cannot be seriously questioned that, in such an instance, the child would be seriously or fatally burned from these sources of fire as opposed to the shoulder straps of the child restraint contributing in any degree to the child's injury. Cosco retained John E. Pless, M.D., Director of Forensic Pathology, Department of Pathology, Indiana University, School of Medicine, to review this issue. Dr. Pless, one of the leading forensic pathologists in the country and, through his work with Riley Children's Hospital in Indianapolis, one of the most experienced pediatric pathologists, concludes that the webbing of the Cosco soft-shield child restraints would have no practical importance on the effects of such a fire on a child. [Dr. Pless' report and curriculum vitae are in the docket.] Dr. Pless' conclusions are supported by tests performed by Cosco [photographs of the tests are in the docket.] The tests establish that the webbing does not "ignite" as that term is commonly understood. The webbing burns in a fashion that can be more accurately described as smoldering and generally extinguishes itself after a brief period of time. It should be noted that the tests * * * do not reflect any possible ignition of the child restraint harness straps if the child restraint were occupied by a child. [Cosco believes t]here is simply no way for a source of ignition, such as a lighter, to come into contact with the strap * * * when the child restraint is occupied by a child.

The other possible source of ignition of the harness strap would be from a localized heat source, such as a match or cigarette. It is critical in the analysis of whether such a risk exists to examine the configuration and placement of the straps of the Cosco soft-shield child restraints. [T]hese straps only contact the child who is occupying the child restraint at the mid-chest level, or higher on the child's body. The straps are essentially vertical as they leave the shield. Cosco conducted tests attempting to ignite the harness strap with a burning cigarette. [Photographs of this test are in the docket.] Simply stated, a lighted cigarette cannot ignite the harness strap. Cosco conducted these tests under controlled conditions which, frankly, seemed inconceivable to occur in the actual use of child restraints.

For example, in order to come into contact, for any length of time, with the child restraint harness strap, a lighted cigarette would have to be balanced at the point where the strap emerges from the molded shield. This is so unlikely as to be virtually inconceivable. Dr. Pless also commented on this possibility and indicated that such a localized heat source is "not within the realm of practical consideration." Cosco believes that any practical examination of these issues concludes that the risk of the ignition of the harnesses of Cosco soft-shield child restraints could not, under any conceivable set of circumstances, result in injury or death to the occupant of the child restraint. The noncompliance of Cosco soft-shield child restraints is therefore inconsequential as it relates to motor vehicle safety as set forth in FMVSS 302.

NHTSA has given careful consideration to this argument, and disagrees with Cosco's assertion that the straps cannot become ignited. With respect to the photographs Cosco submitted of tests conducted on the straps with a cigarette lighter, Cosco believes that they show that the strap webbing smolders and then extinguishes itself without igniting. NHTSA interprets the photographs as illustrating that the straps support a flame which could injure a child restrained in the child seat.

In issuing Standard No. 302 in 1971 (36 FR 289), the agency cited matches, cigarettes or short circuits in interior wiring as examples of sources for fires occurring in the interior of vehicles. The agency believes that there are situations where the straps could become ignited. One example is children in the back seat of a car, playing with matches, a cigarette lighter, or other ignition source near a child restrained in a Cosco seat.

In point of act, had the tests been conducted under real life circumstances, the results could have been worse. Webbing samples are tested horizontally, but webbing is worn vertically. If a fire begins at the bottom of webbing, it will travel upward at a faster rate than it would in a horizontal placement.

NHTSA considered Cosco's argument that, if fire is "already consuming the child restraint and/or the vehicle seat upon which the child restraint is installed," the child would be injured from these sources as opposed to the shoulder straps of the restraint. This argument cannot seriously be presented as ground for granting an inconsequentiality petition. If a vehicle fire is of such intensity that it is destroying a child restraint or vehicle seat that is certified as complying with Standard No. 302, then it will destroy the shoulder strap as well whether or not it complies. NHTSA is concerned with fires of less intensity, where it is critical that interior components (the child seat as well as the components specified in Standard No. 301) do not ignite, or if they do, that they burn at a slow enough rate that there will be time to remove the child from the occupant compartment.

Cosco also argued that there was no real-world indication of a safety threat. It said that:

Cosco has never received a report of the burning of a soft-shield harness strap. Cosco is unaware of any study that indicates that the burning of a child restraint harness has caused any injury or death. All occupant protection studies which Cosco has reviewed indicate an almost infinitesimal risk of injury or death by vehicle fires in total, at least in collisions. Cosco is unaware of any data on fires of the interior of vehicles unrelated to collisions.

In NHTSA's view, the fact that Cosco has not received any reports is not a sufficient basis on which to grant its petition. The present lack of such reports does not necessarily diminish the future potential of such incidents.

NHTSA has, in fact, received a report which may have some relevance in this matter. The complaint was made to the agency's Auto Safety Hotline on August 30, 1993, reporting the burning of the belt of a Cosco child seat while placed for three hours in a vehicle parked in sunlight. According to the report, the claimant "[n]oticed burning fumes and found burn marks [brownish discoloration] on the harness straps of the child restraint where the straps had been in contact with the top edge of the restraint's plastic shell as they lay across it." This incident raises concern that the burned fiber of the strap may have weakened the strength of the harness so that it might not provide the needed safety protection for a child occupant during a crash.

Cosco's final major argument was the owners might not respond to a future campaign of a more serious nature, if they were notified of one that concerned only a technical noncompliance. It argued:

> That child passenger safety advocates, child restraint manufacturers, and the Agency are aware of the negative impact of recalls resulting from technical noncompliance or defects that do not, as a practical matter, have true safety consequences. The most important negative effects of such recalls are:
>
> 1. That the public, because of the number and frequency of such recalls, pays no attention to recalls that actually affect, in a practical way, child passenger safety; and
>
> 2. That the public, upon seeing the number of recalls, concludes that child restraints currently available are unsafe and therefore decline to use them. The Agency is aware and, in fact, has publicly advised consumers to use child restraints that have defects or noncompliances that have that have resulted in recalls until such child restraints can be corrected. [An example of this advisement is contained in the docket.] This is in recognition of the fact that technical noncompliances or relatively insignificant safety defects do not compromise the overall effectiveness of child restraints.

The statement that consumers ignore recalls because of their number and

frequency is unsubstantiated. Further, NHTSA views it equally unlikely that, because of campaigns, consumers would conclude that child restraints are unsafe and decline to use them. Indeed, the opposite is more likely the case. Responses to safety notifications depend on factors including the type of noncompliance or defect, the type and extent of the notification campaign, media coverage, and the efforts of manufacturers.

Future campaigns are more likely to be effective than past ones. Standard No. 213 has been amended to provide for the registration of child restraints. The purpose of the program is to increase the effectiveness of campaigns to recall child seats. It requires manufacturers to take steps that will increase their ability to inform owners of particular child restraints about problems in these restraints and that encourage owners to register their child seats. And the agency does not agree that the noncompliance is "technical" in nature.

NHTSA also notes that the petition failed to acknowledge that the agency tested and retested the harness webbing in March 1993, and encountered a more serious test failure than the 4.3 inch burn rate presented in the petition and which reflected NHTSA's original tests. In the second series of tests, NHTSA found burn rate test and retest failures of 5.4 and 5.2 inches respectively. Thus the test and retest failures uncovered by NHTSA average 4.85 inches and 4.75 inches respectively, a margin of failure of 20%, and hardly inconsequential or of a "technical" nature in the agency's opinion.

Finally, NHTSA believes flammability requirements for child restraints should be stringently adhered to for the following reasons. The test requirement of not more than 4 inches a minute was justified by the need "to prevent injury to occupants from rapidly spreading interior fires, to allow sufficient time for the driver to stop the vehicle, and, if necessary, for occupants to leave it before injury occurs" (36 FR 10817). This is even more critical in the case of child restraints as a small child is typically not capable of exiting a vehicle without assistance. Therefore, some additional time is required for another person to remove the child. Moreover, the child most often is in the rear seat and the adult is in front, also requiring additional time to reach the child. Finally, because webbing rests against the child's body, noncompliant webbing has a great potential for injuring the child if ignited.

For the reasons discussed above, the agency has concluded that the petitioner has not met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to safety, and its petition is denied.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on March 22, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94-7158 Filed 3-25-94; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-84; Notice 2]

Solectria Corporation; Grant of Petition for Temporary Exemption From Four Federal Motor Vehicle Safety Standards

Solectria Corporation of Arlington, Massachusetts, petitioned to be exempted from four Federal motor vehicle safety standards for trucks that it converts to electric power. The basis of the petition was that compliance with the standards would cause substantial economic hardship.

Notice of receipt of the petition was published on December 23, 1993, and an opportunity afforded for comment (58 FR 68189). This notice grants that petition.

Previously, petitioner received NHTSA Exemption No. 92-2 covering Geo Metro passenger cars that it converts to electric power, and markets under the name "Solectria Force." As of the date of the latest petition, 45 Solectria Forces had been sold. Petitioner now intends to convert new Chevrolet S-10 pickup trucks to electric power. The vehicles to be converted have been certified by their original manufacturer to conform to all applicable Federal motor vehicle safety standards. However, petitioner determined that the vehicles may not conform with all or part of four Federal motor vehicle safety standards after their modification. The standards for which exemptions were requested are discussed below.

1. Standard No. 204, Steering Control Rearward Displacement

The conversion affects the ability to meet paragraph S4.2. According to the petitioner, "[b]ecause the weight in the hood is changed, a 30 mile per hour crash test under the conditions of S5 would be needed to determine the steering wheel's rearward displacement."

2. Standard No. 208, Occupant Crash Protection

The conversion affects the ability to meet paragraphs S4.2.2 and S4.6.1. According to the petitioner, "[b]ecause the Solectria pickup has manual Type 2 seat belts, S4.2.2 requires that the pickup meet the requirements of S4.1.2.3. S4.6.1 requires that Solectria's pickup meet the frontal crash protection requirements of S5.1."

3. Standard No. 212, Windshield Mounting

4. Standard No. 219, Windshield Zone Intrusion

According to the petitioner, "[t]he modifications will affect the requirements" of each of these two standards.

Exemption was requested from these four standards for a period of three years. the conversion of the vehicle to electric power results in a net weight increase of 500 pounds which is 17 percent over the weight at which the vehicle was originally certified. It involves the substitution of electrical propulsion components for the original ones relating to internal combustion propulsion, and modifications to the heating system and drive shaft. Petitioner stated that "thirty-mile per hour barrier crash testing is needed to determine the actual energy absorbing characteristics of the new front compartment components."

Petitioner argued that to require immediate compliance would create substantial economic hardship. As of September 30, 1990, the end of its first fiscal year, the company had a net income of $8,186. However, at the end of its second and third fiscal years, it had net losses, respectively of $87,602 and $106,243. Thus, as of September 30, 1992, it had cumulative net losses of $185,659. It estimates that the total cost of testing for compliance with the four standards would be $155,520. If modifications appear indicated, further testing would be required. An exemption would permit vehicle sales and the generation of cash permitting testing and full certification of compliance while the exemptions are in effect. It anticipates orders for 25 trucks in its first year of production, 50 units in the second year, and 150 vehicles in the third. A denial of the petition would delay Solectria's production "for several years and would likely prevent production altogether."

According to the petitioner, granting the exemption would be in the public interest and consistent with the National Traffic and Motor Vehicle Safety Act (the Act) because it "will be able to make a substantive contribution to the nation's clean transportation needs."

No comments were received on the petition.

Petitioner's lifetime financial history through September 30, 1992, indicated a cumulative net loss of almost $186,000. It is doubtful that the results for the year ending September 30, 1993, which have not been supplied, would materially improve the picture. According to The New York Times (January 28, 1994, page D4), Solectria's total vehicle production since its founding is about 60, and it has orders for about 52 vehicles more. It has estimated compliance testing costs for the four standards to be approximately $155,000. Further costs would be incurred if modifications are indicated. In the agency's view, the petitioner has demonstrated that immediate compliance would cause it substantial economic hardship.

Because the host vehicle is certified to be in compliance with all applicable Federal motor vehicle safety standards, the statutory language requiring a finding that the petitioner has made a good faith effort to comply with the standards from which exemption is sought must be considered in a different light. Petitioner has evaluated the effect of its conversion operations upon a certified vehicle, and has determined that its converted vehicle may not conform with four Federal motor vehicle safety standards. It has further estimated the cost of testing to verify the compliance status of its vehicles, a sum that approaches in amount its cumulative net losses to date. During the time the exemption is in effect it states that it will carry through its compliance testing program to achieve full conformance. Under these circumstances, NHTSA believes that the petitioner is making a good faith effort to comply with the standards. Finally, though the volume of production would be small, the exempted vehicles would emit zero emissions. Thus, an exemption would be in the public interest, and consistent with the objectives of the Vehicle Safety Act to promote alternatives to the internal combustion engine and to relieve on a temporary basis restrictions upon small manufacturers consistent with safety.

On the basis of the foregoing, it is hereby found that immediate compliance would cause the petitioner substantial economic hardship, that the petitioner has in good faith attempted to conform with the standards from which exemption is requested, and that an exemption would be consistent with the public interest and the objectives of the Act. Accordingly, Solectria Corporation is hereby granted NHTSA Temporary Exemption No. 92–2, expiring February 1, 1997, from the following standards, or portions thereof, applicable to its Chevrolet S–10 pickup truck conversion: 49 CFR 571.204 Motor Vehicle Safety Standard No. 204 Steering Column Rearward Displacement; paragraphs S4.2.2 and S4.6.1 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 Occupant Restraint Systems; 49 CFR 571.212 Motor Vehicle Safety Standard No. 212 Windshield Mounting; and 49 CFR 571.219 Motor Vehicle Safety Standard No. 219 Windshield Zone Intrusion.

(15 U.S.C. 1410; delegation of authority at 49 CFR 1.50)

Issued on: March 22, 1994.

Christopher A. Hart,

Deputy Administrator.

[FR Doc. 94–7159 Filed 3–25–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances; Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include benzoic acid and benzaldehyde.

EFFECTIVE DATE: This modification is effective July 1, 1993.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On March 16, 1994, the Secretary determined that benzoic acid and benzaldehyde should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective July 1, 1993.

The rate of tax prescribed for benzoic acid, under section 4671(b)(3), is $3.67 per ton. This is based upon a conversion factor for toluene of 0.7545.

The rate of tax prescribed for benzaldehyde, under section 4671(b)(3), is $4.22 per ton. This is based upon a conversion factor for toluene of 0.8682.

The petitioner is Kalama Chemical Company, a manufacturer and exporter of these substances. No material comments were received on these petitions. The following information is the basis for the determinations.

Benzoic Acid

HTS number: 2916.31.10.05
CAS number: 65–85–0

Benzoic acid is derived from the taxable chemical toluene. Benzoic acid is a solid produced predominantly by the continuous liquid-phase oxidation of toluene, using air as the oxygen source, in the presence of a cobalt containing catalyst.

The stoichiometric material consumption formula for benzoic acid is:

C_7H_8 (toluene) + 1.5 O_2 (oxygen)——> $C_7H_6O_2$ (benzoic acid) + H_2O (water)

Benzoic acid has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 65.7 percent by weight of the materials used in its production.

Benzaldehyde

HTS number: 2912.21.00.00
CAS number: 100–52–7

Benzaldehyde is derived from the taxable chemical toluene. Benzaldehyde is a liquid produced predominantly by as a co- product of benzoic acid by the continuous liquid-phase oxidation of toluene, using air as the oxygen source, in the presence of a cobalt containing catalyst.

The stoichiometric material consumption formula for benzaldehyde is:

C_7H_8 (toluene) + O_2 (oxygen) ——> C_7H_6O (benzaldehyde) + H_2O (water)

Benzaldehyde has been determined to be a taxable substance because a review of its stoichiometric material

consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 74.1 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 94-7152 Filed 3-25-94; 8:45 am]

BILLING CODE 4830-01-U

Tax on Certain Imported Substances; Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89-61, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include diphenylamine and aniline.

EFFECTIVE DATE: This modification is effective January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89-61, 1989-1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On March 16, 1994, the Secretary determined that diphenylamine and aniline should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective January 1, 1993.

The rate of tax prescribed for diphenylamine, under section 4671(b)(3), is $5.11 per ton. This is based upon a conversion factor for benzene of 1.010 and a conversion factor for nitric acid of 0.835.

The rate of tax prescribed for aniline, under section 4671(b)(3), is $4.44 per ton. This is based upon a conversion factor for benzene of 0.8780 and a conversion factor for nitric acid of 0.7260.

The petitioner is Aristech Chemical Corporation, a manufacturer and exporter of these substances. No material comments were received on these petitions. The following information is the basis for the determinations.

Diphenylamine

HTS number: 2921.44.00.00
CAS number: 122-39-4

Diphenylamine is derived from the taxable chemicals benzene and nitric acid. Diphenylamine is a liquid produced predominantly by liquid phase condensation of aniline over an acid catalyst. The stoichiometric material consumption formula for diphenylamine is:

$2\ C_6H_6$ (benzene) + $2\ HNO_3$ (nitric acid) + $6\ H_2$ (hydrogen) ——> $C_{12}H_{11}N$ (diphenylamine) + NH_3 (ammonia) + $6\ H_2O$ (water)

Diphenylamine has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 95.9 percent by weight of the materials used in its production.

Aniline

HTS number: 2921.41.10.00
CAS number: 62-53-3

Aniline is derived from the taxable chemicals benzene and nitric acid. Aniline is a liquid produced predominantly by the hydrogenation of nitrobenzene.

The stoichiometric material consumption formula for aniline is:

C_6H_6 (benzene) + HNO_3 (nitric acid) + $3\ H_2$ (hydrogen) ——> C_6H_7N (aniline) + $3\ H_2O$ (water)

Aniline has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 95.9 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 94-7153 Filed 3-25-94; 8:45 am]

BILLING CODE 4830-01-U

Tax on Certain Imported Substances; Filing of Petitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89-61, 1989-1 C.B. 717, of petitions requesting that monochlorobenzene and ethyl chloride be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by May 27, 1994. Any modification of the list of taxable substances based upon these petitions would be effective April 1, 1994.

ADDRESSES: Send comments and requests for a public hearing to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on April 5, 1993. The petitioner is PPG Industries, Inc., a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Monochlorobenzene

HTS number: 2903.61.10.00
CAS number: 108-90-7

This substance is derived from the taxable chemicals chlorine and benzene. Monochlorobenzene is a liquid produced predominantly by the direct chlorination of benzene.

The stoichiometric material consumption formula for this substance is:

Cl_2 (chlorine) + C_6H_6 (benzene) → C_6H_5Cl (monochlorobenzene) + HCl (hydrogen chloride)

According to the petition, taxable chemicals constitute 100 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.80 per ton. This is based upon a conversion factor for chlorine of 0.1575 and a conversion factor for benzene of 0.6939.

Ethyl chloride

HTS number: 2903.11.00.20
CAS number: 75-00-3

This substance is derived from the taxable chemicals chlorine and ethylene. Ethyl chloride is a gas produced predominantly by the hydrochlorination of ethylene.

The stoichiometric material consumption formula for this substance is:

C_2H_4 (ethylene) + HCl (hydrochloric acid) → C_2H_5Cl (ethyl chloride)

According to the petition, taxable chemicals constitute 100 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $2.30 per ton. This is based upon a conversion factor for ethylene of 0.4379 and a conversion factor for hydrochloric acid of 0.5621.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 94-7154 Filed 3-25-94; 8:45 am]

BILLING CODE 4830-01-U

Tax on Certain Imported Substances; Filing of Petitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89-61, 1989-1 C.B. 717, of petitions requesting that tetrahydrofuran and 1,4 butanediol be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by May 27, 1994. Any modification of the list of taxable substances based upon these petitions would be effective October 1, 1994.

ADDRESSES: Send comments and requests for a public hearing to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on December 27, 1993. The petitioner is E. I. DuPont de Nemours and Company, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Tetrahyrofuran

HTS number: 2932.11.00.00
CAS number: 109-99-9

This substance is derived from the taxable chemicals methane and acetylene. Tetrahyrofuran is a liquid produced predominantly by the reaction of acetylene (derived from methane in natural gas) with formaldehyde made by air oxidation and dehydrogenation of methanol (derived from methane in natural gas) producing the intermediate butynediol which is in turn reacted with hydrogen (derived from methane in natural gas) to produce 1,4 butanediol. The 1,4 butanediol is ring closed using an acid catalyst to produce tetrahydrofuran.

The stoichiometric material consumption formula for this substance is:

C_2H_2 (acetylene) + 3 CH_4 (methane) + 0.5 O_2 (oxygen) + 2 H_2O (water) → C_4H_8O (tetrahydrofuran) + 5 H_2 (hydrogen) + CO_2 (carbon dioxide)

According to the petition, taxable chemicals constitute 58.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.28 per ton. This is based upon a conversion factor for acetylene of 0.40 and a conversion factor for methane of 0.97.

1,4 butanediol

HTS number: 2905.39.10.00
CAS number: 110-63-4

This substance is derived from the taxable chemicals methane and acetylene. 1,4 butanediol is a liquid produced predominantly by the reaction of acetylene (derived from methane in natural gas) with formaldehyde made by air oxidation and dehydrogenation of methanol (derived from methane in natural gas) producing the intermediate butynediol which is in turn reacted with hydrogen (derived from methane in natural gas) to produce 1,4 butanediol.

The stoichiometric material consumption formula for this substance is:

3 CH_4 (methane) + C_2H_2 (acetylene) + 3 H_2O (water) + 0.5 O_2 (oxygen) → $C_4H_{10}O_2$ (1,4 butanediol) + 5 H_2 (hydrogen) + CO_2 (carbon dioxide)

According to the petition, taxable chemicals constitute 51.3 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.20 per ton. This is based upon a conversion factor for methane of 0.77 and a conversion factor for acetylene of 0.32.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 94-7155 Filed 3-25-94; 8:45 am]

BILLING CODE 4830-01-U

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 objects in the exhibit, "Willem de Kooning: Paintings" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition of the objects at the National Gallery of Art, Washington, DC from on or about May 8, 1994, to on or about September 5, 1994 and the Metropolitan Museum of Art, from on or about October 11, 1994, to on or about January 8, 1995, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Les Jin,

General Counsel.

[FR Doc. 94-7238 Filed 3-25-94; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Nelia Sheahan of the Office of the General Counsel of USIA. The telephone number is 202/619-5030, and the address is Room 700, U.S. Information Agency, 301 Fourth Street SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 59 No. 59
Monday, March 28, 1994

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 ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), U.S.C. 552b:

DATE AND TIME: March 30, 1994, 10:00 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 997th Meeting—March 30, 1994, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 2407–008, Alabama Power Company
CAH–2.
Project No. 553–020, City of Seattle, Washington
CAH–3.
Project No. 2232–286, Duke Power Company
CAH–4.
Project Nos. 9732–002 and 009, Brookside Hydroelectric Company, Inc.

Project No. 9277–002, Riverside Dam, Inc.

Project No. 10080–001, Lower Falls Hydro Company, Inc.

CAH–5. Project No. 11409–001, North Side Canal Company

Consent Agenda—Electric

CAE–1.
Docket No. ER93–985–000, New England Power Pool
CAE–2.
Omitted
CAE–3.
Docket Nos. ER94–922–000 and EL93–22–003, Maine Yankee Atomic Power Company
CAE–4.
Docket No. ER94–940–000, New England Power Company
CAE–5.
Docket Nos. ER88–83–010, ER86–271–006 and ER87–365–005, Southern California Edison Company
CAE–6.
Docket Nos. ER94–504–001 and ER94–505–001, Public Service Company of Colorado
CAE–7.
Docket No. TX93–2–002, City of Bedford, Virginia, City of Danville, Virginia, City of Martinsville, Virginia, Town of Richlands, Virginia and Blue Ridge Power Agency
CAE–8.
Docket No. TX93–2–003, City of Bedford, Virginia, City of Danville, Virginia, City of Martinsville, Virginia, Town of Richlands, Virginia and Blue Ridge Power Agency
CAE–9.
Docket No. ER94–166–001, Gulf States Utilities Company
CAE–10.
Docket No. ER92–544–002, Montaup Electric Company
CAE–11.
Docket No. EG94–27–000, Black Creek Hydro, Inc.
CAE–12.
Docket No. EG94–25–000, TIFD VIII–B Inc.
CAE–13.
Docket No. EG94–24–000, Energy Storage Partners
CAE–14.
Docket No. EG94–26–000, Hanover Energy Corporation
CAE–15.
Docket No. EL89–40–000, Northern States Power Company (Wisconsin), Wisconsin Electric Power Company, Wisconsin Power & Light Company, Wisconsin Public Service Corporation v. Public Service Commission of Wisconsin
CAE–16. Omitted

Consent Agenda—Oil and Gas

CAG–1. Omitted
CAG–2.
Docket No. RP94–157–000, Columbia Gas Transmission Corporation
CAG–3.
Docket No. RP94–158–000, Columbia Gas Transmission Corporation
CAG–4.
Docket No. RP94–166–000, Arkla Energy Resources Company
CAG–5.
Docket Nos. RP94–167–000 and TM94–4–33–000, El Paso Natural Gas Company
CAG–6.
Docket No. RP94–170–000, Algonquin Gas Transmission Company
CAG–7.
Docket No. RP94–171–000, Carnegie Natural Gas Company
CAG–8.
Docket No. RP93–109–010, Williams Natural Gas Company
CAG–9.
Docket No. RP94–138–000, Northern Border Pipeline Company
CAG–10.
Docket No. RP94–142–000, Florida Gas Transmission Company
CAG–11.
Docket No. RP94–147–000, Northern Natural Gas Company
CAG–12.
Docket No. RP94–150–000, ANR Pipeline Company
CAG–13.
Docket No. RP94–152–000, Northern Border Pipeline Company
CAG–14.
Docket Nos. RP94–154–000, RP94–6–000 and RP94–64–000, Northern Natural Gas Company
CAG–15.
Docket No. RP94–160–000, Panhandle Eastern Pipe Line Company
CAG–16.
Docket No. RP94–161–000, U–T Offshore System
CAG–17.
Docket No. RP94–162–000, High Island Offshore System
CAG–18.
Docket No. RP94–164–000, Trunkline Gas Company
CAG–19.
Docket No. RP94–169–000, Natural Gas Pipeline Company of America
CAG–20.
Docket No. RP94–144–000, Transcontinental Gas Pipe Line Corporation
CAG–21.
Docket Nos. RP94–137–000 and RP94–82–001, Florida Gas Transmission Company
CAG–22.
Docket No. RP93–205–000, Koch Gateway Pipeline Company
CAG–23.
Omitted
CAG–24.
Docket No. TM94–3–70–000, Columbia Gulf Transmission Company
CAG–25.
Docket No. TM94–4–28–000, Panhandle Eastern Pipe Line Company
CAG–26.
Docket No. TM94–5–21–000, Columbia Gas Transmission Corporation
CAG–27.
Docket No. TM94–10–29–000, Transcontinental Gas Pipe Line Corporation
CAG–28.
Docket No. RP94–119–001, Texas Gas Transmission Corporation
CAG–29.

Docket No. RP94–165–000, Southern Natural Gas Company
CAG–30.
Docket No. RP94–153–000, Panhandle Eastern Pipe Line Company
CAG–31.
Docket No. GT93–48–000, Transcontinental Gas Pipe Line Corporation
CAG–32.
Docket No. RP94–26–000, Transcontinental Gas Pipe Line Corporation
CAG–33.
Docket No. RP94–31–002, CNG Transmission Corporation
CAG–34.
Docket Nos. TA93–1–21–000, 001 and TM93–9–21–000, Columbia Gas Transmission Corporation
CAG–35.
Docket No. TM94–2–37–001, Northwest Pipeline Corporation
CAG–36.
Docket Nos. RP93–34–000, 003, 004, RS92–87–015 and RP92–140–000, Transwestern Pipeline Company
CAG–37.
Docket No. RP93–5–021, Northwest Pipeline Corporation
CAG–38.
Docket No. RP94–96–003, CNG Transmission Corporation
CAG–39.
Docket Nos. RP89–34–000, RP89–257–000 and RP90–2–000, Williston Basin Interstate Pipeline Company
CAG–40.
Docket Nos. TM94–2–32–000 and 001, Colorado Interstate Gas Company
CAG–41.
Docket No. RP94–118–000, Questar Pipeline Company
CAG–42.
Omitted
CAG–43.
Docket No. GT93–15–002, Alabama-Tennessee Natural Gas Company
CAG–44.
Docket No. RP94–97–001, Transwestern Pipeline Company
CAG–45.
Docket No. AC93–61–001, Tennessee Gas Pipeline Company, Midwestern Gas Transmission Company, East Tennessee Natural Gas Company and Viking Gas Transmission Company
CAG–46.
Docket No. RP94–105–002, Ozark Gas Transmission System
CAG–47.
Docket No. RP94–99–001, Texas Eastern Transmission Corporation
CAG–48.
Docket No. RP93–167–002, Trunkline Gas Company
CAG–49.
Docket No. GP94–3–001, Railroad Commission of Texas, NGPA Section 107(c)(5) Determinations, FERC Nos. JD94–00099 and JD94–00111
CAG–50.
Docket No. GP94–4–001, Railroad Commission of Texas, NGPA Section 107(c)(5) Determination, FERC No. JD94–00335
CAG–51.
Docket No. TM94–4–17–002, Texas Eastern Transmission Corporation
CAG–52.
Docket No. GT94–8–001, Texas Gas Transmission Corporation
CAG–53.
Docket Nos. RP91–203–037, RP92–132–036 and RS92–23–017, Tennessee Gas Pipeline Company
CAG–54.
Docket No. RP92–53–004, Kern River Gas Transmission Company
CAG–55.
Docket Nos. RP80–97–061, RP82–12–024 and RP91–203–039, Tennessee Gas Pipeline Company
CAG–56. Omitted
CAG–57.
Docket No. RP94–102–002, Carnegie Natural Gas Company
CAG–58.
Docket Nos. RP89–224–010, RP89–203–007, RP90–139–012 and RP91–69–003, Southern Natural Gas Company
CAG–59.
Docket No. RP92–134–008, Southern Natural Gas Company
CAG–60.
Docket No. MG88–17–003, El Paso Natural Gas Company
Docket No. MG92–5–000, Kern River Gas Transmission Company
Docket No. MG93–2–000, Louisiana-Nevada Transit Company
CAG–61.
Docket No. GP94–5–000, Railroad Commission of Texas, NGPA Section 107(c)(5) Determination, FERC No. JD94–02876T
CAG–62.
Docket Nos. RS92–25–007, 008, 009, CP93–504–003 and 004, Trunkline Gas Company
CAG–63.
Docket No. CP93–145–002, Tennessee Gas Pipeline Company
CAG–64.
Docket No. CP90–2294–004, Transwestern Pipeline Company
CAG–65.
Docket No. CP89–2173–002, Arkla Energy Resources Company, a Division of Arkla, Inc. and Mississippi River Transmission Corporation
Docket No. CP89–2195–002, ANR Pipeline Company
CAG–66.
Omitted
CAG–67.
Docket Nos. CP79–444–004 and CP81–125–001, Tennessee Gas Pipeline Company and Columbia Gulf Transmission Company
Docket No. CP82–499–002, Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company and United Gas Pipe Line Company
Docket No. CP81–474–003, Tennessee Gas Pipeline Company
CAG–68.
Docket No. CP93–501–000, Tennessee Gas Pipeline Company
CAG–69.
Docket No. CP94–116–000, Natural Gas Pipeline Company of America
CAG–70.
Omitted
CAG–71.
Docket No. CP94–198–000, Pacific Interstate Transmission Company
CAG–72.
Docket No. CP94–146–000, CNG Producing Company
Docket No. CP94–148–000, CNG Transmission Corporation, CNG Producing Company, and Otis Petroleum Corporation
CAG–73.
Docket No. IN90–1–002, Northwest Pipeline Corporation
Docket No. CP89–304–000, Williams Gas Supply Company
Docket No. CP89–305–000, Williams Gas Marketing Company
CAG–74.
Docket No. RM93–4–000, Standards for Electronic Bulletin Boards Required Under Part 284 of The Commission's Regulations
CAG–75.
Docket No. CP80–35–014, Colorado Interstate Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. TX94–4–000, Tex-La Electric Cooperative of Texas, Inc. Order on application for transmission service.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket No. RP94–149–000, Pacific Gas Transmission Company. Order on rate filing.

II. Restructuring Matters

RS–1.
Docket Nos. RS92–49–008, 009, RP92–74–015 and RP92–204–004, South Georgia Natural Gas Company. Order on compliance and rehearing.
RS–2.
Docket Nos. RS92–13–000, 008, 010, 011 and RP94–48–000, Williston Basin Interstate Pipeline Company. Order on compliance and rehearing.
RS–3.
Docket Nos. RS92–16–006, 007, RP91–187–012 and CP91–2448–006, Florida Gas Transmission Company
Docket Nos. MG88–3–007, 008 and RP91–138–003, Florida Gas Transmission Company. Order on compliance and rehearing.
RS–4.
Docket Nos. RS92–19–009, 010, RP92–104–000 and RP92–131–000, K N Energy, Inc. Order on compliance and rehearing.

III. Pipeline Certificate Matters

PC–1.
Reserved

Dated: March 23, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7444 Filed 3–24–94; 3:57 pm]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: March 30, 1994, 9:30 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Marysville Hydro Partners, Project No. 9885

(2) *Independent Energy Producers Association, Inc. v. California Public Utilities Commission*, No. 92–16201

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400.

Dated: March 23, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–7445 Filed 3–24–94; 3:56 pm]

BILLING CODE 6717–01–M

Corrections

Federal Register
Vol. 59, No. 59
Monday, March 28, 1994

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 THE INTERIOR

Bureau of Land Management

[CACA 33906, CACA 33907, CACA 33908, CACA 33909, CACA 33910]

Proposed Withdrawal and Opportunity for Public Meeting; California

Correction

In notice document 94-5609 appearing on page 11289 in the issue of Thursday, March 10, 1994, in the second column, under "**Mount Diablo Meridian**", "CACA 33096" should read "CACA 33906".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-09; Notice 34]

RIN 2127-AE80

Federal Motor Vehicle Safety Standards; Child Restraint Systems

Correction

In rule document 94-3252 beginning on page 7643 in the issue of Wednesday, February 16, 1994 make the following correction:

On page 7647, in the third column, in § 571.213 S5.5.2(k)(ii), in the second paragraph, the following statements should all be capitalized to read:

WARNING: WHEN YOUR BABY'S SIZE REQUIRES THAT THIS RESTRAINT BE USED SO THAT YOUR BABY FACES THE REAR OF THE VEHICLE, PLACE THE RESTRAINT IN A VEHICLE SEAT THAT DOES *NOT* HAVE AN AIR BAG. or

WARNING: PLACE THIS RESTRAINT IN A VEHICLE SEAT THAT DOES *NOT* HAVE AN AIR BAG.

BILLING CODE 1505-01-D

federal register

Monday
March 28, 1994

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 8, 51, and 52; et al.
Federal Acquisition Regulation; Javits-Wagner-O'Day Program (JWOD), et al.; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 51, and 52

[FAR Case 91–108]

Federal Acquisition Regulation; Javits-Wagner-O'Day Program (JWOD)

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing amendments to the Federal Acquisition Regulation to clarify that the Government's obligation to purchase from statutorily mandated sources of supply also applies when contractors purchase the supply items for Government use. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405. Please cite FAR case 91–108 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott at (202) 501–0168 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 91–108.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed amendments to FAR Parts 8, 51, and 62 provide clarification that the statutory obligation for Government agencies to satisfy their requirements for certain supplies from procurement lists of supplies available from the Committee for Purchase from People Who Are Blind or Severely Disabled (Committee) also applies when contractors purchase the supply items for Government use. The proposed revisions respond to concerns raised by the Committee that such a clarification is necessary for situations when Government agencies contract with commercial sources to perform an agency's supply function. The revisions are consistent with changes in the Committee's regulations which were published in the **Federal Register** at 56 FR 48974, September 26, 1991.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule will require contractors to purchase certain supply items from the same statutorily mandated sources that Government agencies are required to use when the contractor is performing an agency's supply function. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601 *et seq.* (FAR case 91–108), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8, 51, and 52

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 8, 51, and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 8, 51, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 8.001 is amended by revising paragraphs (a)(2) (ii) and (iii); and adding paragraph (c) to read as follows:

8.001 Priorities for use of Government supply sources.

(a) * * *

(2) * * *

(ii) Mandatory Federal Supply Schedules (see subpart 8.4);

(iii) Optional use Federal Supply Schedules (see subpart 8.4); and

* * * * *

(c) The statutory obligation for Government agencies to satisfy their requirements for supplies available from the Committee for Purchase from People Who Are Blind or Severely Disabled also applies when contractors purchase the supply items for Government use.

3. Section 8.003 is added to read as follows:

8.003 Contract clause.

The contracting officer shall insert the clause at 52.208–00, Contractor Use of Mandatory Sources of Supply, in solicitations and contracts which require a contractor to purchase supply items for Government use that are available from the Committee for Purchase from People Who Are Blind or Severely Disabled. The contracting officer shall identify in the contract schedule the items which must be purchased from a mandatory source and the specific source.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

4. Section 51.101 is amended by adding paragraph (c) to read as follows:

51.101 Policy.

* * * * *

(c) Contracting officers shall authorize contractors purchasing supply items for Government use that are available from nonprofit agencies employing persons who are blind or have other severe disabilities (see subpart 8.7) to purchase the items directly from the agencies or from the General Services Administration, Defense Logistics Agency and Department of Veterans Affairs if products from the agencies are available through their distribution facilities.

5. Section 51.102 is amended by revising paragraphs (a) introductory text and (c)(3) to read as follows:

51.102 Authorization to use Government supply sources.

(a) Before issuing an authorization to a contractor to use Government supply sources in accordance with 51.101 (a) or (b), the contracting officer shall place in the contract file a written finding supporting issuance of the authorization. A written finding is not required when authorizing use of the Government supply sources in

accordance with 51.101(c). The determination shall be based on, but not limited to, considerations of the following factors:

* * * * *

(c) * * *

(3) Approval for the contractor to use Department of Veterans Affairs (VA) supply sources from the Deputy Assistant Secretary for Acquisition and Materiel Management (Code 90), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.208–00 is added to read as follows:

52.208–00 Contractor use of mandatory sources of supply.

As prescribed in 8.003, insert the following clause:

Contractor Use of Mandatory Sources of Supply (Date)

(a) Certain supplies to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies employing persons who are blind or have other severe disabilities (Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48)). Additionally, certain of these supplies must be purchased through the General Services Administration (GSA), Defense Logistics Agency (DLA) or the Department of Veterans Affairs (VA). The Contractor shall obtain supplies to be provided for use by the Government under this contract from the sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies by the time required, or if the quality of supplies provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies from other sources until the Contracting Officer has notified the Contractor that the mandatory source has authorized purchase from other sources.

(c) Price and delivery information for the mandatory source supplies is available from the Contracting Officer for the supplies obtained through the GSA/DLA/VA distribution facilities. Information is available from JWOD nonprofit agencies for the supplies they provide directly to the Contractor. Payments shall be made directly to the source making delivery. Points of contact for JWOD nonprofit agencies are:

(1) National Industries for the Blind (NIB), 19101 North Beauregard Street, Suite 200, Alexandria, VA 22311–1727, (703) 998–0770

(2) NISH, 2235 Cedar Lane, Vienna, VA 22182–5200, (703) 560–6800

(End of Clause)

[FR Doc. 94–6890 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

48 CFR Parts 9 and 52

[FAR Case 91–105]

Federal Acquisition Regulation; First Article Testing and Approval

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing a change to the Federal Acquisition Regulation (FAR) which adds language to the existing first article clauses and adds a new solicitation provision, Waiver of First Article Testing and Approval. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 91–105 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 91–105.

SUPPLEMENTARY INFORMATION:

A. Background

The existing first article clauses at FAR 52.209–3, First Article Approval-Contractor Testing, and 52.209–4, First Article Approval-Government Testing, do not cover all the requirements of FAR 9.306, Solicitation requirements. The proposed language will cover the main requirements in this section and will reduce the number of non-standard provisions and clauses on this subject.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the changes will standardize the FAR coverage addressed under FAR 9.306, Solicitation requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–105), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement concerning the Waiver of First Article Testing and Approval Requirements solicitation provision is being submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request will be invited through a **Federal Register** notice appearing in this same issue.

List of Subjects in 48 CFR Parts 9 and 52

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 9 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 9 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

9.305 [Amended]

2. Section 9.305 is amended by removing at the end of the third sentence "(see Alternate II of the clause at 52.209–3, First Article Approval—Contractor Testing, and Alternate II of the clause at 52.209–4, First Article Approval—Government Testing)".

9.306 [Amended]

3. Section 9.306 is amended by removing paragraphs (c) through (e); redesignating paragraph (f) as (c); removing paragraphs (g) through (i); and redesignating paragraph (j) as (d).

4. Section 9.308 is revised to read as follows:

9.308 Solicitation provision.

(a) The contracting officer shall insert the provision at 52.209–00, Waiver of First Article Testing and Approval Requirements, in solicitations containing a requirement for first article testing and approval, unless it is known

at the time of solicitation that first article testing requirements will not be waived.

(b) When the Government is responsible for first article testing, and the Government's estimated testing costs will be used as a factor in evaluating offers, the contracting officer shall use the basic provision with its Alternate I. The contracting officer shall insert the appropriate dollar figure as indicated in the provision.

9.308–1 and 9.308–2 [Removed]

5. Sections 9.308–1 and 9.308–2 are removed.

6. Sections 9.309, 9.309–1 and 9.309–2 are added to read as follows:

9.309 Contract clauses.

9.309–1 Testing performed by the contractor.

(a) (1) The contracting officer shall insert the clause at 52.209–3, First Article Approval—Contractor Testing, in solicitations and contracts when a fixed-price contract is contemplated and it is intended that the contract require (i) first article approval and (ii) that the contractor be required to conduct the first article testing.

(2) If the first article may not be delivered as part of the contract quantity, the contracting officer shall use the basic clause with its Alternate I.

(3) If it is intended that the approved first article serve as a manufacturing standard, the contracting officer shall use the basic clause with its Alternate II.

(b) The contracting officer shall insert a clause substantially the same as the clause at 52.209–3, First Article Approval—Contractor Testing, in solicitations and contracts when a cost-reimbursement contract is contemplated and it is intended that the contract require (1) first article approval and (2) that the contractor be required to conduct the first article test. The appropriate alternate(s) shall be used with the basic clause.

9.309–2 Testing performed by the Government.

(a)(1) The contracting officer shall insert the clause at 52.209–4, First Article Approval—Government Testing, in solicitations and contracts when a fixed-price contract is contemplated and it is intended that the contract require first article approval and that the Government will be responsible for conducting the first article test.

(2) If the first article may not be delivered as part of the contract quantity, the contracting officer shall use the clause with its Alternate I.

(3) If it is intended that the approved first article serve as a manufacturing standard, the contracting officer shall use the clause with its Alternate II.

(4) If it is intended that the contractor be required to remove and dispose of the first article from the Government test facility, the contracting officer shall use the clause with its Alternate III.

(b) The contracting officer shall insert a clause substantially the same as the clause at 52.209–4, First Article Approval—Government Testing, in solicitations and contracts when a cost-reimbursement contract is contemplated and it is intended that the contract require first article approval and that the Government be responsible for conducting the first article test. The appropriate alternate(s) shall be used with the clause.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 52.209–00 is added to read as follows:

52.209–00 Waiver of first article testing and approval requirements.

As prescribed in 9.308(a), insert the following provisions:

Waiver of First Article Testing and Approval Requirements (Date)

(a) The Government may waive the requirement for first article testing and approval where supplies identical or similar to those called for in the schedule has been previously furnished by the Offeror and have been accepted by the Government.

(b) Offerors requesting waiver of first article testing and approval requirements shall provide the contract number(s) under which identical or similar supplies were previously furnished by the offeror and accepted by the Government. National stock number(s) previously furnished shall also be provided, as applicable.

(c) All Offerors are required to submit an offer based on testing and approval of the first article, regardless of whether waiver of first article requirements is requested.

(d) Offerors may submit an alternate offer based on waiver of first article testing and approval requirements.

(e) Any acceleration in the delivery schedule resulting from waiver of first article testing and approval requirements shall not be a factor in evaluation for award.

(End of provision)

Alternate I (DATE). As prescribed in 9.308(b), add the following paragraph (f) to the basic provision:

(f) The estimated cost to the Government for first article testing is $_____. For evaluation purposes, this amount will be added to the offer of each Offeror for whom first article testing is not waived.

8. Section 52.209–3 is amended as follows:

a. In the introductory text by removing "9.308–1(a)" and inserting in its place "9.309–1(a)";

(b) In the clause heading by revising the date;

(c) In paragraph (e) of the clause by removing "Unless otherwise provided in the contract, and if" and inserting in its place "IF";

(d) In paragraph (g) by revising the last sentence;

(e) In paragraph (h) by removing "offeror/contractor" each time it appears and inserting "Contractor";

(f) Adding paragraph (i); and

(g) Revising Alternatives I and II to read as follows:

52.209–3 First article approval—contractor testing.

* * * * *

First Article Approval—Contractor Testing (Date)

* * * * *

(g) * * * However, before first article approval, the Contracting Officer may provide written authorization for the Contractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under the Contracting Officer's written authorization are allocable to this contract for (1) progress payments, or (2) termination settlements if the contract is terminated for the convenience of the Government. If first article tests reveal deviations from contract requirements, the Contractor shall, at the location designated by the Government, make the required changes or replace all items produced under this contract at no change in the contract price.

* * * * *

(i) Unless exempted by the Contracting Officer, the Contractor shall produce both the first article and the production quantity at the same facility and shall submit a certification to this effect with each first article.

(End of clause)

Alternate I (DATE). As prescribed in 9.309–1(a)(2) and (b), substitute the following paragraph (e) for paragraph (e) of the basic clause:

(e) The first article shall not be delivered as part of the contract quantity.

Alternate II (DATE). As prescribed in 9.309–1(a) (3) and (b), added the following paragraph (j) to the basic clause:

(j) The approved first article shall serve as a manufacturing standard.

9. Section 52.209–4 is amended as follows:

(a) In the introductory text by removing "9.308–29(a) and (b)" and inserting "9.309–2(a)";

(b) In the clause heading by revising the date;

(c) In paragraph (a) of the clause by revising the second sentence;

(d) Revising paragraph (e) of the clause;

(e) Removing the last sentence of paragraph (h) and adding, in its place, three sentences;

(f) In paragraph (i) by removing "Offeror/" each time it is used;

(g) Adding paragraph (j); and

(h) Revising Alternates I and II and adding Alternate III to read as follows:

52.209–4 First article approval—Government testing.

* * * * *

First Article Approval—Government Testing (Date)

* * * * *

(a) * * * The shipping documentation shall be clearly marked "FIRST ARTICLE SAMPLES: Contract No. _____, Lot/Item No. _____." * * *

* * * * *

(e) If the approved first article is not consumed or destroyed in testing, the Contractor may deliver the approved first article as part of the contract quantity if it meets all contract requirements for acceptance.

* * * * *

(h) * * * However, before first article approval, the Contracting Officer may provide written authorization for the Contractor to acquire specific materials or components or to commence production to the extent essential to meet the delivery schedules. Until first article approval is granted, only costs for the first article and costs incurred under the Contracting Officer's written authorization are allocable to this contract for (1) progress payments, or (2) termination settlements if the contract is terminated for the convenience of the Government. If first article tests reveal deviations from contract requirements, the Contractor shall, at the location designated by the Government, make the required changes or replace all items produced under this contract at no change in the contract price.

* * * * *

(j) Unless exempted by the Contracting Officer, the Contractor shall produce both the first article and the production quantity at the same facility and shall submit a certification to this effect with each first article.

(End of clause)

Alternate I (DATE). As prescribed in 9.309–2(a) (2) and (b), substitute the following paragraph (e) for paragraph (e) of the basic clause:

(e) The first article shall not be delivered as part of the contract quantity.

Alternate II (DATE). As prescribed in 9.309–2(a) (3) and (b), add the following paragraph to the basic clause:

(k) The approved first article shall serve as a manufacturing standard.

Alternate III (DATE). As prescribed in 9.309–2(a) (4) and (b), add the following paragraph to the basic clause:

(l) The Contractor shall remove and dispose of any first article from the Government test facility at the Contractor's expense.

[FR Doc. 94–6902 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 15

[FAR Case 92–2]

Federal Acquisition Regulation; Subcontract Proposal Audits

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing amendments to the Federal Acquisition Regulation (FAR) to add two additional examples of when field pricing support audits of subcontract proposals may be appropriate. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAR case 92–2 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4035, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 92–2.

SUPPLEMENTARY INFORMATION:

A. Background

The DOD Inspector General's final report of December 11, 1991, Review of Actions Taken on 42 Contractor Estimating System Cited as Inadequate by the General Accounting Office (Report No. AFU 92–1), found that estimating system deficiencies warrant additional management attention. Expanded regulatory guidance governing contracting officer's requests for assist audits of subcontractor cost proposals was recommended.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and certified cost or pricing data and field pricing support are not required. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.*, FAR case 92–2, in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 15 be amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 15.806–3 is amended in paragraph (a)(3) by removing the word "or"; in paragraph (a)(4) by removing the period and inserting a semicolon in its place; and adding paragraphs (a)(5) and (a)(6) to read as follows:

§ 15.806–3 Field pricing reports.

(a) * * *

(5) The contractor or higher tier subcontractor has been cited for having significant estimating system deficiencies in the area of subcontract pricing, especially the failure to perform adequate cost analyses of proposed subcontract costs or to perform subcontract analyses prior to negotiation of the prime contract with the Government; or

(6) A lower tier subcontractor has been cited as having significant estimating system deficiencies.

* * * * *

[FR Doc. 94–6901 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

48 CFR Part 15

[FAR Case 92-33]

Federal Acquisition Regulation; Price Competition Exemption

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing an amendment to the Federal Acquisition Regulation (FAR) to address unnecessarily requiring the submission of cost or pricing data and to clarify when adequate price competition exists.

This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, ATTN: Beverly Fayson, Washington, DC 20405.

Please cite FAR case 92-33 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 92-33.

SUPPLEMENTARY INFORMATION:

A. Background

The revisions to FAR 15.804-1 and 15.804-2 originated as part of the Defense Management Review.

President Bush's memorandum on "Reducing the Burden of Government Regulation" tasked selected agencies and departments to review current regulations, to identify those that impose a substantial cost on the economy, and to make appropriate revisions. In response to this direction, the Federal Acquisition Regulatory Council solicited and received the views of various industry associations and the public. The revision to FAR 15.804-3 originated from an industry recommendation.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it clarifies current policy. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 92-33), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 15 be amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 15.804-1 is amended by redesignating paragraph (a) as (a)(1) and adding paragraph (a)(2) to read as follows:

§ 15.804-1 General.

(a) * * *

(2) Unnecessarily requiring the submission of cost or pricing data is not in the best interest of the Government because it leads to increased proposal preparation costs, extends acquisition lead-time, and wastes both contractor and Government resources.

* * * * *

3. Section 15.804-2 is amended by adding paragraph (d) to read as follows:

§ 15.804-2 Requiring certified cost or pricing data.

* * * * *

(d) When there is a reasonable expectation that adequate price competition will result on a particular procurement, the contracting officer should rarely have a need to require the submission or certification of cost or pricing data, regardless of the contract type.

4. Section 15.804-3 is amended by revising paragraphs (b)(1)(ii), (b)(1)(iii), (b)(2)(ii), and (b)(2)(iii) to read as follows:

§ 15.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

* * * * *

(b) * * *

(1) * * *

(ii) Two or more responsible offerors that can satisfy the Government's requirements compete independently and submit priced offers responsive to the solicitation's expressed requirements; and

(iii) Award will be made to a responsible offeror whose proposal is either—

(A) The lowest price; or

(B) Offers the greatest value (see 15.605(c)) to the Government and price is a stated substantial factor in source selection.

(2) * * *

(ii) An offeror has such a decided advantage that it is practically immune from competition; or

(iii) There is a finding supported by a statement of the facts and approved at a level above the contracting officer, that the price of the otherwise successful offeror is unreasonable.

* * * * *

[FR Doc. 94-6900 Filed 3-25-94; 8:45 am]

BILLING CODE 6820-34-M

48 CFR Part 31

[FAR Case 91-112]

Federal Acquisition Regulation; Civil Defense Costs, Plant Protection Costs, and Recruitment Costs

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing amendments to the Federal Acquisition Regulation (FAR) by removing and reserving regulations on Civil defense costs and Plant protection costs, and by revising regulations on Recruitment costs. These proposed changes represent the second in a series resulting from the Councils' ongoing review of industry recommendations concerning FAR regulations on Contract Cost Principles and Procedures. This regulatory action was not subject to Office of Management and Budget

review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 91–112 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 91–112.

SUPPLEMENTARY INFORMATION:

A. Background

As part of the Defense Management Review, the Office of the Secretary of Defense requested comments from industry concerning improvements to the Government's procurement regulations. The Council of Defense and Space Industry Associations (CODSIA) responded with several proposals, including one to revise FAR part 31, Contract Cost Principles and Procedures. CODSIA grouped its recommendations into six areas. Proposed rule changes will be published for comment as the Councils complete their incremental reviews of CODSIA's recommendations in each of these groupings. However, all resultant final rule changes will be published at one time, at the end of this effort. This proposed rule represents the second of these six groupings.

The Councils believe deletion of FAR 31.205–5, Civil defense costs, is warranted because any "extraordinary" expenditures in planning for, and protecting life and property against, the possible effects of enemy attack (including terrorist attacks) can be subjected to the "reasonableness" criteria under FAR 31.201–3 or made the subject of an advance agreement under FAR 31.109. Likewise, removing FAR 31.204–29, Plant protection costs, is warranted because such costs are common and necessary expenses incurred by all contractors and can also be subjected to the "reasonableness" criteria under FAR 31.201–3. Paragraph (c) of FAR 31.205–34 is revised to clarify the allowability of offering any excessive compensation costs or any special emoluments (such as signing bonuses) to attract prospective employees from other Government contractors. In addition, paragraph FAR 31.205–34(b)(5) is deleted and the existing paragraph (b)(6) is redesignated as (b)(5) because the subject matter is discussed in the revised paragraph (c). We believe the proposed language at FAR 31.205–34(c) more effectively articulates the Government's long-standing policy against "pirating".

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–112), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205–5 [Removed and reserved]

2. Section 31.205–5 is removed and reserved.

31.205–29 [Removed and reserved]

3. Section 31.205–29 is removed and reserved.

4. Section 31.205–34 is amended in paragraph (b)(4) by inserting at the end of the paragraph the word "or"; removing paragraph (b)(5) and redesignating paragraph (b)(6) as (b)(5); and revising paragraph (c) to read as follows:

31.205–34 Recruitment costs.

* * * * *

(c) Compensation costs offered by a contractor to prospective employees working for another Government contractor which are in excess of those normally offered to its employees with substantially the same training and experience are unallowable. Such costs shall remain unallowable as long as they are in excess of normal compensation costs. For the purpose of this cost principle, compensation costs include total compensation for personal services (as defined in 31.205–6(a)) and any special emoluments associated with the recruitment.

[FR Doc. 94–6899 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 42 and 52

[FAR Case 91–103]

Federal Acquisition Regulation; Final Indirect Cost Agreements

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to revise the Federal Acquisition Regulation (FAR) and the clause, Allowable Cost and Payment—Facilities, to eliminate the requirements for contractors to execute a Certificate of Current Cost or Pricing Data in conjunction with final indirect cost agreements on facilities contracts, and for auditors to obtain a certificate under auditor determination procedures for final indirect cost rates. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 91–103 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in

reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 91–103.

SUPPLEMENTARY INFORMATION:

A. Background

Negotiation of final indirect cost agreements do not represent contract modifications or changes, but rather the implementation of pre-existing contract terms. Accordingly, certification is not required by the provisions of the Truth in Negotiations Act, as amended (10 U.S.C. 2306a and 41 U.S.C. 254(d)).

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the requirements for certified cost or pricing data do not apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–103), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Existing approvals of information collection requirements under OMB control numbers 9000–0013 and 9000–0069 correspond to this rule; however, this proposed rule has an insignificant impact on the requirements.

List of Subjects in 48 CFR Parts 42 and 52

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 42 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 42 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2423(c).

PART 42—CONTRACT ADMINISTRATION

42.705–2 [Amended]

2. Section 42.705–2 is amended by removing paragraph (b)(2)(ii) and redesignating paragraphs (b)(2)(iii) through (b)(2)(vi), as (b)(2)(ii) through (b)(2)(v), respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.216–13 [Amended]

3. Section 52.216–13 is amended by revising the date in the heading of the clause to read "(DATE)", and in paragraph (c)(2) of the clause by removing the last sentence.

[FR Doc. 94–6898 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 45

[FAR Case 91–83]

Federal Acquisition Regulation; Government Property

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to emphasize the Government's policy on providing facilities to contractors, to clarify the exceptions to this policy and the procedures for authorizing the exceptions, and to remove unnecessary and duplicative language. The purpose in emphasizing the Government's current policy is to reduce the amount of Government facilities provided to contractors. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20450.

Please cite FAR case 91–83 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 91–83.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 45.302 currently states that contractors shall furnish all facilities, with certain exceptions, in performing Government contracts. Despite this policy statement, recent oversight reviews have been critical of the amount of Government facilities in the hands of contractors. The Councils reviewed the language at 45.302 and revised it to clarify current policy and remove unnecessary and duplicative language.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule is a recasting of existing policy and does not include any substantive changes. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.*, (FAR case 91–83), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 45

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 45 be amended as set forth below:

PART 45—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 45 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 45.302–1 is revised to read as follows:

45.302–1 Policy.

(a) Contractors shall provide all facilities required for performing Government contracts except that agencies may provide facilities—

(1) For use in a Government-owned, contractor-operated industrial plant operated on a cost-plus-fee basis;

(2) For support of industrial preparedness programs;

(3) For use in performing a contract on a Government installation;

(4) As components of special tooling or special test equipment acquired or fabricated at Government expense subsequent to approval by the contracting officer;

(5) When the facilities are only available from Government sources;

(6) As otherwise authorized by law; or

(7) When the agency head or designee issues a Determination and Finding (see subpart 1.7) that the contract cannot be fulfilled by any other practical means or that it is in the public interest to provide the facilities.

(i) Mere assertion by a contractor that it is unable to provide facilities is not, in itself, sufficient to justify approval. The determination shall include findings that the contractor sought private financing of the facilities but it was not available or that private financing is determined not advantageous to the Government. If the contractor's inability to provide facilities is due to insufficient lead time, the Government may furnish existing facilities until the contractor's facilities can be installed.

(ii) The original determination and the contractor's written statement asserting inability to obtain nongovernment facilities, if applicable, shall be included in the contract file.

(iii) Government facilities with a unit cost of less than $10,000 shall not be provided to contractors under the exception in subparagraph (a)(7) unless the contractor is a nonprofit institution of higher education or other nonprofit organization whose primary purpose is the conduct of scientific research.

(b) Even when one of the exceptions in subparagraphs (a)(1) through (a)(7) of this section applies, agencies shall not—

(1) Provide new facilities to contractors unless existing Government-owned facilities are either inadequate or cannot be economically furnished;

(2) Use research and development funds to provide contractors with new construction or improvements of general utility, unless authorized by law; or

(3) Provide facilities to contractors solely for nongovernment use, unless authorized by law.

(c) The applicability of the exceptions in subparagraphs (a)(1) through (a)(6) of this section shall be documented in the contract file by a Determination and Findings signed by the contracting officer.

(d) Government facilities provided to contractors shall be individually identified in the solicitation and the contract.

[FR Doc. 94–6897 Filed 3–25–94; 8:45 am]
BILLING CODE 6820–34–M

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48 CFR Part 45

[FAR Case 91–72]

Federal Acquisition Regulation; Government Property

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to alert the contracting officer that facilities contracts should be closed out when Government production and research property is no longer required for the performance of the instant Government contract or subcontracts. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 91–72 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 91–72.

SUPPLEMENTARY INFORMATION:

A. Background

Language has been added at FAR 45.302–1(e) stating that facilities contracts should be closed out when Government production and research property is no longer required for the performance of the instant Government contract or subcontracts. This language is important for the control and management of Government property and allows for timely reutilization of facilities accountable to Government contracts. The language was removed from the Defense Federal Acquisition Regulation Supplement at 48 CFR 245.302–1(S–70) as more appropriate for inclusion in the FAR.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because few, if any, facilities contracts are with small firms. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–72) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 45

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 45 be amended as set forth below:

PART 45—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 45 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 45.302–1 is amended by adding paragraph (e) to read as follows:

45.302–1 Policy.

* * * * *

(e) Agencies shall close out facilities contracts when Government production and research property is no longer required for the performance of Government contracts or subcontracts, unless closeout is not in the best interest of the Government. The contractor is not allowed to extend the time for use of property provided under the facilities

contract without Government authorization.

[FR Doc. 94–6896 Filed 3–25–94; 8:45 am]
BILLING CODE 6820–34–M

48 CFR Parts 45 and 52

[FAR Case 91–93]

Federal Acquisition Regulation; Special Tooling Under Fixed Price Contracts

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) are proposing revisions to the Federal Acquisition Regulation (FAR) to amend the Government's policy on managing and controlling special tooling, for which the Government has the right to title. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 91–93 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 91–93.

SUPPLEMENTARY INFORMATION:

A. Background

The CAAC and the DARC published a final rule on FAR 52.245–17, Special Tooling, in Federal Acquisition Circular 84–53, in the **Federal Register** at 54 FR 48978, November 28, 1989. The purpose of this change was to clarify that the special tooling clause is used in fixed-price contracts when the Government will furnish special tooling to the contractor, or the contractor will acquire or fabricate special tooling, and the Government intends to maintain rights to the special tooling until it takes full title or has no further interests in the tooling. The change listed the type of information the contractors must keep in their property control system and defined the reporting requirements for the special tooling. As a result of concern expressed by some contractors over the increased recordkeeping requirements required by the clause, revisions were made to that clause and are contained in this proposed rule. Specifically, we reverted to managing right-to-title special tooling under an improved special tooling clause, 52.245–17, and to managing existing Government-owned special tooling under the clause at 52.245–2, Government Property (Fixed Price Contracts), as we did prior to FAC 84–53. The revised clause at 52.245–17 requires contractors to maintain minimal records for right-to-title special tooling, and we have removed data requirements such as contracts under which the special tooling was originally acquired, complete hierarchy of part numbers, tool part number, and some retention codes. We did add the following data to the lists of special tooling required under the contract: (1) The part number of the item on which used and the next higher assembly, as well as the retention code; (2) storage method code; (3) weight and dimensions; and (4) excess code. These additions are necessary to permit the Government to make informed retention or disposal decisions. We also added a paragraph at FAR 45.306–1 to state that Government-owned special tooling shall be subject to the Government property clause, and we moved a paragraph from FAR 45.306–5 addressing the method of acquisition to a more appropriate location at FAR 45.306–4.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule applies to special tooling on Government contracts which, in most cases, is furnished to large businesses for large dollar production contracts. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small entities concerning the affected FAR subpart and will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 91–93), in correspondence.

C. Paperwork Reduction Act

This rule does not impose any additional reporting or recordkeeping requirements which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* However, it does reduce the amount of information required from contractors. A revised clearance for FAR Part 45 concerning Special Tooling Under Fixed Price Contracts and reducing the burden hours by a total of 585,600 is being submitted to OMB for approval. Public comments concerning this request will be invited through a **Federal Register** notice.

List of Subjects in 48 CFR Parts 45 and 52

Government procurement.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 45 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 45 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 45—GOVERNMENT PROPERTY

2. Section 45.306–1 is amended by adding paragraph (c) to read as follows:

45.306–1 Providing existing special tooling.

* * * * *

(c) Contracting Officers shall include a Government property clause (see 45.106) in contracts that provide Government-owned special tooling to a contractor.

45.306–5 [Redesignated as 45.306–4, revised and reserved]

3. Section 45.306–5 is redesignated as 45.306–4 and revised to read as follows:

45.306–4 Contract clause.

(a) The contracting officer shall insert the clause at 52.245–17, Special Tooling, in solicitations and contracts when—

(1) A negotiated fixed price contract is contemplated; and

(2) The Government decides to acquire the right to take title to the special tooling acquired or fabricated by the contractor and it is not possible to identify the special tooling; or

(3) The contract is the gaining contract for special tooling transferred from another contract and the Government decides to retain the right to take title to the special tooling at some future date.

(b) The clause at 52.245–17, Special Tooling, does not apply to items of special tooling under a fixed price contract for which the Government has decided to acquire the right to take title

and the contracting officer has identified the items, either individually or, for items costing less than $5,000; as a group, in the Schedule.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.245–2 [Amended]

4. Section 52.245–2 is amended by revising the clause date to read "(DATE)"; removing the second sentence of paragraph (c)(2); and inserting the phrase "and special tooling other than that subject to the special tooling clause" after the words "special test equipment" in paragraph (c)(3) of the clause.

5. Section 52.245–17 is revised to read as follows:

52.245–17 Special Tooling.

As prescribed in 45.306–4, insert the following clause:

Special Tooling (Date)

(a) *Definition and application.* (1) *Special tooling* means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacements of these items that are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or performing particular services. The term does not include material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items.

(2) This clause does not apply to any items of special tooling—

(i) Acquired by the Contractor before the effective date of this contract, or replacement of such items, whether or not altered for use in performing this contract;

(ii) Specifically excluded by the schedule of this contract.

(b) *Title.* The Government has the right to take title to all special tooling subject to this clause until such time as the right to take title is relinquished by the Contracting Officer as provided for in subparagraph (i)(3) of this clause.

(c) *Risk of loss.* Except to the extent that the Government shall have otherwise assumed the risk of loss to special tooling applicable to this clause, in the event of the loss, theft or destruction of or damage to any such property, the repair or replacement shall be accomplished by the Contractor at its own expense.

(d) *Use of special tooling.* (1) The Contractor agrees to use the special tooling only in performing this contract or as otherwise approved by the Contracting Officer.

(2) In the event the Government elects to remove any special tooling that is required to continue contract performance, the contract shall be equitably adjusted in accordance with the procedures of the changes clause of this contract.

(e) *Property control.* The Contractor shall maintain adequate records of all special tooling in accordance with sound industrial practice. The records shall be made available for Government inspection at all reasonable times. As a minimum, the following information shall be included in the Contractor's records:

(1) Nomenclature.

(2) Quantity.

(3) Unit (or group) price.

(4) Number of the contract under which the tooling is accountable.

(5) Location.

(6) Tool identification number.

(f) *Maintenance.* The Contractor shall maintain special tooling in accordance with sound industrial practice. These requirements do not apply to those items designated by the Contracting Officer for disposal as scrap or identified as of no further interest to the Government under paragraph (i), Disposition instructions, of this clause.

(g) *Identification of excess special tooling.* The Contractor shall promptly identify and report all special tooling in excess of the amounts needed to complete full performance under this contract (see subparagraph (h)(3) of this clause).

(h) *Lists of special tooling.* The Contractor shall prepare and distribute lists of special tooling as described below:

(1) *Initial list of special tooling.* The Contractor shall furnish the Government an initial list of all special tooling subject to this clause. The list shall be furnished within 60 days after delivery of the first production end item under this contract unless a later date is prescribed. The list shall specify the following:

(i) Nomenclature.

(ii) Quantity.

(iii) Unit (or group) price.

(iv) Number of the contract under which the tooling is accountable.

(v) Location of each item. If special tooling is located at a subcontractor vendor, specify alternate CAGE code or name and address if code is not available.

(vi) Tool identification number.

(vii) Part number of item on which used and next higher assembly.

(viii) Retention codes. Assign one or more of the following to each item of special tooling:

Code A. Spares Tooling. Required to produce a provisioned spare part or assembly.

Code B. Judgment (Insurance) Tooling. Fabrication tools for parts that are not provisioned spares but which in the judgment of the Contractor will be required at some time for logistic support of the end item.

Code C. Rate Tooling. Necessary to economically produce at increased rates (e.g., for mobilization or surge) but not essential for parts fabrication at low production rates.

Code D. Assembly Tooling. Required for manufacture of the end product but not required for production of spare parts. Those items having no postproduction need except for potential modification or resumed production programs.

Code E. Repair Tooling. Items which are capable of being used for repair of provisioned parts or assemblies.

Code F. Replaceable Tooling. Spares or judgment tooling which, in the opinion of the Contractor, can be effectively and economically replaced by "soft" tooling on an "as required" basis in lieu of retention of the "hard" production tooling for supporting postproduction requirements.

Code G. Maintenance Tooling. Items which are capable of being used for depot level maintenance of the applicable end item or components thereof.

Code H. Crash Damage Tooling. Items which apply to provisioned or nonprovisioned parts or assemblies which are designated as, or have the potential of being, required for crash damage repairs.

(ix) Storage method code. Assign one of the following: *Code J. Inside storage. Code K. Outside storage. Code L. Special storage required.*

(x) Estimated unpacked weight of tool in pounds, if over 25 pounds.

(xi) Estimated unpacked dimensions (length, width, and height in feet) of tool, if over 3 cubic feet.

(2) *Final list of special tooling.* The Contractor shall furnish the Contracting Officer a final list of special tooling, subject to this clause, not later than 90 days prior to the scheduled deliveries of the last production end item under this contract.

(3) *Excess special tooling.* Lists of special tooling excess to this contract shall be furnished within 60 days of the date that the item is determined to be excess. The Contractor shall include in this list the applicable excess code as follows:

Code X. Excess due to changes in design or specification of the end items.

Code Y. Excess due to nonserviceable or nonrepairable condition.

Code Z. Excess due to no further requirements.

(4) *Format of lists.* Lists furnished by the Contractor shall state the type of list and shall include all information from subparagraph (h)(1) of this clause, unless otherwise directed by the Contracting Officer. All lists will be grouped by retention code as prescribed in subdivision (h)(1)(viii) of this clause and further listed in tool identification number sequence.

(5) *Distribution of lists.* The Contractor shall submit the lists to each of the following recipients unless otherwise directed:

(i) The Contracting Officer.

(ii) The Administrative Contracting Officer.

(iii) The inventory control point designated by the contracting office.

(i) *Disposition instructions.* The Contracting Officer shall provide the Contractor with written disposition instructions within 180 days of receipt of the list as prescribed by subparagraph (h)(2) of this clause and within 90 days of receipt of excess special tooling lists reported in accordance with subparagraph (h)(3) of this clause. The Contracting Officer may direct disposition by any of the methods listed in subparagraphs (i)(1) through (i)(3) of this clause, or a combination of such methods. The Contractor shall comply with such disposition instructions.

(1) The Contracting Officer may identify specific items of special tooling to be retained or give the Contractor a list specifying the products, parts, or services including follow-on requirements for which the Government may require special tooling and request the Contractor to identify all usable items of special tooling on hand that were designed for or used in the production or performance of such products, parts, or services. Once items of usable special tooling required by the Government are identified, the Contracting Officer may—

(i) Direct the Contractor, in writing, to transfer specified items of special tooling to follow-on contracts requiring their use. The notification shall specify whether the Government is taking title to the special tooling or reserving the right to take title. Those items specified by the Contracting Officer shall be subject to the provisions of the gaining contract(s); or

(ii) Request the Contractor to enter into an appropriate storage contract for special tooling specified to be retained by the Contractor for the Government. Tooling to be stored shall be stored pursuant to a storage contract between the Government and the Contractor; or

(iii) Direct the Contractor to transfer title to the Government (to the extent not previously transferred) and deliver to the Government those items of special tooling which are specified for removal from the Contractor's plant.

(2) The Contracting Officer may direct the Contractor to sell, or dispose of as scrap, for the account of the Government, any special tooling not specified by the Government pursuant to subparagraph (i)(1) of this clause. To the extent that the Contractor incurs any costs occasioned by compliance with such direction, for which it is not otherwise compensated, the contract price shall be equitably adjusted in accordance with the procedures of the changes clause of this contract. The net proceeds of all sales shall either be credited to the cost of contract performance or otherwise paid to the Government as directed by the Contracting Officer. Sale of the special tooling to the prime contractor or any of its subcontractors is subject to the prior written approval of the Contracting Officer.

(3) The Contracting Officer may furnish the Contractor with a statement disclaiming further Government interest or right in specified tooling.

(4) If the Contracting Officer fails to give disposition instructions as required by subparagraphs (i)(1), (2), or (3) of this clause, the Contractor may, at Government risk and expense—

(i) Retain the special tooling in place; or

(ii) Remove and store the special tooling at the Contractor's plant or in a public warehouse consistent with sound industrial practice and the item's security classification.

The Contractor will notify the Contracting Officer by certified mail, at least 30 days in advance, before taking any action under this subparagraph.

Except as provided in this subparagraph, the Government shall not be liable to the Contractor for failure to give written notice required by subparagraphs (i) (1), (2) or (3) of this clause.

(5) *Restoration of the Contractor's premises.* Unless otherwise provided in the contract, the Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion).

(j) *Access to special tooling.* The Contractor shall provide access to special tooling subject to this clause at all reasonable times to all individuals designated by the Contracting Officer.

(k) *Storage or shipment.* The Contractor shall promptly arrange for either the shipment or the storage of special tooling specified in accordance with the final disposition instructions of this clause. Tooling to be shipped shall be properly packaged, packed and marked in accordance with the directions of the Contracting Officer. All operation sheets or other appropriate data necessary to show the manufacturing operations or processes for which the items were used or designed shall accompany special tooling to be shipped or stored or shall otherwise be provided to the Government as directed by the Contracting Officer. To the extent that the Contractor incurs costs for storage, shipment, packing, crating, or handling under this paragraph and is not otherwise compensated for, the contract price shall be equitably adjusted in accordance with the procedures of the changes clause of this contract.

(l) *Subcontract provisions.* To perform this contract, the Contractor may place subcontracts (including purchase orders) involving the use of special tooling. If the full cost of the tooling is charged to those subcontracts, the Contractor agrees to include in the subcontract appropriate provisions to obtain Government rights and data comparable to the rights of the Government under this clause (unless the Contractor and Contracting Officer agree, in writing, that such rights are not of interest to the Government). The Contractor agrees to exercise such rights for the benefit of the Government as directed by the Contracting Officer.

(End of Clause)

[FR Doc. 94–6895 Filed 3–25–94; 8:45 am]
BILLING CODE 6820–34–M

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48 CFR Parts 45 and 52

[FAR Case 91–57]

Federal Acquisition Regulation; Disposal of Hazardous Government Property

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering amending Federal Acquisition Regulation (FAR) subpart, Reporting, Redistribution, and Disposal of Contractor Inventory, by adding a paragraph which will reference subpart, Hazardous Material Identification and Material Safety Data, and agency regulations, in order to provide assistance to the contracting officer in identifying hazardous Government property; specifying that unless the contract states otherwise, the Government may abandon any nonhazardous contractor inventory in place, and the Government shall not abandon contractor inventory that is hazardous on the contractor's premises without the contractor's written consent; and including in designated standard property clauses the requirement that the contractor promptly identify to the contracting officer any Government property considered hazardous upon notice that the Government intends to abandon the property. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 91–57 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR case 91–57.

SUPPLEMENTARY INFORMATION:

A. Background

The changes are a result of industry concern that the language in the standard property clauses does not preclude the contracting officer from simply abandoning hazardous Government property in place. Sections 45.603, 45.611, and the standard property clauses at 52.245–2, –4, –5, –7, and –11 are affected by this change.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revision will not have a significant cost or administrative impact on contractors or offerors. An Initial

Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR parts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.*, (FAR case 91–57) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 45 and 52

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 45 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 45 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 45—GOVERNMENT PROPERTY

2. Section 45.603 is amended by designating the introductory paragraph as paragarph (a); redesignating paragraphs (a) through (g) as paragraphs (1) through (7); and adding new paragraph (b) to read as follows:

45.603 Disposal methods.

(a) * * *

(b) For assistance in determining if Government property under a contract is hazardous, the contracting officer should refer to subpart 23.3, Hazardous Material Identification and Material Safety Data, and the contracting agency's regulations as sources for guidance.

3. Section 45.611 is amended by revising paragraph (b) to read as follows:

45.611 Destruction or abandonment.

* * * * *

(b) Unless precluded by the contract, the Government may abandon any non-hazardous contractor inventory in place. The Government shall not abandon contractor inventory that is hazardous on the contractor's premises without the contractor's written consent.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.245–2 is amended by revising the date of the clause heading to read "(XXX 1994)"; removing the introductory text of paragraph (j); and revising paragraph (j)(1) and the first sentence of paragraph (j)(2) to read as follows:

52.245–2 Government Property (Fixed-Price Contracts).

* * * * *

(j) *Abandonment and restoration of Contractor's premises.* (1) Unless otherwise provided herein, the Government may abandon any non-hazardous Government property in place. The Government will not abandon hazardous Government property without the Contractor's written consent. The Contractor shall promptly identify to the Contracting Officer any Government property considered hazardous upon notice that the Government intends to abandon the property. When Government property is abandoned, all obligations of the Government regarding such abandoned property shall cease.

(2) Unless otherwise provided herein, the Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract competition).* * *

* * * * *

5. Section 52.245–4 is amended by revising the date in the clause heading to read "(XXX 1994)"; redesignating paragraph (e) as paragraph (f); adding a new paragraph (e); and removing the citation "(R7–104.24(f) 1964 NOV)" following "(End of clause)" to read as follows:

52.245–4 Government-Furnished Property (Short Form).

* * * * *

(e) Unless otherwise provided herein, the Government may abandon any non-hazardous Government property in place. The Government shall not abandon hazardous Government property without the Contractor's written consent. The Contractor shall promptly identify to the Contracting Officer any Government property considered hazardous upon notice that the Government intends to abandon the property. When Government property is abandoned, all obligations of the Government regarding such abandoned property shall cease.

* * * * *

6. Section 52.245–5 is amended by revising the date in the clause heading to read "(XXX 1994"; removing the introductory text of paragraph (j); and revising paragraph (j)(1) and the first sentence of paragraph (j)(2) to read as follows:

52.245–5 Government Property (Cost Reimbursement, Time-and-Material, or Labor-Hour (Contracts).

* * * * *

(j) *Abandonment and restoration of Contractor's premises.* (1) Unless otherwise provided herein, the Government may abandon any non-hazardous Government property in place. The Government will not abandon hazardous Government property without the Contractor's written consent. The Contractor shall promptly identify to the Contracting Officer any Government property considered hazardous upon notice that the Government intends to abandon the property. When Government property is abandoned, all obligations of the Government regarding such abandoned property shall cease.

(2) Unless otherwise provided herein, the Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract competition.* * *

* * * * *

7. (a) Section 52.245–7 is amended by revising the introductory text, the date in the clause heading to read "(XXX 1994)", the introductory text of paragraph (n)(4), paragraphs (n)(4)(i) and (n)(4)(ii) introductory text, and removing after "(End of clause)" the parentheticals to read as follows:

52.245–7 Government Property (Consolidated Facilities).

As prescribed in 45.302–6(a), insert the following clause:

* * * * *

(n) * * *

(4) Within 120 days after the Contractor accounts for any facilities under subparagraph (n)(3) of this clause, the Contracting Officer shall give written notice to the Contractor as to the disposition of the facilities, except as otherwise provided in subparagraph (n)(6) of this clause.

(i) The Government may abandon the facilities in place, in which case all obligations of the Government regarding such abandoned facilities and the restoration or rehabilitation of the premises in and on which they are located shall immediately cease. The Government will not abandon hazardous facilities without the Contractor's written consent. The Contractor shall promptly identify to the Contracting Officer any facilities considered hazardous upon notice that the Government intends to abandon the facilities.

(ii) If the Government does not abandon the facilities, the Government will require the Contractor to comply, at Government expense, with such directions as the Contracting Officer may give with respect to—

* * * * *

52.245–7 [Amended]

7. (b) Section 52.245–7 is also amended by adding the words "of this clause" in the following places:

(1) Paragraph (c), first sentence, after the words "paragraph (m)";

(2) Paragraph (n)(1) after the words "subparagraph (n)(2)";

(3) Paragraph (n)(3) after the words "paragraph (m)";

(4) Twice in paragraph (n)(5) after the words "subparagraph (n)(4)" each time they appear;

(5) Paragraph (n)(7) after the words "subparagraph (n)(6)";

(6) Paragraph (n)(8) after the words "subparagraph (n)(4)"; and

(7) Paragraph (n)(9) after the words "subdivision (n)(4)(ii)".

8. Section 52.245–11 is amended by—

(a) Revising the date in the clause heading to read "(XXX 1994)";

(b) Removing from paragraph (l)(1) the word "whose" and inserting in its place "for which";

(c) Revising paragraph (l)(3);

(d) Removing the second sentence from the introductory text of paragraph (l)(4);

(e) Revising paragraphs (l)(4)(i) and (l)(4)(ii) introductory text; and

(f) Removing the parentheticals following "(End of clause)" to read as follows:

52.245–11 Government Property (Facilities Use).

* * * * *

(l) * * *

(3) Within 60 days after the effective date of any notice of termination given under paragraph (k) of this clause, or within such longer period as the Contracting Officer may approve, in writing, the Contractor shall submit to the Contracting Officer, in a form satisfactory to the Contracting Officer, an accounting for all the facilities covered by the notice.

(4) * * *

(i) The Government may abandon the facilities in place, in which case all ogligations of the Government regarding such abandoned facilities and the restoration or rehabilitation of the premises in and on which they are located shall immediately cease. The Government will not abandon hazardous facilities without the Contractor's written consent. The Contractor shall promptly identify to the Contracting Officer any facilities considered hazardous upon notice that the Government intends to abandon the facilities.

(ii) If the Government does not abandon the facilities, the Government will require the Contractor to comply, at Government expense, with such directions as the Contracting Officer may give with respect to—

* * * * *

52.245–11 [Amended]

9. Section 52.245–11 is also amended by adding the words "of this clause" in the following places:

(a) Paragraph (l) introductory text after the words "paragraph (k)" and "subparagraph (l)(2)";

(b) Paragraph (l)(4) introductory text after the words "subparagraph (l)(3)" and "subparagraph (l)(6)";

(c) In the last sentence of paragraph (l)(5) after the words "subparagraph (l)(4)";

(d) Paragraph (l)(7) after the words "subparagraph (l)(6)"

(e) Paragraph (l) (8) after the words "subparagraph (l)(4)"; and

(f) Paragraph (l)(9), first sentence, after the words "subdivision (l)(4)(ii)".

* * * * *

[FR Doc. 94–6894 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 46

[FAR Case 92–27]

Federal Acquisition Regulation; Quality Assurance Nonconformances

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) concerning quality assurance to include definitions of the terms "critical nonconformance," "major nonconformance," and "minor nonconformance," and make other conforming amendments as a result of recommendations made by the Department of Defense Inspector General.

This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order 12866 dated September 30, 1993.

DATES: Comments should be submitted at the address shown below on or before May 27, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Washington, DC 20405.

Please cite FAR case 92–27 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 92–27.

SUPPLEMENTARY INFORMATION:

A. Background

On September 27, 1990, the Department of Defense Inspector General issued Audit Report 90–113, Nonconforming Products Procured by the Defense Industrial Supply Center, which included recommendations that the DOD should use standardized terminology for a nonconformance, and that the DOD definition of a nonconformance should be in agreement with the FAR. Therefore, it is proposed that FAR Part 46 be amended to include uniform definitions for use by all acquiring agencies.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions merely revise and standardize definitions of terms. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 92–27), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 46

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 46 be amended as set forth below:

1. The authority citation for 48 CFR part 46 continues to read as follows:

PART 46—QUALITY ASSURANCE

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 46.101 is amended by adding in alphabetical order the definitions "Critical nonconformance", "Major nonconformance", and "Minor nonconformance" to read as follows:

46.101 Definitions.

* * * * *

Critical nonconformance means a nonconformance that judgement and experience indicate is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or is likely to prevent performance of a vital agency mission.

* * * * *

Major nonconformance means a nonconformance, other than critical, that is likely to result in failure, or to materially reduce the usability of the supplies or services for their intended purpose.

Minor nonconformance means a nonconformance that is not likely to materially reduce the usability of the supplies or services for their intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the supplies or services.

* * * * *

3. Section 46.103 is amended at the end of paragraph (c) by removing "and"; in paragraph (d) by removing the period and inserting "; and"; and by adding paragraph (e) to read as follows:

46.103 Contracting office responsibilities.

* * * * *

(e) Ensuring that nonconformances are identified and considered when determining the acceptability of supplies or services which do not meet contract requirements.

4. Section 46.407 is amended by revising the first sentence in paragraph (c)(1) introductory text; revising paragraph (d); and revising the first sentence in paragraph (f) to read as follows:

46.407 Nonconforming supplies or services.

* * * * *

(c)(1) In situations not covered by paragraph (b) of this section, the contracting officer ordinarily shall reject supplies or services when the nonconformance is critical or major. * * *

* * * * *

(d) If the nonconformance is minor, the cognizant contract administration office may make the determination to accept or reject, except where this authority is withheld by the contracting office of the contracting activity. To assist in making this determination, the contract administration office may establish a joint contractor/contract administrative office review group. Acceptance of supplies and services with critical or major nonconformances is outside the scope of the review group.

* * * * *

(f) Each contract under which supplies or services with critical or major nonconformances are accepted, as authorized in paragraph (c) of this section, shall be modified to provide for an equitable price reduction or other consideration. * * *

* * * * *

[FR Doc. 94–6893 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 47 and 52

[FAR Case 88–56]

Federal Acquisition Regulation; Commercial Bills of Lading Under Cost-Reimbursement Contracts Audit by the General Services Administration

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) are considering a proposed rule which amends the Federal Acquisition Regulation (FAR) by adding a new clause entitled, "Submission of Commercial Transportation Bills to the General Services Administration for Audit", and a clause prescription. The amendment clarifies procedures governing submission of documentation, payment, and audit of Commercial Bills of Lading (CBL's) under cost-reimbursement contracts. The rule implements the requirements of GSA's Federal Property Management Regulation's (FPMR's) "Submission of paid freight bills/invoices, commercial bills of lading, passenger coupons, and supporting documentation covering transportation services by contracts under a cost-reimbursement contract." This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR Case 88–56 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at 202–501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC, 20405, 202–501–0692. Please cite FAR case 88–56.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule to add FAR 47.104–4(c) and a clause at 52.247–67, initiated by the DARC and subsequently approved by the DARC and the CAAC, was published in the **Federal Register** with a request for comments (see 53 FR 45742, November 10, 1988). A correction to the proposed rule was published at 54 FR 18558, May 1, 1989.

Six responses with substantive comments were received and, as a result, the rule has been revised as follows—

(a) The clause has been renumbered and retitled;

(b) Passenger coupons have been added to the submission requirements to parallel the FPMR regulation;

(c) The address shown in the clause has been updated; and

(d) With GSA's approval, a $50 minimum on the submission of cost reimbursable contractors' freight shipment bills has been added. This $50 minimum does not apply to bills and invoices for any other transportation services.

As a result of amending the rule to include a $50 minimum and the requirement to submit passenger coupons, the councils determined that the proposed rule should be republished with a request for further comment.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the vast majority of contracts held by these entities are not subject to Pub. L. 87–653 or civilian agency defective pricing rules. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR case 88–56 in correspondence.

C. Paperwork Reduction Act

This rule is proposed to implement the requirements of GSA's FPMR 101–41.807–4, which was published as a final rule on August 14, 1991. Therefore, GSA is considered the agency with primary responsibility for this requirement. A decision was made to issue this FAR requirement under GSA's Office of Management and Budget (OMB) clearance number 3090–0242,

Documentation and Payment of Transportation Bills.

List of Subjects in 48 CFR Parts 47 and 52

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR Parts 47 and 52 be amended as set forth below:

1. The authority citation for Parts 47 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 47—TRANSPORTATION

2. Section 47.104–4 is amended by revising the section title and adding paragraph (c) to read as follows:

47.104–4 Contract clauses.

* * * * *

(c) The contracting officer shall insert the clause at 52.247–67, Submission of Commercial Transportation Bills to the General Services Administration for Audit, is solicitations and contracts when a cost-reimbursement contract is contemplated and the contract or a first-tier cost-reimbursement subcontract thereunder will authorize reimbursement of transportation as a direct charge to the contract or subcontract.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.247–67 is added to read as follows:

52.247–67 Submission of Commercial Transportation Bills to the General Services Administration for Audit.

As prescribed in 47.104–4(c), insert the following clause:

Submission of Commercial Transportation Bills to the General Services Administration for Audit (Date)

(a)(1) In accordance with paragraph (a)(2) of this clause, the Contractor shall submit to the General Services Administration (GSA) for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), passenger coupons, and other supporting documents for transportation services on which the United States will assume freight charges that were paid (i) by the Contractor under a cost-reimbursement contract, and (ii) by a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(2) Cost-reimbursement Contractors shall only submit for audit those CBL's with freight shipment charges exceeding $50.00. Bills under $50.00 shall be retained on-site by the Contractor and made available for GSA on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

(b) The Contractor shall forward copies of paid freight bills/invoices, CBL's, passenger coupons, and supporting documents as soon as possible following the end of the month, in one package to the General Services Administration, ATTN: FWATS, 18th & F Streets, NW., Washington, DC 20405. The Contractor shall include the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for first-tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the Contractor shall accompany each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show—

(1) The name and address of the Contractor;

(2) The contract number including any alpha-numeric prefix identifying the contracting office;

(3) The name and address of the contracting office;

(4) The total number of bills submitted with the statement; and

(5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

(End of clause)

[FR Doc. 94–6892 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 52

[FAR Case 91–71]

Federal Acquisition Regulation; Administration of Cost Accounting Standards

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing an amendment to the Federal Acquisition Regulation (FAR) to require contractors, who issue subcontracts covered by Cost Accounting Standards, to send subcontract award information not only to the contractor's contract administration office (CAO) but also to the CAO cognizant of the subcontractor's facility. This regulatory action was not subject to Office of Management and Budget review pursuant to Executive Order No. 12866 dated September 30, 1993.

DATES: Comments should be submitted on or before May 27, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAR case 91–71 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 91–71.

SUPPLEMENTARY INFORMATION:

A. Background

The clause at 52.230–5, Administration of Cost Accounting Standards, currently requires contractors to send information to the prime contractor's CAO, who forwards it on to the CAO cognizant of the subcontractor. Since the prime contractor's CAO does not change, modify, or add to the information, but just sends it on to the CAO cognizant of the subcontractor, it is more efficient for contractors to send it direct. The contractor's CAO should also have the information and, therefore, the requirement to send the information to the contractor's cognizant CAO has not been deleted.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because small businesses are exempt from Cost Accounting Standards requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR case 91–71), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for approval of an amended information collection requirement (9000–0129) concerning Cost Accounting Standards has been submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request are invited through a **Federal Register** notice appearing in this issue.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: March 18, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 52 be amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.230–5 is amended by revising the introductory text of subparagraph (e)(2) to read as follows:

52.230–5 Administration of Cost Accounting Standards.

* * * * *

(e) * * *

(2) Include the substance of this clause in all negotiated subcontracts. In addition, within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office and to the contract administration office cognizant of the subcontractor's facility (whose name and address is found on the subcontractor's Cost Accounting Standards Notices and Certification, FAR 52.230–1).

* * * * *

[FR Doc. 94–6891 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

federal register

Monday
March 28, 1994

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Clearance Request for Government Property, et al.; Notices

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0075; FAR Case 91–93]

Clearance Request for Government Property

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

ACTION: Notice of request for a revision to an existing OMB clearance (9000–0075).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Government Property.

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

SUPPLEMENTARY INFORMATION:

A. Purpose

This is a request for approval of a revision to a previously approved OMB Clearance Number 9000–0075. The reason for submitting this revision is to allow for a proposed revision to part 45 that, while increasing hours in some respects, decreases hours in others, accounting for an overall reduction of 585,600 hours.

"Property," as used in part 45, means all property, both real and personal. It includes facilities, material, special tooling, special test equipment, and agency-peculiar property. Government property includes both Government-furnished property and contractor-acquired property.

Contractors are required to establish and maintain a property system that will control, protect, preserve, and maintain all Government property because the contractor is responsible and accountable for all Government property under the provisions of the contract including property located with subcontractors.

The contractor's property control records shall constitute the Government's official property records and shall be used to:

(a) Provide financial accounts for Government-owned property in the contractor's possession or control;

(b) Identify all Government property (to include a complete, current, auditable record of all transactions);

(c) Locate any item of Government property within a reasonable period of time.

This clearance covers the following requirements:

(a) FAR 45.307–2(b) requires a contractor to notify the contracting officer if it intends to acquire or fabricate special test equipment.

(b) FAR 45.502–1 requires a contractor to furnish written receipts for Government property.

(c) FAR 45.502–2 requires a contractor to submit a discrepancy report upon receipt of Government property when overages, shortages, or damages are discovered.

(d) FAR 45.504 requires a contractor to investigate and report all instances of loss, damage, or destruction of Government property.

(e) FAR 45.505–1 requires that basic information be placed on the contractor's property control records.

(f) FAR 45.505–3 requires a contractor to maintain records for Government material.

(g) FAR 45.505–4 requires a contractor to maintain records of special tooling and special test equipment.

(h) FAR 45.505–5 requires a contractor to maintain records of plant equipment.

(i) FAR 45.505–7 requires a contractor to maintain records of real property.

(j) FAR 45.505–8 requires a contractor to maintain scrap and salvage records.

(k) FAR 45.505–9 requires a contractor to maintain records of related data and information.

(l) FAR 45.505–10 requires a contractor to maintain records for completed products.

(m) FAR 45.505–11 requires a contractor to maintain records of transportation and installation costs of plant equipment.

(n) FAR 45.505–12 requires a contractor to maintain records of misdirected shipments.

(o) FAR 45.505–13 requires a contractor to maintain records of property returned for rework.

(p) FAR 45.505–14 requires a contractor to submit an annual report of Government property accountable to each agency contract.

(q) FAR 45.508–2 requires a contractor to report the results of physical inventories.

(r) FAR 45.509–1(a)(3) requires a contractor to record work accomplished in maintaining Government property.

(s) FAR 45.509–1(c) requires a contractor to report the need for major repair, replacement and other rehabilitation work.

(t) FAR 45.509–2(b)(2) requires a contractor to maintain utilization records.

(u) FAR 45.606–1 requires a contractor to submit inventory schedules.

(v) FAR 45.606–3(a) requires a contractor to correct and resubmit inventory schedules as necessary.

(w) FAR 52.245–2(a)(3) requires a contractor to notify the contracting officer when Government-furnished property is received and is not suitable for use.

(x) FAR 52.245–2(a)(4) requires a contractor to notify the contracting officer when government-furnished property is not timely delivered and the contracting officer will make a determination of the delay, if any, caused the contractor.

(y) FAR 52.245–2(b) requires a contractor to submit a written request for an equitable adjustment if Government-furnished property is decreased, substituted, or withdrawn by the Government.

(z) FAR 52.245–4 requires a contractor to submit a timely written request for an equitable adjustment when Government-furnished property is not furnished in a timely manner.

(aa) FAR 52.245–5(a)(4) requires a contractor to notify the contracting officer when Government-furnished property is received that is not suitable for use.

(bb) FAR 52.245–5(a)(5) requires a contractor to notify the contracting officer when Government-furnished property is not received in a timely manner.

(cc) FAR 52.245–5(b)(2) requires a contractor to submit a written request for an equitable adjustment if Government-furnished property is decreased, substituted, or withdrawn by the Government.

(dd) FAR 52.245–7(f) requires a contractor to notify the contracting officer when use of all facilities falls below 75% of total use.

(ee) FAR 52.245–7(1)(2) requires a contractor to alert the contracting officer within 30 days of receiving facilities that are not suitable for use.

(ff) FAR 52.245–9(f) requires a contractor to submit a facilities use statement to the contracting officer within 90 days after the close of each rental period.

(gg) FAR 52.245–10(h)(2) requires a contractor to notify the contracting officer if facilities are received that are not suitable for the intended use.

(hh) FAR 52.245–11(e) requires a contractor to notify the contracting officer when use of all facilities falls below 75% of total use.

(ii) FAR 52.245–11(j)(2) requires a contractor to notify the contracting officer within 30 days of receiving facilities not suitable for intended use.

(jj) FAR 52.245–17 requires a contractor to maintain special tooling records.

(kk) FAR 52.245–18(b) requires a contractor to notify the contracting officer 30 days in advance of the contractor's intention to acquire or fabricate special test equipment (STE).

(ll) FAR 52.245–18(d) & (e) requires a contractor to furnish the names of subcontractors who acquire or fabricate special test equipment (STE) or components and comply with paragraph (d) of this clause, and contractors must comply with the (b) paragraph of this clause if an engineering change requires acquisition or modification of STE. In so complying, the contractor shall identify the change order which requires the proposed acquisition, fabrication, or modification.

(mm) FAR 52.245–19 requires a contractor to notify the contracting officer if there is any change in the condition of property furnished "as is" from the time of inspection until time of receipt.

This information is used to facilitate the management of Government property in the possession of the contractor.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .4826 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets NW., room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 26,409; responses per respondent, 506.3; total annual responses, 13,624,759; preparation hours per response, 4826; and total response burden hours, 6,575,805.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0075, Government Property, in all correspondence.

Dated: March 18, 1994.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 94–6887 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

[OMB Control No. 9000–0129; FAR Case 91–71]

Clearance Request for Cost Accounting Standards Administration

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

ACTION: Notice of request for an amendment to an existing OMB clearance (9000–0129).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to approve an amended information collection requirement concerning Cost Accounting Standards Administration.

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

SUPPLEMENTARY INFORMATION:

A. Purpose

The clause at FAR 52.230–5, Administration of Cost Accounting Standards, requires contractors to send information to the prime contractor's ACO, who then forwards it to the ACO of the cognizant subcontractor. To eliminate this double step, the clause will be changed to require the prime contractor to send the information directly to the subcontractor's ACO with a duplicate copy to the prime contractor's ACO.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .05 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW., room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 500; responses per respondent, 50; total annual responses, 25,000; preparation hours per response, .05; and total response burden hours, 1,250.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0129, FAR case 91–71, Cost Accounting Standards Administration, in all correspondence.

Dated: March 18, 1994.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 94–6888 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

[FAR Case 91–105]

OMB Clearance Request for First Article Testing and Approval Waiver

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

ACTION: Notice of new request for OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning First Article Testing and Approval Waiver.

DATES: Comments may be submitted on or before May 27, 1994.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

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

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the proposed rule, a new solicitation provision, "Waiver of First

Article Testing Requirements" is proposed for addition to the FAR. The solicitation provision will be prescribed at FAR 9.308(a) for inclusion in all solicitations which contain a requirement for First Article Testing and Approval (FATA), unless it is known at the time of solicitation that FATA will not be waived. As provided in FAR 9.302, FATA may be required during contract performance to ensure that the contractor can furnish a product that conforms to all contract requirements. In situations where the contractor has provided the same or similar items to the Government under a previous contract, the Government may waive the requirement for FATA. In order to determine that waiver of FATA is appropriate, the offeror is requested, under the subject solicitation provision, to identify the contract under which the items were previously furnished.

The information is used by contracting officers to determine whether or not FATA requirements can be waived for an offeror. If the information is not obtained, the contractors and the Government may incur additional expense and administrative delay by imposing unnecessary testing demands on contractors who have proven their ability to manufacture the required items.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets NW., room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 3,750; responses per respondent, 20; total annual responses, 75,000; preparation hours per response, 1; and total response burden hours, 7,500.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, 37,500; hours per recordkeeper, 5; and total recordkeeping burden hours, 18,750.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB clearance request regarding First Article Testing and Approval Waiver, FAR case 91–105, in all correspondence.

Dated: March 16, 1994.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 94–6889 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–34–M

federal register

Monday
March 28, 1994

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870
Wire Transfer; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB50

Wire Transfer

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is amending its regulations governing abandoned mine land (AML) reclamation fee payments. The revised rule establishes a new dollar threshold of $25,000 or more for quarterly fee payments made by electronic transfer of funds to the Treasury Financial Communications System (TFCS) or other electronic fund transfer mechanisms approved by the U.S. Department of the Treasury. The increased use of the electronic transfer of funds by those making reclamation fee payments will allow the Department to expedite and streamline its fee collection efforts.

EFFECTIVE DATE: April 27, 1994.

FOR FURTHER INFORMATION CONTACT: JoAnn F. Hagan, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, Room B 2125—Building 20, P.O. Box 25065, Denver Federal Center, Denver, Colorado 80202; Telephone (303) 236–0368.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Final Rule and Response to Comments.
III. Procedural Matters.

I. Background

On August 30, 1993, OSM published a proposed rule in the **Federal Register** (58 FR 45736) which would amend its regulations at 30 CFR 870.15 to require that surface coal mine operators who owe $25,000 or more in quarterly reclamation fees for one or more mines shall forward payments by electronic transfer. The comment period closed on October 29, 1993. The rule was proposed pursuant to the Surface Mining Control and Reclamation Act of 1977 (the Act) (30 U.S.C. 1201 *et seq.*, as amended).

Section 402(b) of the Act (30 U.S.C. 1232(b)) provides that a reclamation fee on produced coal shall be paid no later than thirty days after the end of each calendar quarter. Section 413(a) of the Act (30 U.S.C. 1242(a)) authorizes the Secretary of the Interior to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of the Act relating to Abandoned Mine Land Reclamation (Title IV).

This rule amends OSM regulations at 30 CFR Part 870.15(d) by lowering the wire transfer threshold from $100,000 to $25,000. This rule will require those companies which owe $25,000 or more for quarterly reclamation fees to submit such payments through the use of an electronic fund transfer mechanism approved by the U.S. Department of the Treasury. The first electronic payment for those companies which owe $25,000 or more shall be made no later than 30 days after the end of the first complete quarter following April 27, 1994.

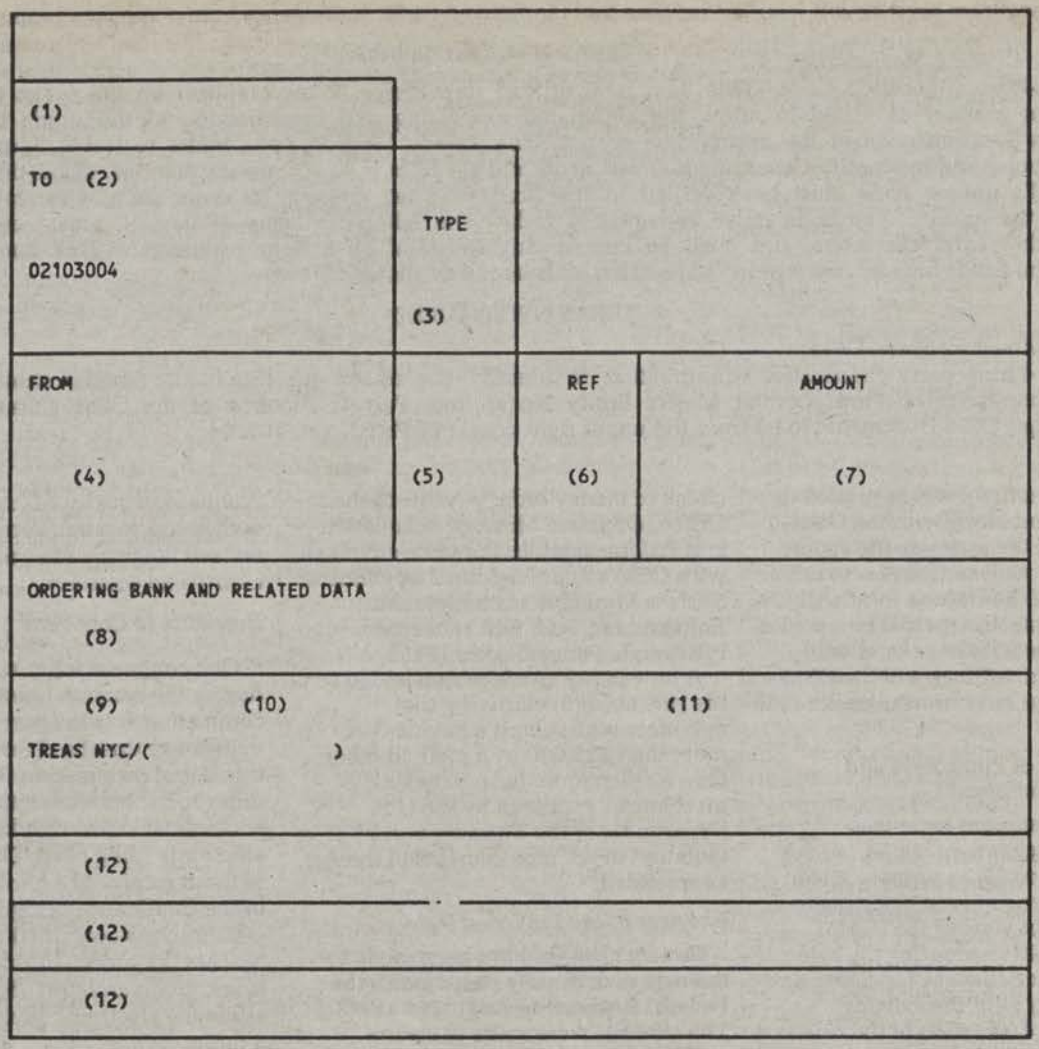
Approximately 100 companies currently pay via wire transfer; however, by lowering the threshold to $25,000, OSM estimates that approximately 1,500 companies will utilize the wire transfer method of payment. Payments from these companies total approximately $55 million per quarter. Instead of submitting checks to OSM for these amounts, these companies will be required to have their banks wire funds using an electronic fund transfer mechanism approved by the U.S. Department of the Treasury.

Through the use of electronic fund transfer mechanisms for these large accounts, the Department will be able to expedite and streamline its fee collection efforts.

The TFCS is the computer-to-computer link between the U.S. Department of the Treasury and the Federal Reserve Bank of New York (FRBNY). This system provides the capability for: (1) Automated receipt and processing of funds transfer, and (2) computer-assisted generation of funds transferred between Treasury, Federal Reserve banks, and other banks utilizing the Federal Reserve Communications System (FRCS). The TFCS also integrates these transactions into Treasury's Government-wide Accounting System which accounts for all Federal receipts and outlays. Treasury maintains an account at FRBNY. As a result, banks that maintain an account at a Federal Reserve bank may transfer funds to Treasury through the FRCS for credit to the Account of the U.S. Treasury at FRBNY. Funds transferred between Treasury and banks that do not maintain an account at a Federal Reserve bank are processed through correspondent banks that do maintain an account at a Federal Reserve bank,

The following are the TFCS transfer message format and specific instructions from the Treasury Fiscal Requirements Manual for fund transfer message to be used in paying reclamation fees:

BILLING CODE 4310–05–M



BILLING CODE 4310-05-C

Funds Transfer Message Format

Item 1—Priority Code—The priority code will be provided by the sending bank. (Note: Some Federal Reserve district banks may not require this item.)

Item 2—Treasury Department Code—The nine-digit identifier "021030004" is the routing symbol of the Treasury. This item is a constant and is required for all funds transfer messages sent to Treasury.

Item 3—Type Code—The code will be provided by the sending bank.

Item 3—Sending Bank Code—This nine-digit identifier will be provided by sending bank.

Item 5—Class Code—This class code may be provided by the sending bank at its option (if permitted by its Federal Reserve district bank).

Item 6—Reference Number—The reference number may be inserted by the sending bank to identify the transaction.

Item 7—Amount—The amount will include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the depositor.

Item 8—Sending Bank Name—The telegraphic abbreviation which corresponds to item 4 will be provided by the sending bank.

Item 9—Treasury Department Name—This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The item is comprised of a rigidly formatted, non-variable sequence of 11 characters defined as follows:

Character #(s)	Character(s)	Definition
1–5	TREAS	First part of Treasury Department telegraphic abbreviation.
6		Space (leave blank).
7–9	NYC	Second part of Treasury Department Telegraphic abbreviation.
10	/	Slash.
11	(	Left parenthesis.

The 11 characters must be left-justified on Line 5 of the funds transfer message and must appear as follows:

TREAS NYC/(14180001)

Item 10—Agency Location Code—This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The agency location code refers to three-, four-, or eight-digit numeric symbols used to identify Government departments and agencies (e.g., accounting stations, disbursing and collecting offices). OSM's unique code must be specified in the funds transfer message in order for the funds to be correctly classified to the agency. The code must immediately follow the left parenthesis of item 9, must contain no spaces, dasher, or other extra characters, and must be immediately followed by a right parenthesis. This item would appear on line 5 of the funds transfer message in conjunction with item 9 as shown below:

TREAS NYC/(14180001)

Item 11—Agency Name—OSM

Item 12—Third party information—Information to identify the reason for the funds transfer should be provided here. This should include the six-digit Master Entity No.(s) from Part 1, Block 4 of the OSM–1 form, i.e., 012345, and the six-digit OSM Document No.(s) from the upper right corner of Part 1, i.e., 401234.

These instructions will be mailed to coal companies, along with the OSM–1 form which is the form used to report quarterly coal reclamation fees to OSM. Submission of the OSM–1 form will remain the same, except that companies required to use wire transfer should indicate in Part 1, Block 4 of the OSM–1 form that fees have been submitted via wire transfer.

II. Discussion of Final Rule and Response to Comments

Only one comment letter was received. The comment supported the adoption of the rule as proposed. No comments were received objecting to the proposal. In view of the lack of objections, OSM is adopting the rule with only minor changes for clarity and for consistency with the existing regulations. A discussion of the rule and comments follows.

Section 870.15(d)—Reclamation Fee Payment

Under revised § 870.15(d), an operator who owes total quarterly reclamation fees of $25,000 or more for one or more mines will be required to: Use an electronic fund transfer mechanism approved by the U.S. Department of the Treasury; forward its payments by electronic transfer, include the applicable Master Entity Number (Part 1, Block 4, on the OSM–1 form) and OSM Document No. (Part 1, upper right corner on the OSM–1 form) on the wire message; and use OSM's approved form to report coal tonnage sold, used, or for which ownership was transferred to the address indicated in the Instructions for Completing the OSM–1 Form.

Operators who owe less than $25,000 in quarterly reclamation fees for one or more mines may either forward payments by an electronic fund transfer mechanism in accordance with the procedures specified in amended paragraph 870.15(d)(1); or submit a check or money order payable to the Office of Surface Mining Reclamation and Enforcement, in the same envelope with OSM's approved form to: Office of Surface Mining Reclamation and Enforcement, P.O. Box 360095M, Pittsburgh, Pennsylvania 15251.

A new paragraph has been added to the rule at (d)(3) clarifying that operators who submit a payment of more than $25,000 by a method other than an electronic fund transfer mechanism approved by the U.S. Department of the Treasury would be in violation of the requirements of the Act, as amended.

Changes to the Proposed Rule

Certain changes have been made to the rule as originally proposed in the **Federal Register** on August 30, 1993. The changes were made to ensure consistency and accuracy with the existing regulations, and to provide flexibility in the mechanism used to transfer funds. OSM is adopting the language contained in the proposed rule with the following modifications.

(1) The proposed rule at § 870.15(d)(1)(i) would have required that any person transferring funds electronically use TFCS. OSM has replaced "TFCS" with the phrase "an electronic fund transfer mechanism approved by the U.S. Department of the Treasury" in order to allow for future developments and changes in the field of electronic communications.

(2) At § 870.15(d)(1)(iii), the language has been revised to clarify the identifying information (OSM Document No. from the OSM–1 form) that must be included on the wire message in order to insure that credit is given to the person making the payment. This revision will help insure accurate processing of quarterly coal reclamation fees.

(3) In § 870.15(d)(1)(iv), the word "production" has been changed to "tonnage of coal sold, used, or for which ownership was transferred." The revised language has been added for clarity and accuracy.

Response to Comment

One comment letter was received during the comment period. The commenter was in favor of lowering the mandatory threshold for electronic transfer of reclamation fee payments in order to reduce transaction costs. The commenter stated that he opposed the electronic filing of the OSM–1 form without receipt of a hard copy because of the importance of signed certifications contained on hard copies. Neither the proposed rule, nor this final rule contain any provisions that would allow the electronic filing of the OSM–1 form.

III. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12866

This rule has been reviewed under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the final rule will not have a significant economic impact on a substantial number of small entities. The final rule merely specifies the manner in which reclamation fee payments are to be made to OSM. It does not alter the amount or frequency of payment. The rule does not distinguish between small and large entities.

Executive Order 12778; Civil Justice Reform Certification

This wire transfer rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform. In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this wire transfer rule.

Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

The wire transfer rule will not have any preemptive effect on any state law. This relates only to Federal obligations.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the implementation of the Act as described herein, and is not intended to modify the implementation of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of the Act.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this rule under section 526(a) of the Act, 30 U.S.C. 1276(a).

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms which are important to the understanding of this rule are set forth in 30 CFR 700.5, 701.5, and 870.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purpose of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

National Environmental Policy Act (NEPA)

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

Authors

The authors of this final rule are JoAnn F. Hagan, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, room B 2125—Building 20, P.O. Box 25065, Denver Federal Center, Denver, Colorado 80202; Telephone (303) 236–0368, and John A. Trelease, Division of Technical Services, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, room 640 NC, NW., Washington, DC 20240; Telephone (202) 343–1475.

List of Subjects in 30 CFR Part 870

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: February 25, 1994.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 870 is amended as set forth below:

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

1. The authority citation for part 870 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* as amended; and Pub. L. 100–34.

2. Section 870.15(d) is revised to read as follows:

§ 870.15 Reclamation fee payment.

* * * * *

(d)(1) An operator who owes total quarterly reclamation fees of $25,000 or more for one or more mines shall: (i) Use an electronic fund transfer mechanism approved by the U.S. Department of the Treasury;

(ii) Forward its payments by electronic transfer;

(iii) Include the applicable Master Entity No.(s) (Part 1—Block 4 on the OSM–1 form), and OSM Document No.(s) (Part 1—upper right corner of the OSM–1 form) on the wire message; and

(iv) Use OSM's approved form to report coal tonnage sold, used, or for which ownership was transferred, to the address indicated in the Instructions for Completing the OSM–1 Form.

(2) An operator who owes less than $25,000 in quarterly reclamation fees for one or more mines may: (i) Forward payments by electronic transfer in accordance with the procedures specified in paragraph (d)(1) of this section; or

(ii) Submit a check or money order payable to the Office of Surface Mining Reclamation and Enforcement, in the same envelope with OSM's approved form to: Office of Surface Mining Reclamation and Enforcement, P.O. Box 360095M, Pittsburgh, Pennsylvania 15251.

(3) An operator who submits a payment of more than $25,000 by a method other than an electronic fund transfer mechanism approved by the U.S. Department of the Treasury shall be in violation of the Surface Mining Control and Reclamation Act of 1977, as amended.

* * * * *

[FR Doc. 94–7189 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–05–M

federal register

Monday
March 28, 1994

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for 11 Plant Species From the Koolau Mountain Range, Island of Oahu, Hawaii; Final Rule

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RIN 1018–AB69

Endangered and Threatened Wildlife and Plants; Endangered Status for 11 Plant Species From the Koolau Mountain Range, Island of Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 11 plant species: *Chamaesyce deppeana* ('akoko); *Cyanea truncata* (haha); *Cyrtandra crenata* (ha'iwale); *Cyrtandra polyantha* (ha'iwale); *Eugenia koolauensis* (nioi); *Hesperomannia arborescens* (no common name (NCN)); *Lobelia oahuensis* (NCN); *Lycopodium nutans* (wawae'iole); *Melicope lydgatei* (alani); *Rollandia crispa* (NCN); and *Tetraplasandra gymnocarpa* ('ohe'ohe). All but five of the taxa are or were endemic to the Koolau Mountain Range on the island of Oahu, Hawaiian Islands; the exceptions are or were found on the islands of Kauai, Molokai, Lanai, Maui, and/or in the Waianae Mountains of Oahu, as well as the Koolau Mountains. The 11 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: Habitat degradation by trampling and/or predation by wild, feral, or domestic animals (pigs, goats, cattle, rats, slugs); competition for space, light, water, and nutrients by naturalized, introduced vegetation; habitat loss from fires; trampling due to military training exercises; and recreational activities. Due to the small number of existing individuals and their very narrow distributions, these taxa are subject to a danger of extinction from stochastic events and/or from reduced reproductive vigor. This final rule implements the Federal protection provisions provided by the Act.

DATES: This rule takes effect April 27, 1994.

ADDRESSES: The complete file for this final rule is available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, at the above address (808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

Chamaesyce deppeana, Cyanea truncata, Cyrtandra crenata, Cyrtandra polyantha, Eugenia koolauensis, Hesperomannia arborescens, Lobelia oahuensis, Lycopodium nutans, Melicope lydgatei, Rollandia crispa, and *Tetraplasandra gymnocarpa* are either endemic to or have their largest or best known populations in the Koolau Mountain Range on the eastern side of the island of Oahu, Hawaii. Five of these taxa are or were known from regions other than the Koolau Mountains. *Eugenia koolauensis* was historically known from the island of Molokai. *Hesperomannia arborescens* is known also from the islands of Molokai and Maui. It is extirpated on the island of Lanai. *Lycopodium nutans* once grew on the island of Kauai but is now found only in the Koolau Mountains of Oahu. *Lobelia oahuensis* and *Tetraplasandra gymnocarpa* are restricted to the island of Oahu, including the Koolau Mountains and one population of each species in the Waianae Mountains.

The island of Oahu was formed from the remnants of two large shield volcanoes, the younger Koolau volcano on the east and the older Waianae volcano to the west (Department of Geography 1983). Their original shield volcano shape has been lost as a result of extensive erosion, and today these volcanoes are called mountains or ranges, and consist of long, narrow ridges. The Koolau Mountains were built by eruptions that took place primarily along a northwest-trending rift zone (Macdonald *et al.* 1983) and formed a range now approximately 37 miles (mi) (60 kilometers (km)) long (Foote *et al.* 1972). Median annual rainfall for the Koolau Mountains varies from 50 to 250 inches (in) (130 to 640 centimeters (cm)), most of which is received at higher elevations along the entire length of the windward (northeastern) side (Taliaferro 1959).

The vegetation communities of the Koolau Mountains, especially in the upper elevations to which many of the 11 plant taxa are restricted, are primarily lowland mesic and wet forests dominated by *Metrosideros polymorpha* ('ohi'a) and/or other tree or fern taxa. Much of the Koolau Mountain Range is vegetated with alien plant taxa. Most of the remaining native vegetation is restricted to steep valley headwalls and inaccessible summit ridges. The windswept ridges are very steep and are characterized by grasses, ferns, and low-growing, stunted shrubs (Gagne and Cuddihy 1990).

The land that supports these 11 plant taxa is owned by the City and County of Honolulu, the State of Hawaii (including land classified as natural area reserve and forest reserve), the Federal government, and various private parties. Plants on Federal land are located on the boundary of Schofield Barracks Military Reservation, under the jurisdiction of the U.S. Army, and Lualualei Naval Reserve, under the jurisdiction of the U.S. Navy. Populations of five taxa grow on land leased by the U.S. Army from private parties and the State.

Discussion of the 11 Plant Taxa

P.E. Boissier (1862) described *Euphorbia deppeana* based on a 1835 collection by Ferdinand Deppe that had been erroneously labelled as being from California (Millspaugh 1916; Sherff 1941, 1944). Otto and Isa Degener and Leon Croizat accepted the elevation of the section *Chamaesyce* to the generic level and published the necessary combinations for the Hawaiian taxa (Croizat 1943; Degener and Croizat 1936a, 1936b, 1937; Koutnik 1987; Koutnik and Huft 1990). Other names by which *Chamaesyce deppeana* has been known are *Anisophyllum californicum* (Koutnik 1987), *Chamaesyce festiva* (Degener and Croizat 1936b), *Euphorbia festiva* (Sherff 1936), and *E. pauciflora* (Koutnik and Huft 1990).

Chamaesyce deppeana, a member of the spurge family (Euphorbiaceae), is an erect subshrub up to 4 feet (ft) (1.2 meters (m)) tall with fuzzy branches. The hairless leaves, generally oval-shaped and often notched at their tips, are between 0.2 and 0.8 in (5 and 20 millimeters (mm)) long and 0.2 and 0.5 in (5 and 12 mm) wide; they are arranged in two opposite rows along the stem. The leaf margins are usually toothed, rarely toothless. The small, petalless flower clusters (cyathia), 0.06 to 0.1 in (1.5 to 3 mm) wide, are borne singly in the leaf axils (point between the stem and leaf stalk) and produce small capsules about 0.1 in (2 mm) long. Seeds have not been observed. This species is distinguished from others in the genus by the following combination of characters: leaves arranged in two rows on opposite sides of the branches; leaves glabrous; leaf apex notched; leaf margin toothed; and cyathia width (Boissier 1862, Koutnik and Huft 1990, Sherff 1936).

Historically, *Chamaesyce deppeana* was known only from southern Oahu. Because the few collections that were made were collected prior to the 20th

century, it was thought to be extinct (Koutnik and Huft 1990). In 1986, Joel Lau and Sam Gon of The Nature Conservancy of Hawaii (TNCH) rediscovered *C. deppeana* on State land in the southern Koolau Mountains of Oahu in Nuuanu Pali Wayside State Park near the Pali Lookout, a popular tourist attraction (Hawaii Heritage Program (HHP) 1991a). About 50 to 100 individuals grow near there, with such plant taxa as 'ohi'a, *Bidens sandvicensis* (ko'oko'olau), *Casuarina equisetifolia* (common ironwood), and *Phyllanthus distichus* (pamakani mahu) (Hawaii Plant Conservation Center (HPCC) 1990a; Joel Lau, TNCH, John Obata and Steve Perlman, HPCC, pers. comms., 1991). The most visible and accessible plants, comprising about 30 percent of the population, are confined to a 200 square foot (sq ft) (20 sq m) area, portions of which extend to within 15 ft (5 m) of the Pali Lookout parking lot (HHP 1991a). The remaining plants are scattered on an adjacent steep, exposed, windswept slope growing with grasses and shrubs (HHP 1991a; J. Lau, pers. comm., 1991). This population is found at an elevation of approximately 1,000 ft (300 m) (Center for Plant Conservation (CPC) 1989b, HHP 1991a, HPCC 1990a, Koutnik and Huft 1990). The major threats to the single known population of *Chamaesyce deppeana* are competition for water, space, light, and nutrients with various alien plant taxa (common ironwood, *Paspalum conjugatum* (Hilo grass), and *Schinus terebinthifolius* (Christmas berry)), and stochastic extinction due to the limited number of individuals and restricted range. Fire and impact by humans threaten the species as well.

Cyanea truncata was first collected on the Punaluu Valley Trail in 1911 by Joseph Rock and was placed by him in the genus *Rollandia* (Rock 1913). On further examination, Rock (1917) transferred the species to the closely related genus *Cyanea* because of its free staminal column. Charles N. Forbes (1916) described and named a specimen from Waiahole Valley *C. juddii*, which Rock later reduced to synonymy under *C. truncata* (Rock 1919). Harold St. John (1939) recognized this taxon at the varietal level and published the combination *C. truncata* var. *juddii*. In 1987, St. John, questioning the validity of the characters used to delineate the genus *Cyanea*, transferred all taxa of *Cyanea* to another closely related genus, *Delissea* (St. John 1987, St. John and Takeuchi 1987). Few botanists have accepted St. John's taxonomy for this group; the majority continue to recognize the genus *Cyanea*, and the latest revision of the genus recognizes only *C. truncata* (Lammers 1990). The specific epithet refers to the plant's occasionally truncate leaf base.

Cyanea truncata, of the bellflower family (Campanulaceae), is an unbranched or sparsely branched shrub covered with small sharp prickles. The oval leaves, which are widest above the middle, are 8 to 24 in (22 to 60 cm) long and 4 to 10 in (10 to 26 cm) wide, and are lined with hardened teeth along the margins. The upper surface of the leaf is hairless; the lower surface is hairy, has sparse projections, and is pale green. Clusters of 8 to 40 white flowers with magenta stripes are produced on horizontal or hanging stalks between 2 and 12 in (5 to 28 cm) long. Each slightly curved flower is 1.3 to 1.7 in (32 to 42 mm) long and about 0.3 in (7 mm) wide and has spreading corolla lobes that are one-fourth to one-half as long as the flower. The fruits are round orange berries about 0.4 in (9 mm) long that contain many tiny seeds. *Cyanea truncata* is distinguished from other members of this genus by the length of the flower cluster stalk and the size of the flowers and flower lobes (Degener 1932a; Forbes 1916; Lammers 1990; Rock 1913, 1919; St. John 1939).

Historically, *Cyanea truncata* was known from Punaluu, Waikane, and Waiahole in the northern Koolau Mountains of Oahu (HHP 1991b2 to 1991b4). These sites have not been recently surveyed due to their inaccessibility, but it is known that suitable habitat is present. One population of at least two individuals was known to exist in "Hidden Valley," a drainage northwest of Kaaawa Valley that terminates at Kaaawa Point in the Koolau Range (HHP 1991b1, Rock 1962); however, that population was destroyed by feral pigs (CPC 1989a, 1989b, 1990). In 1991, John Obata of HPCC discovered 20 immature lobeliods growing on private land along a gully floor further upstream from the site of the destroyed *C. truncata* population (HPCC 1991a; J. Obata, pers. comm., 1991). This was thought to be the only known population of this species. An individual from this sterile population was salvaged from pig-damaged areas in 1991 and this individual flowered on June 22, 1993. This individual turned out to be *Rollandia crispa* (not *C. truncata*). A site visit in July 1993 determined that all of the plants previously thought to be *C. truncata* were actually *R. crispa*. No individuals of *C. truncata* were located, though it is possible that juvenile plants could be found in the valley floor (Loyal Mehrhoff, U.S. Fish and Wildlife Service, pers. comm., 1993).

Cyanea truncata typically grows on windward slopes in mesic to wet forests at elevations between 800 and 1,300 ft (240 and 400 m) (HHP 1991b1, Lammers 1990). Associated plant taxa include *Hibiscus arnottianus* (koki'o ke'oke'o), *Diospyros sandwicensis* (lama), 'ohi'a, *Aleurites moluccana* (kukui), *Cyrtandra propinqua* (ha'iwale), *Neraudia melastomifolia* (ma'aloa), *Pisonia umbellifera* (papala kepau), and *Piper methysticum* ('awa) (HPCC 1991a; Wagner *et al.* 1990; J. Lau and J. Obata, pers. comms., 1991; L. Mehrhoff, pers. comm., 1993). The major threats to *Cyanea truncata* are habitat degradation and predation by feral pigs, competition with invasive alien plant taxa (*Clidemia hirta* (Koster's curse) and *Psidium cattleianum* (strawberry guava)), and stochastic extinction and/or reduced reproductive vigor due to the small number of remaining individuals.

Cyrtandra crenata was first described by Harold St. John and William Storey (1950) from a specimen that they had collected on the Waikane-Schofield Trail. The specific name refers to the rounded teeth of the leaf margin (St. John 1966).

Cyrtandra crenata, a member of the African violet family (Gesneriaceae), is a shrub 3 to 7 ft (1 to 2 m) tall with few branches. The leaves are arranged in whorls of three, tufted at the end of branches; they are generally elliptic or lance-shaped, 4.7 to 11 in (12 to 28 cm) long and 1.6 to 3.1 in (4 to 8 cm) wide, and have toothed margins. The upper leaf surface is generally hairless and has a wrinkled texture; the lower surface has only sparse hairs. Dense clusters of three to seven white flowers, covered with thick brown hair, arise from the leaf axils. The calyx is bilaterally symmetrical, with the three upper lobes somewhat longer than the two lower lobes. The curved, funnel-shaped flowers, about 0.9 in (24 mm) long and 0.2 in (4 mm) wide, develop into fleshy ellipsoid berries about 0.7 in (1.8 cm) long that contain numerous tiny seeds. The berries, as well as various other plant parts, are covered with short-stalked, brownish, hemispherical glands. *C. crenata* is distinguished from other species in the genus by the combination of its three-leaf arrangement, bilaterally symmetrical calyx, and brownish, hemispherical glands (St. John 1966, St. John and Storey 1950, Wagner *et al.* 1990).

Historically, *Cyrtandra crenata* was known from Waikane Valley along the Waikane-Schofield Trail in the Koolau Mountains (HHP 1991c1, St. John 1966, St. John and Storey 1950). It now remains below that trail, about 0.5 mi (0.8 km) from its historical location, at

the boundary of private and State lands (HHP 1991c2). This population has not been observed since 1947 and although the number of remaining individuals is not known, it is thought to be very low. This species typically grows in ravines or gulches in mesic to wet forests between elevations of 1,250 and 2,400 ft (380 and 730 m) with associated plant taxa such as 'ohi'a, *Dicranopteris linearis* (uluhe), and *Machaerina angustifolia* ('uki) (Wagner *et al.* 1990; S. Perlman, pers. comm., 1991). The primary threat to this species is stochastic extinction and/or reduced reproductive vigor due to the species' restricted range and the small number of individuals that are thought to exist.

On the basis of a collection by Wilhelm Hillebrand, C.B. Clarke (1883) described *Cyrtandra polyantha*, choosing the specific epithet to refer to the many-flowered clusters (St. John 1966). A description of *C. triflora* by Hillebrand (1888) is believed to be, in part, a description of *C. polyantha* (Wagner *et al.* 1990).

Cyrtandra polyantha, a member of the African violet family, is an unbranched or few-branched shrub 3 to 10 ft (1 to 3 m) in height. Its leathery, elliptic, unequal leaves are 2 to 6.3 in (5 to 16 cm) long and 0.7 to 2 in (1.8 to 5.2 cm) wide and attached oppositely along the stems. The upper surface of the leaves is conspicuously wrinkled and usually hairless, with the lower surface moderately to densely covered with pale brown hairs. Seven to 12 flowers are grouped in branched clusters in the leaf axils. The white petals, fused to form a cylindrical tube about 0.5 in (12 mm) long, emerge from a radially symmetrical calyx, 0.2 in (5 mm) long, that is cleft from one-half to two-thirds its length. Each calyx lobe, narrowly triangular in shape, is sparsely hairy on the outside and hairless within. The fruits are white oval berries about 0.6 in (1.6 cm) long that contain many seeds about 0.02 in (0.5 mm) long. *Cyrtandra polyantha* is distinguished from other species in the genus by the texture and hairiness of the leaf surfaces and the length, shape, and degree of cleft of the calyx. This species differs from *C. crenata* by the lack of short-stalked glands and by its leathery leaves, opposite leaf arrangement, and radially symmetrical calyx (Clarke 1883, St. John 1966, Wagner *et al.* 1990).

Historically, *Cyrtandra polyantha* was known from the Kalihi region and from Kulepiamoa Ridge above Niu Valley on the leeward (southwest) side of the southern Koolau Mountains (HHP 1991d2, 1991d3; St. John 1966). Two populations, located farther south on Kuliouou summit ridge and at the northwest head of Hahaione Valley (HHP 1991d1, 1991d4), are approximately 1 mi (1.6 km) apart on private and State land. One of the populations has not been visited within the past 50 years; it is not known how many individuals remain. The most recently observed population, last seen in 1953, consists of one individual. The total number of extant individuals is not known, although only a few are believed to remain on ridges of disturbed mesic valleys in 'ohi'a forests at elevations between 1,600 to 2,000 ft (490 and 610 m) (HHP 1991d1, 1991d2, 1991d4). *Cyrtandra polyantha* probably grows in association with 'uki, uluhe, *Broussaisia arguta* (kanawao), *Coprosma foliosa* (pilo), and *Psychotria* (kopiko), taxa commonly found in the 'ohi'a-dominated forests of the Koolau Mountains (S. Perlman, pers. comm., 1991). The primary threat to *C. polyantha* is stochastic extinction and/or reduced reproductive vigor due to the small number of remaining individuals and their restricted distribution.

Eugenia koolauensis was first described by Otto Degener (1932b) from a specimen that he and K.K. Park collected from Kaipapau Valley in the Koolau Mountains; it is named after its type locality. In 1957, Kenneth Wilson and Joseph Rock described a new species, *E. molokaiensis*, based upon a collection made by Rock in 1918 from Maunaloa on the island of Molokai (Wilson 1957). Current classification synonymizes the two species (Wagner *et al.* 1990).

Eugenia koolauensis, a member of the myrtle family (Myrtaceae), is a small tree or shrub between 7 and 23 ft (2 and 7 m) tall with branch tips covered with dense brown hairs. The leathery, oval or elliptic leaves, 0.8 to 2 in (2 to 5 cm) long and 0.4 to 1.3 in (1 to 3.3 cm) wide, are densely hairy on the lower surface and have margins that curve under the leaves. One or two flowers grow from the leaf axils on stalks 0.04 to 0.3 in (1 to 8 mm) long. The hypanthium (basal portion of the flower) is cone-shaped, about 0.1 in (3 mm) long, and hairy. The four sepals of unequal length that comprise the hypanthium are attached to a circular nectary disk (fleshy, nectar-producing structure). The four white petals, which are oval or elliptic and 0.2 to 0.3 in (4 to 8 mm) long, enclose numerous white stamens and are also attached to the nectary disk. The fruits are fleshy, yellow to red, oval berries, 0.3 to 0.8 in (0.8 to 2 cm) long, that usually contain one round seed. *Eugenia koolauensis* is one of two species in the genus that are native to Hawaii. It differs from the other species in having leaves that are densely hairy on the lower surface and leaf margins that curve under the leaves (Degener 1932b, Wagner *et al.* 1990, Wilson 1957).

Eugenia koolauensis was historically known from Maunaloa on western Molokai and from Kaipapau Valley, Hanaimoa and Kahawainui gulches, and a gully southeast of Kahuku on Oahu (HHP 1991e1, 1991e2, 1991e4, 1991e6, 1991e7; Wilson 1957). This species is no longer believed to be extant on the island of Molokai because the region where the first two individuals were found has been converted to pineapple fields (CPC 1990). On Oahu, five populations now remain on State and private land in Papali Gulch, the north fork of Kamananui Stream, in the regions of Pupukea and Paumalu in the northern Koolau Mountains, and at Hawaiiloa, a disjunct population in the southeastern Koolau Mountains (Garnett 1990; HHP 1991e3, 1991e5, 1991e8; HPCC 1991b1, 1991b2; J. Obata and S. Perlman, pers. comms., 1991). A total of fewer than 60 individuals of this species remain in dry gulches and ridges in mesic forests dominated by 'ohi 'a and/or lama at 350 to 1,000 ft (100 to 300 m) in elevation (HHP 1991e3, 1991e5, 1991e8; Wagner et al. 1990). Other associated plant taxa include *Myrsine lessertiana* (kolea), *Nestegis sandwicensis* (olopua), *Pleomele halapepe* (hala pepe), and *Psydrax odoratum* (alahe'e) (HHP 1991e5 to 1991e8; HPCC 1991b1, 1991b2; J. Lau, pers. comm., 1991). Habitat degradation by feral pigs and competition with alien plant taxa (Christmas berry, Koster's curse, strawberry guava, *Lantana camara* (lantana)) are the major threats to *Eugenia koolauensis*. The limited numbers of this species make it vulnerable to stochastic extinction and/or reduced reproductive vigor due to the small number of individuals and limited gene pool.

The first specimen of *Hesperomannia* was collected by Horace Mann, Jr. on the summit of the island of Lanai in 1864 (Brigham 1868, Degener 1932c). Asa Gray (1865) named the genus after its discoverer and also gave it the specific name *arborescens* for its tree-like habit (Brigham 1868). Other names which refer to this species are *H. bushiana* (Degener 1935), *H. swezeyi* (Degener 1933), and *H. bushiana* var. *fosbergii* (Degener 1937). According to Warren L. Wagner and others (1990), the last treatment of *Hesperomannia* (Carlquist 1957), which designates three subspecies (subspecies *arborescens*, *bushiana*, and *swezeyi*) based on leaf shape, achene (dry, one-seeded fruit) size, and number of heads, does not seem to delimit geographical or

ecological entities, and therefore these subspecies do not warrant formal recognition.

Hesperomannia arborescens is a small shrubby tree of the aster family (Asteraceae) that usually stands 5 to 16 ft (1.5 to 5 m) tall. Its typically hairless leaves, 4 to 8 in (10 to 20 cm) long and 1 to 3 in (3 to 8 cm) wide, range from oval to lance-shaped and are about two to four times as long as they are wide. The flower heads, which are about 2.4 in (6 cm) long, are either erect or ascending, and grow singly or in clusters of 2 to 10. They grow on thick fuzzy stalks 0.2 to 0.6 in (4 to 15 mm) long and about 0.1 in (3 mm) in diameter. The involucre (set of bracts) that surrounds each flower head is between 0.8 and 1.4 in (2 and 3.5 cm) high, the longest individual bracts growing to 1.1 in (2.8 cm). The yellow to yellowish brown florets that comprise each head are about 0.9 to 1.2 in (2.4 to 3 cm) long and develop into 0.5 in (1.3 cm) long achenes (dry, one-seeded, fruits) topped with yellowish brown or purple-tinged bristles. This member of an endemic Hawaiian genus differs from other *Hesperomannia* species in having the following combination of characters: Erect to ascending flower heads; thick flower head stalks; and usually hairless and relatively narrow leaves (Brigham 1868; Carlquist 1957; Degener 1932c, 1933, 1935; Gray 1865; Hillebrand 1888; Marticorena and Parra 1975; Rock 1913; Wagner *et al.* 1990).

Hesperomannia arborescens was formerly known from locations on three islands: Kaiholena and Kukui on Lanai; Pelekunu Trail on Molokai; and scattered populations throughout the Koolau Mountains, from Koolauloa and Pupukea at its northern extreme to Konahuanui at the southern end (Forbes 1920; HHP 1991f1 to 1991f10, 1991f12 to 1991f16, 1991f22). This species is now known from 18 populations totalling fewer than 70 plants on the islands of Oahu, Molokai, and Maui. On Oahu, 15 populations, which total about 50 to 60 individuals, have been observed since 1958 on private, Honolulu City and County, State, and Federal lands at a few disjunct locations over a distance of about 27 mi (43 km). Locations include: upslope of Kahuku, Laie, and Malaekahana; along Poamoho Trail above Poamoho Stream; along Waikane-Schofield Trail near the ridge summit; at Kipapa Gulch; on Halawa Ridge; and upper Palolo Valley to Niu Valley (HHP 1991f1, 1991f3, 1991f5, 1991f7, 1991f8, 1991f10, 1991f17 to 1991f21, 1993a1 to 1993a4; HPCC 1990b1; Marticorena and Parra 1975; Derral Herbst, U.S. Fish and Wildlife Service, and S. Perlman, pers. comms., 1991). The Waikane-Schofield population occurs on the boundary of State (Ewa Forest Reserve) and Federal (Schofield Barracks Military Reservation) lands. On Molokai, one population of three individuals was found on State land in Olokui Natural Area Reserve (NAR) (HHP 1991f11; HPCC 1991c; S. Perlman, pers. comm., 1991). A recent discovery in 1989 by Joel Lau of TNCH extends this species' range to the island of Maui, where two colonies totalling three individuals were discovered about 0.3 mi (0.5 km) apart on State land in West Maui NAR between Lanilili and Keahikauo (HHP 1991f23; HPCC 1990b2; J. Lau and S. Perlman, pers. comms., 1991). *Hesperomannia arborescens*, often found on slopes or ridges in association with 'ohi'a, olopua, uluhe, *Antidesma platyphyllum* (hame), kopiko, *Syzygium*, and common *Melicope* species, typically grows in lowland wet forests and occasionally in scrub vegetation between 1,200 and 2,500 ft (360 and 750 m) in elevation (HHP 1991; HHP 1991f1 to 1991f3, 1991f5 to 1991f10, 1991f13 to 1991f18, 1991f20, 1991f22, 1991f23, 1993a1 to 1993a4; HPCC 1991c; Wagner *et al.* 1990; J. Lau, pers. comm., 1991). The Molokai population grows in lama- and/or 'ohi'a-dominated lowland mesic forest habitat within the same elevational range (HHP 1991f11; HPCC 1991c). The major threats to *Hesperomannia arborescens* are habitat degradation by feral pigs and goats, competition with alien plant taxa (Hilo grass, Koster's curse, strawberry guava, *Tibouchina herbacea*), fire, and impact by humans. Stochastic extinction and/or reduced reproductive vigor due to this species' limited numbers are significant threats as well.

Lobelia oahuensis, named by Rock (1918, 1919) for the island on which the type specimen was collected, was transferred to the genus *Neowimmeria* by the Degeners in 1974; a genus not accepted by current authorities (Lammers 1990).

Lobelia oahuensis, a member of the bellflower family, is a stout, erect, unbranched shrub 3 to 10 ft (1 to 3 m) tall. The elliptic leaves, which are 16 to 24 in (40 to 60 cm) long and 1.6 to 2.4 in (4 to 6 cm) wide, are typically stalkless and form a very dense rosette at the end of the stem. The upper surface of the leaves is hairless and the lower surface is covered with rather coarse grayish or greenish hairs. The inflorescence is branched 3 to 5 times from its base, with each erect spike 3 to 5 ft (0.1 to 1.5 m) tall and comprised of 50 to 200 flowers. Each flower measures 1.7 to 1.8 in (42 to 45 mm) long and about 0.2 in (5 mm) wide, with a 1.2 in (3 cm) long bract just below it. The linear calyx lobes are about 0.6 in (16 mm) long and 0.1 in (3 mm) wide. The fruits are hairy, oval capsules 0.4 to 0.7 in (10 to 17 mm) long and about 0.4 in (9 mm) wide that contain numerous brownish seeds. *Lobelia oahuensis* differs from other members of the genus in having the following combination of characters: Erect stems 3 to 10 ft (1 to 3 m) long; dense rosettes of leaves at the end of stems; lower leaf surfaces covered with coarse grayish or greenish hairs; and flowers 1.7 to 1.8 in (42 to 45 mm) long (Lammers 1990; Rock 1918, 1919; St. John and Hosaka 1935).

Historically, *Lobelia oahuensis* was known from Kahana Ridge, Kipapa Gulch, and the southeastern Koolau Mountains of Oahu (HHP 1991g1, 1991g4 to 1991g7; St. John and Hosaka 1935). Nine populations totalling between 100 and 200 individuals are located on private and State land or on the boundary of private, State, City and County, and Federal lands. *Lobelia oahuensis* grows on steep slopes along Koolau Mountain ridgetops from Waikane and Halawa to Mount Olympus and the summit ridges above Kuliouou and Waimanalo, a distance of about 17 mi (27 km) (HHP 1991g1 to 1991g3, 1991g6, 1991g8 to 1991g10; HPCC 1991d; J. Obata and S. Perlman, pers. comms., 1991). Ken Wood of HPCC and Joel Lau of TNCH recently discovered a single mature individual of *L. oahuensis* on the boundary between State land and Schofield Barracks Military Reservation, extending the distribution of this species to the Waianae Mountain Range of Oahu (J. Lau and Kenneth Wood, HPCC, pers. comms., 1993). These nine populations are located between elevations of 2,800 and 3,000 ft (850 and 920 m) on summit cliffs in cloudswept wet forests or in areas of low shrub cover that are frequently exposed to heavy wind and rain (HHP 1991g1 to 1991g3, 1991g6 to 1991g10; HPCC 1991d; Lammers 1990). Associated plant taxa include 'ohi'a, uluhe, 'uki, *Cheirodendron trigynum* (olapa), *Dubautia laxa* (na'ena'e pua melemele), and *Labordia hosakana* (kamakahala) (HHP 1991g1, 1991g2, 1991g7, 1991g8, 1991g10; HPCC 1991d; J. Obata, pers. comm., 1991). The noxious alien plant Koster's curse is the primary threat to *Lobelia oahuensis* because it effectively competes with this species for water, space, light, and nutrients.

Lycopodium nutans was described by William D. Brackenridge in 1854 from a specimen collected from the "high mountains" of Oahu by Charles Wilkes, commander of the U.S. Exploring Expedition of 1840 on which

Brackenridge was the horticulturist (Ollgaard 1989). The specific epithet is probably in reference to the species' "nodding" or pendant spikes. Other names by which this species has been known include *Huperzia nutans*, *Lycopodium phyllanthus* var. *nutans*, and *Urostachys nutans*, which are not accepted by current authorities (Ollgaard 1989).

Lycopodium nutans is an erect or pendulous herbaceous epiphyte (plant growing above ground on other plants) of the clubmoss family (Lycopodiaceae). Its stiff, light green branches, 10 to 16 in (25 to 40 cm) long and about 0.2 in (6 mm) thick, are covered with stiff, flat, leathery leaves, 0.5 to 0.6 in (12 to 16 mm) long and about 0.1 in (2.5 mm) wide that overlap at acute angles. The leaves are arranged in six rows and arise directly from the branches. The branches end in thick, 2.8 to 5.1 in (7 to 13 cm) long fruiting spikes that are unbranched or branch once or twice, and taper toward a downward-curving tip. Bracts on the fruiting spikes, between 0.1 and 0.2 in (3 to 5 mm) long, are densely layered and conceal the spore capsules. This species can be distinguished from others of the genus in Hawaii by its epiphytic habit, simple or forking fruiting spikes, and larger and stiffer leaves (Degener 1934, Hillebrand 1888, Wagner and Wagner 1987).

Historically, *Lycopodium nutans* was known from the island of Kauai and from scattered locations in the Koolau Mountains of Oahu bounded by Kaluanui Valley to the north, Paalaa to the west, and Mount Tantalus to the south (HHP 1991h1 to 1991h9; Skottsberg 1936). This species is now known from only two sites within its historical range: Kaluanui Valley; and along Waikane-Schofield Trail on Oahu. One population, located on State land, was described as "scarce" when last observed in 1965 (HHP 1991h3). The other population, located about 5 mi (8 km) away on the boundary of State (Ewa Forest Reserve) and Federal lands (Schofield Barracks Military Reservation), grew in "several places" according to its collector in 1961 (HHP 1991h4).

Two individuals of this population were observed in 1993 by Joel Lau, TNCH (HHP 1993b1, 1993b2). The entire species totals fewer than 50 known individuals. *Lycopodium nutans* grows on tree trunks, usually on open ridges and slopes in 'ohi'a-dominated wet forests and occasionally mesic forests (HHP 1991h5 to 1991h7, Hosaka 1937) between 2,000 and 3,500 ft (600 and 1,070 m) in elevation (Robinson 1914, Selling 1946). The vegetation in those areas typically includes kanawao, uluhe, 'uki, *Hibiscus* sp., hame, and kopiko (HHP 1993b1, 1993b2; S. Perlman, pers. comm., 1991). The primary threat to *L. nutans* is stochastic extinction and/or reduced reproductive vigor because of the small number of remaining individuals and limited distribution. Additional threats to *L. nutans* are the noxious alien plants Koster's curse and strawberry guava.

Hillebrand (1888) described *Pelea lydgatei* based on a collection by John M. Lydgate from Palolo Valley, Oahu. In an action not accepted by other taxonomists, Emmanuel Drake del Castillo (1890) transferred the species to the genus *Evodia*. In 1944, St. John described two new species, *P. descendens* and *P. semiternata*, which he later determined were synonymous (St. John 1979). Current authorities, however, do not accept St. John's species as being sufficiently different from *P. lydgatei* to maintain them as distinct taxa. Thomas G. Hartley and Benjamin C. Stone (1989, Stone *et al.* 1990, Wagner *et al.* 1990) synonymized the genus *Pelea* with *Melicope*, resulting in the present combination.

Melicope lydgatei is a small shrub of the citrus family (Rutaceae) that has leaves arranged oppositely or in threes. The glossy, papery leaves, which are 1.6 to 5.1 in (4 to 13 cm) long and 0.6 to 2.6 in (1.5 to 6.5 cm) wide, vary from lance-shaped to oblong. Flowers are usually functionally unisexual, with both unisexual and bisexual flowers growing on the same plant. Its aromatic, greenish white flowers are about 0.2 to 0.3 in (4 to 7 mm) long and arise singly or in clusters of two or three. The four-lobed capsules, which have sections fused for one-fourth to one-third their length, are between 0.6 and 0.9 in (14 and 22 mm) wide, and contain one or two glossy black seeds, about 0.2 in (5 mm) long, in each section. Both the exocarp and endocarp (outermost and innermost layers of the fruit wall, respectively) are hairless. The species' leaf arrangement (opposite or in groups of three), the amount of fusion of the fruit sections, and the hairless exocarp and endocarp distinguish it from others in the genus (Hillebrand 1888; St. John 1944, 1979; Stone 1969; Wagner *et al.* 1990).

Melicope lydgatei was formerly known throughout the Koolau Mountains of Oahu from Hauula to Kahana, Kipapa Gulch to Waimano, and Kalihi Valley to Wailupe Valley (HHP 1991i1 to 1991i8, 1991i10 to 1991i12, 1993c). Only three populations totalling fewer than 10 individuals, distributed over a 7.5 mi (12 km) distance, remain within its historical range: Along Poamoho Trail near the boundary of State (Ewa Forest Reserve) and private lands; along Manana Trail, growing on State land in Ewa Forest Reserve; and along Peahinaia Trail on private lands (HHP 1991i9, 1991i13, 1993c). This species typically grows in association with *Acacia koa* (koa), 'ohi'a, uluhe, kopiko, and *Bobea elatior* ('ahakea lau nui) on open ridges in mesic forests and occasionally in wet forests at elevations between 1,350 and 1,800 ft (410 and 550 m) (HHP 1991i2, 1991i4 to 1991i6, 1991i8 to 1991i10, 1991i12, 1991i13, 1993c; Stone *et al.* 1990). The primary threat to *M. lydgatei* is stochastic extinction and/or reduced reproductive vigor because the few individuals that remain are restricted in distribution.

In 1826, Charles Gaudichaud-Beaupre described *Rollandia crispa* from a fragmentary specimen of a leaf he collected. Gaudichaud-Beaupre probably assigned it the specific epithet based on the crisp or crimped leaf margin (Rock 1919). Names to which this species have been referred are *Lobelia crispa* (Endlicher 1836), *R. crispa* var. *muricata* (Rock 1919), *R. grandifolia* (Hillebrand 1888), and the illegitimate name, *Cyanea rollandia* (Gray 1861).

Rollandia crispa, a member of the bellflower family, is an unbranched shrub with leaves clustered at the ends of succulent stems. The broad oval leaves, 12 to 30 in (30 to 75 cm) long and 3.5 to 6.3 in (9 to 16 cm) wide, have undulating, smooth or toothed leaf margins. Each leaf is on a stalk 0.3 to 1.6 in (0.8 to 4 cm) long. Clusters of three to eight fuzzy flowers grow on stalks 0.8 to 1.2 in (2 to 3 cm) long, with each flower borne on a stalk 0.4 to 0.8 in (1 to 2 cm) long. The calyx lobes are oval or oblong, 0.2 to 0.5 in (6 to 12 mm) long, and often overlapping at their base. The fused petals, 1.6 to 2.4 in (4 to 6 cm) long and fuzzy, are pale magenta with darker longitudinal stripes. The fruits are spherical berries 0.4 in (1 cm) in diameter, that contain many minute, dark seeds. *Rollandia crispa* is distinguished from other species in this endemic Hawaiian genus by its leaf shape, distinct calyx lobes, and the length of the flowers and stalks of flower clusters (de Candolle 1839, Hillebrand 1888, Lammers 1990, Rock 1919, Wawra 1873).

Historically, *Rollandia crispa* was known from scattered locations throughout the upper elevations of the Koolau Mountains of Oahu from Kaipapau Valley to the north to Waialae Iki Ridge to the southeast (HHP 1991j1 to 1991j15, 1991j17 to 1991j19; Skottsberg 1926). This species is now known from State and private lands in Hidden Valley (26 plants), Palolo Valley

(1 plant), Kapakahi Gulch (1 plant), and Pia Valley (1 plant) (HHP 1991j8, 1991j16, 1991j17; HPCC 1990c; Lammers 1990; D. Herbst, J. Obata, K. Nagata, B.P. Bishop Museum, S. Perlman, pers. comms., 1991; L. Mehrhoff, pers. comm., 1993). The four populations are scattered over a distance of about 19 mi (31 km). Three of the populations contain a single, mature, flowering individual. The other population (Hidden Valley) contains 7 mature, flowering plants and 19 juvenile plants, giving a total of fewer than 30 individuals for the entire species. *Rollandia crispa* is found in habitats ranging from steep, open mesic forests to gentle slopes or moist gullies of closed wet forests, at elevations between 600 and 2,400 ft (185 and 730 m) (HHP 1991j2, 1991j5, 1991j8, 1991j9, 1991j12, 1991j13, 1991j16; HPCC 1990c). Associated plant taxa include ke'oke'o, *Cyanea acuminata* (haha), *Microsorum spectrum* (NCN), common *Cyrtandra* species, *Pisonia, Touchardia latifolia* (olona), and the introduced strawberry guava, 'awa, kukui, and *Cordyline fruticosa* (ti) (HHP 1991j8, 1991j16; J. Obata, pers. comm., 1991; L. Mehrhoff, pers. comm., 1993). The major threats to *R. crispa* are habitat alteration and predation by feral pigs, competition with noxious alien plant taxa (Koster's curse and strawberry guava), and stochastic extinction and/or reduced reproductive vigor due to the small number of remaining individuals, their limited gene pool, and restricted distribution.

Based on a specimen collected by Lydgate in Niu Valley on Oahu, Hillebrand described *Pterotropia gymnocarpa*, the specific epithet referring to its entirely free and naked (lacking a covering) fruit (Hillebrand 1888). Sherff (1952) renamed the species *Tetraplasandra gymnocarpa* and split the species into four varieties (varieties *pupukeensis, leptocarpa, megalocarpa,* and *gymnocarpa*) (Sherff 1952, 1953) that are considered synonymous in the latest treatment of the genus (Lowrey 1990). Other names by which this species has been known include *Pterotropia gymnocarpa* var. *pupukeensis* (Degener 1938), *Heptapleurum gymnocarpum* (Drake del Castillo 1890), and *Dipanax gymnocarpa* (Heller 1897).

Tetraplasandra gymnocarpa, a member of the ginseng family (Araliaceae), is a tree 8 to 33 ft (2.5 to 10 m) tall, either hairless or with fuzzy, short-lived hairs on the young leaves and flower clusters. The leaves are 12 to 22 in (30 to 55 cm) long with 7 to 21 leathery, oval to elliptic leaflets per leaf. Each leaflet is 2.8 to 7.1 in (7 to 18 cm) long and 1.2 to 3.1 in (3 to 8 cm) wide, and is folded upward along the midvein. The flowers are usually arranged in threes or in an umbrella-shaped arrangement. Petals are 0.2 to 0.3 in (4 to 8 mm) long and usually number 5 or 6 per flower, with an equal number of stamens. The ovary, which usually has 3 or 4 sections, appears placed atop the receptacle (base of the flower) in a superior position, due to the expansion of the ovary disk (outgrowth of the receptacle) and the reduction of the hypanthium (basal portion of the flower). Fruits are purplish, oval or top-shaded drupes, 0.2 to 0.5 in (6 to 12 mm) long, that enclose a papery endocarp and single seeds. *Tetraplasandra gymnocarpa* is distinguished from all other species in the genus in that its ovary appears fully superior (Degener 1938; Degener and Degener 1962a, 1962b; Hillebrand 1888; Lowrey 1990; Sherff 1952, 1955).

Tetraplasandra gymnocarpa was historically known from Punaluu, Waikakalaua Gulch, Mount Olympus, and the region between Niu and Wailupe, all in the Koolau Mountains of Oahu (Degener 1938; HHP 1991k3, 1991k12 to 1991k14). Fifteen populations are now scattered along the summit ridges of the Koolau Mountains over a distance of 28 mi (45 km), from the region of Paumalu at the northern extreme to Kuliouou and Waimanalo at the southeasternmost point (HHP 1991k1, 1991k2, 1991k4 to 1991k11, 1991k15 to 1991k18, 1993c1, 1993d2; HPCC 1991e; S. Perlman, pers. comm., 1991). One population in the Waianae Mountains, located on Palikea ridge on the border of Federal and private lands, was last visited in 1954; it is not known whether it still exists (HHP 1991k8). Most populations contain between one and six individuals, giving a total of fewer than 40 individuals for the entire species. However, because *T. gymnocarpa* is difficult to distinguish from other species when infertile, the total number of individuals may be as high as "a few hundred" (J. Obata, pers. comm., 1991). *Tetraplasandra gymnocarpa* is typically found on windswept summit ridges or in gullies in wet or sometimes mesic forests between elevations of 820 and 2,790 ft (250 and 850 m) with such associated plant taxa as 'ohi'a, olapa, uluhe, kopiko, *Labordia tinifolia* (kamakahala), and *Myrsine fosbergii* (kolea) (HHP 1991k1, 1991k2, 1991k4 to 1991k7, 1991k9, 1991k11, 1991k14, 1991k15, 1991k17, 1991k18, 1993d1; HPCC 1991e; Lowrey 1990). The major threats to *T. gymnocarpa* are competition with the alien plant taxon Koster's curse, feral pigs, and reduced reproductive vigor due to the limited gene pool because of the small number of extant individuals.

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Cyrtandra crenata, Cyrtandra polyantha, Hesperomannia arborescens* (as *H. arborescens* ssp. *bushiana* and ssp. *swezeyi*), *Lobelia oahuensis, Melicope lydgatei* (as *Pelea lydgatei* and *P. descendens*), and *Tetraplasandra gymnocarpa* (as *T. gymnocarpa* var. *pupukeensis*) were considered to be endangered. *Huperzia nutans* (as *Lycopodium nutans*) was considered to be threatened, and *Chamaesyce deppeana* (as *Euphorbia deppeana*) and *Eugenia koolauensis* (as *Eugenia molokaiana*) were considered to be extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant species named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including all of the above taxa considered to be endangered or threatened or thought to be extinct. The list of 1,700 plant species was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). In at least one of these notices, eight of the species (including synonymous taxa) that had been in the 1976 proposed rule were treated as category 1 candidates for Federal listing. Category 1 species are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. Other than *Chamaesyce deppeana* (as *Euphorbia deppeana*), *Huperzia nutans* (as *Lycopodium nutans*), *Melicope lydgatei* (as *Pelea lydgatei* and *P. descendens*) and *Tetraplasandra gymnocarpa* (as *T. gymnocarpa* var. *pupukeensis*), all the aforementioned species that were either proposed as endangered or threatened or thought to be extinct in the June 16, 1976, proposed rule were considered category 1 candidates in all three notices of review. *Melicope lydgatei* (as *Pelea lydgatei* and *P. descendens*), a category 1 species in the 1980 and 1985 notices, was conferred category 1* status in the 1990 notice. Category 1* species are those which are possibly extinct; however, because new information regarding this species' existence has become available, it was proposed for listing. In the 1980 and 1985 notices, *Huperzia nutans* (as *Lycopodium nutans*) was considered a category 2 species and *Chamaesyce deppeana* (as *Euphorbia deppeana*) a category 3A species. Category 2 species are those for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at the time. Category 3A species are those for which the Service has persuasive evidence of extinction. For those two species, because new information provided support for listing or indicated their current existence, they were conferred category 1 status in the 1990 notice. *Tetraplasandra gymnocarpa* var. *pupukeensis* appeared as a category 3B species in the 1980 and 1985 notices; in the 1990 notice, it was considered synonymous with *T. gymnocarpa*, a category 1 species. Category 3B species are those which, on the basis of current taxonomic understanding, do not represent distinct taxa meeting the Act's definition of "species." *Cyanea truncata* and *Rollandia crispa* first appeared in the 1990 notice, as a category 1 species.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions that present substantial information indicating the petitioned action may be warranted within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the Service to consider the petition as having been submitted, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991. Publication of the proposal constituted the final one-year finding for these 11 plant taxa.

On October 14, 1992, the Service published in the **Federal Register** (57 FR 47028) a proposal to list 11 plant taxa from the Koolau Mountain Range, island of Oahu, as endangered. This proposal was based primarily on information supplied by the Hawaii Heritage Program, the Hawaii Plant Conservation Center, and observations by botanists and naturalists. The Service now determines 11 species primarily from the Koolau Mountain Range to be endangered with the publication of this rule.

Summary of Comments and Recommendations

In the October 14, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The public comment period ended on December 14, 1992. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in the "Honolulu Advertiser" on October 23, 1992. Only one letter of comment was received, from a conservation organization, supporting the listing of these taxa from the Koolau Mountain Range, island of Oahu, but raising no specific issues.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Chamaesyce deppeana* (Boiss.) Millsp. ('akoko), *Cyanea truncata* (Rock) Rock (haha), *Cyrtandra crenata* St. John and Storey (ha'iwale), *Cyrtandra polyantha* C.B. Clarke (ha'iwale), *Eugenia koolauensis* Degener (nioi), *Hesperomannia arborescens* A. Gray (no common name (NCN)), *Lobelia oahuensis* Rock (NCN), *Lycopodium nutans* Brack. (wawae'iole), *Melicope lydgatei* (Hillebr.) Hartley and Stone (alani), *Rollandia crispa* Gaud. (NCN), and *Tetraplasandra gymnocarpa* (Hillebr.) Sherff ('ohe'ohe) should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1533 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. Threats to the 11 plant taxa are summarized in Table 1. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the 11 plant taxa in this rule are as follows:

TABLE 1.—SUMMARY OF THREATS

Species	Alien animals			Alien plants	Fire	Human impacts	Limited Nos.*
	Pigs	Goats	Rodents				
Chamaesyce deppeana	.....	.....	.....	X	X	X	X[1,3]
Cyanea truncata	X	.....	P	X	P	.....	X[1,2]
Cyrtandra crenata	.....	.....	P	.....	P	P	X[1,2]
Cyrtandra polyantha	.....	.....	P	.....	P	P	X[1,2]
Eugenia koolauensis	X	.....	.....	X	P	P	X[1,3]
Hesperomannia arborescens	X	X	.....	X	X	X	X[3]
Lobelia oahuensis	P	.....	P	X	.....	P	
Lycopodium nutans	.....	.....	.....	X	P	P	X[1,3]
Melicope lydgatei	.....	.....	.....	.....	P	P	X[1,2]

TABLE 1.—SUMMARY OF THREATS—Continued

Species	Alien animals			Alien plants	Fire	Human impacts	Limited Nos.*
	Pigs	Goats	Rodents				
Rollandia crispa	X	.....	P	X	P	P	X[1,3]
Tetraplasandra gymnocarpa	X	.....	.....	X	P	P	X[3]

X = Immediate and significant threat.
P = Potential threat.
*No more than 100 individuals and/or no more than 5 populations.
[1] No more than 5 populations.
[2] No more than 10 individuals.
[3] No more than 100 individuals.

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

The native vegetation of the Koolau Mountains and adjacent areas has undergone extreme alterations because of past and present land management practices, including deliberate alien plant and animal introductions, agricultural development, military use, and recreational use (Cuddihy and Stone 1990, Wagner *et al.* 1985). Degradation of habitat by feral pigs and competition with alien plants are considered the greatest present threats to the 11 plant taxa in this final rule.

Feral pigs (*Sus scrofa*) have been in the Koolau Mountains for about 150 years and are known to be one of the major modifiers of wet forest habitats (Stone 1985). Pigs damage the native vegetation by rooting and trampling the forest floor, which encourages the spread of alien plant taxa that are better able to exploit the newly tilled soils than are native taxa (Cuddihy and Stone 1990, Stone 1985). Feral pigs also feed on the starchy interior of tree ferns (*Cibotium*) and other succulent-stemmed plants (See Factor C). The last known population of three individuals of *Cyanea truncata* in Hidden Valley was destroyed in recent years by feral pigs (CPC 1989a, 1989b, 1990; HHP 1991b1). The continued impact of pigs poses an immediate and severe threat to any plants of *Cyanea truncata* that may remain (L. Mehrhoff, pers. comm., 1993). Habitat degradation and predation of *Rollandia crispa* by pigs has been observed at the Hidden Valley population (L. Mehrhoff, pers. comm., 1993). Feral pigs are known to frequent regions of the Koolau Mountains and threaten to destroy the habitat of *Eugenia koolauensis*, *Hesperomannia arborescens*, *Lobelia oahuensis*, *Rollandia crispa*, and *Tetraplasandra gymnocarpa* (HHP 1991f10, 1991g5, 1991j16, 1993a3, 1993d2; HPCC 1990b1, 1990c; K. Nagata and S. Perlman, pers. comms., 1991). The only population of *Hesperomannia arborescens* on Maui is threatened by pigs as well (HHP 1991f23, HPCC 1990b2).

Goats (*Capra hircus*) have become established on the island of Molokai as well as other major Hawaiian islands (Kauai, Maui, and Hawaii) (Cuddihy and Stone 1990, van Riper and van Riper 1982). Goats are managed in Hawaii as a game animal, but are able to forage in extremely rugged terrain and populate inaccessible areas where hunting has little effect on their numbers (Culliney 1988, HHP 1990). Feral goats eat native vegetation, trample roots and seedlings, cause erosion, and promote the invasion of alien plants. On Molokai, goats degrade dry forests at low elevations and they are expanding their range (Cuddihy and Stone 1990; J. Lau, pers. comm., 1991). Goats browse on introduced and native plants, especially in dry, open ecosystems similar to that found between Wailau and Waiehu on the island of Molokai. In 1989, it was observed that numerous goats occupied the Wailau-Waiehu area and threatened the survival of the only population of *Hesperomannia arborescens* on the island (HHP 1991f11). Although there is no longer a large feral goat population on Oahu, the effects of the goat trade in the early 1820s, which allowed goats to proliferate without being confined by fences, and resultant damage by goats to the native flora have permanently altered Oahu's native ecosystems (Cuddihy and Stone 1990, Culliney 1988, Tomich 1986). Today, little of the original forests of the Koolau Mountains remain (Wagner *et al.* 1985).

Like goats, cattle (*Bos taurus*) were once abundant on Oahu. Because of past restrictions on hunting, widespread ranching, and ineffective confinement of the animals, the goat and cattle population boomed and spread to many parts of the island (Culliney 1988). The impact of cattle on the native vegetation was similar to that described for goats (Cuddihy and Stone 1990, Scott *et al.* 1986, Tomich 1986). It was not until local land managers recognized the extent of destruction of native vegetation by these animals that their numbers were controlled. However, by then much of the plant cover on cattle-grazing land on Oahu and other islands was already degraded. Such areas remained grassland for many years following the removal of cattle (Culliney 1988). Although not a current threat to the taxa in this rule, cattle that once roamed through the Koolau Mountains contributed to the reduction in the range of many native plants, probably including at least some of the 11 plant taxa.

Fire immediately threatens 2 of the 11 plant taxa (See Table 1) and poses a possible threat to 8 other taxa. Because Hawaii's native plants have evolved with only infrequent, naturally occurring episodes of fire (lava flows, infrequent lightning strikes), most species are not adapted to fire and are unable to recover well after recurring human-set fires. Alien plants are often more fire-adapted than native taxa and will quickly exploit suitable habitat after a fire (Cuddihy and Stone 1990). Species that grow in dry and mesic vegetation communities (including all of the 11 plant taxa except the wet forest and shrubland species, *Lobelia oahuensis*) may be susceptible to accidentally or maliciously set fires, especially near areas of habitation from which fires could easily spread. In the past 14 or 15 years, approximately 8 to 10 fires occurred in conservation districts under the jurisdiction of the Hawaii Division of Forestry and Wildlife in the low elevation slopes of the Koolau Mountains (Earl Pawn, State Division of Forestry and Wildlife, pers. comm., 1991). Although the fires were contained within small areas, the possibility remains for such fires to spread upslope into habitat occupied by the endangered species, especially during the dry summer months. Fires have been reported from dry and mesic regions in the Koolau Mountains, threatening *Hesperomannia arborescens* and *Chamaesyce deppeana* (HHP 1991a, 1991f1). A fire in the vicinity of the population spread fueled by alien and

naturalized grasses and brisk updrafts typical of the area, although the extent of the fire on Nuuanu Pali is not known.

Although the northern Koolau Mountains are mostly State or privately owned, large parcels are leased to the U.S. Army (Wagner *et al.* 1985). Military training exercises and ground maneuvers are occasionally conducted in those areas, especially along the summit ridges and in various locations above Kahuku. Because of the steep terrain, training areas are restricted to foot travel; tanks and other off-road vehicles are not utilized. Vehicles are only used on roads or trails (Alton Kanno, Environmental Management Office, U.S. Army Support Command, Hawaii, pers. comm., 1991), but the potential for affecting one population of *Hesperomannia arborescens* that grows along a jeep trail exists (HHP 1991f10). Trampling by ground troops associated with training activities could also affect other endangered species, including populations of *Eugenia koolauensis*, *Hesperomannia arborescens*, *Lobelia oahuensis*, *Lycopodium nutans*, *Melicope lydgatei*, and *Tetraplasandra gymnocarpa* that occur on land leased or owned by the Army (HHP 1991e3, 1991e8, 1991f1, 1991f10, 1991f17, 1991f20, 1991f21, 1991h4, 1991i9, 1991k4, 1991k6, 1991k9).

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

Unrestricted collecting for scientific or horticultural purposes and excessive visits by individuals interested in seeing rare plants are potential threats to all of the endangered species, but especially to *Cyanea truncata*, *Cyrtandra crenata*, *Cyrtandra polyantha*, and *Melicope lydgatei*, each of which has a total of 10 or fewer individuals. Any collection of whole plants or reproductive parts of any of these four species would cause an adverse impact on the gene pool and threaten the survival of the species. The proximity of approximately 30 percent of the known individuals of *Chamaesyce deppeana* to a major scenic lookout, some within 15 ft (5 m) of heavy pedestrian traffic, poses a threat to a significant proportion of the entire species (J. Lau and J. Obata, pers. comms., 1991). Its accessibility also may make the plants attractive to collectors. One population of *Hesperomannia arborescens* is located close to a trail and, thus, is easily accessible to visitors (HHP 1991f1). Populations of *Chamaesyce deppeana*, *Lobelia oahuensis*, and *Tetraplasandra gymnocarpa* are on the boundary of a game mammal hunting area and are potentially threatened by trampling as hunters use the area (Buck 1991).

C. Disease and Predation

Disease is not known to be a significant threat to any of the endangered species. However, a tiny beetle, black twig borer (*Xylosandrus compactus*), is known to infest common taxa of *Melicope* in the Koolau Mountains (Davis 1970). Black twig borers burrow into branches and introduce a pathogenic fungus that kills twigs, reduces plant vigor, and often destroys entire plants. Populations of *Melicope lydgatei* that grow in the Koolau Mountains may be affected by these insects (Davis 1970, Hara and Beardsley 1979).

Of the ungulates introduced to Oahu, pigs have become the primary modifiers of wet forests in the Koolau Mountains. Not only do they destroy native vegetation through their rooting activities and dispersal of alien plant seed (See Factor A), but pigs also feed on plants, preferring the pithy interior of large tree ferns and fleshy-stemmed plants from the bellflower family (Stone 1985; Stone and Loope 1987; S. Perlman, pers. comm., 1991). Predation of *Cyanea truncata* and *Rollandia crispa* by pigs has been observed and is believed to be one of the primary causes of the decline or extirpation of populations (L. Mehrhoff, pers. comm., 1993). Although the Service lacks conclusive evidence of predation on the other fleshy-stemmed plant taxa in this final rule, none of them are known to be unpalatable to pigs. Predation is, therefore, a probable threat to *Lobelia oahuensis* in areas where pigs have been reported.

Predation of Hawaii's native vegetation by goats and the extensive damage caused by them have been well documented (Tomich 1986, van Riper and van Riper 1982). Although browsing by goats is not confirmed for the *Hesperomannia arborescens* population on Molokai, such activity probably occurs, owing to the large number of goats in the vicinity.

Two rat taxa, *Rattus rattus* (black rat) and *R. exulans* (Polynesian rat), and to a lesser extent other introduced rodents, eat large, fleshy fruits and strip the bark of some native plants (Cuddihy and Stone 1990, Tomich 1986, Wagner *et al.* 1985). Predation of plants in the bellflower and African violet families that have fleshy stems and fruits has been reported (J. Lau, pers. comm., 1991). Rats probably eat the fruits of *Cyanea truncata*, *Cyrtandra crenata*, *Cyrtandra polyantha*, *Lobelia oahuensis*, and *Rollandia crispa*, all of which produce fleshy fruits and stems and grow in areas where rats occur (J. Lau and J. Obata, pers. comms., 1991).

Little is known about the predation of certain rare Hawaiian plants by slugs, particularly *Milax gagantes*, which is found in wet montane habitats (Howarth 1985). Indiscriminate predation by slugs on plant parts of *Lobelia oahuensis* and particularly the fruits of *Rollandia crispa* has been observed; field botanists believe that the effect of slugs on the decline of these and related taxa may be significant (S. Perlman, pers. comm., 1991). Slugs pose a serious threat to these two species because they chew through the stems and eat the fruit, reducing the vigor of the plant and limiting the number of seeds for germination.

D. The Inadequacy of Existing Regulatory Mechanisms

Of the 11 plant taxa in this final rule, a total of 8 have populations located on privately owned land, 10 on State land, and 4 on Federal land. One taxon is located exclusively on private land and one is found only on State land. No State laws or existing regulatory mechanisms at the present time effectively protect or prevent further decline of these plant taxa on private land. However, Hawaii State laws relating to the conservation of biological resources allow for the acquisition of land as well as the development and implementation of programs concerning the conservation of biological resources (HRS, sec. 195D–5(a)). State regulations prohibit the removal, destruction, or damage of plants found on State lands. Despite the existence of State laws and regulations which give protection to Hawaii's native plants, their enforcement is difficult due to limited funding and personnel. Federal listing automatically invokes listing under Hawaii State law, which prohibits taking of endangered plants in the State and encourages conservation by State agencies (HRS, sec. 195D–4). Hawaii's Endangered Species Act states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the (Federal) Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *" (HRS, sec. 195D–4(a)). Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, sec. 195D–5(c)). Funds for these activities could be made available under section 6 of the Federal Endangered Species Act (State Cooperative Agreements). Listing of

these 11 plant taxa reinforces and supplements the protection available under the State Endangered Species Act and other laws. The Federal Endangered Species Act also offers additional protection to these 11 plant taxa because it is a violation to remove, cut, dig up, damage, or destroy any such plant in an area not under Federal jurisdiction in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The small number of populations and individuals of most of these taxa increases the potential for extinction from stochastic events. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known extant population. Three of the plant taxa in this final rule, *Chamaesyce deppeana*, *Cyanea truncata*, and *Cyrtandra crenata*, are known from a single population. Five other taxa are known from only two to five populations (See Table 1). Ten of the 11 plant taxa are estimated to number no more than 100 known individuals. Four of those taxa, *Cyanea truncata*, *Cyrtandra crenata*, *Cyrtandra polyantha*, and *Melicope lydgatei*, are estimated to number no more than 10 individuals.

Eight of the 11 endangered plant taxa are threatened by competition with one or more alien plant taxa (See Table 1). Naturalized taxa compete with native plants for space, light, water, and nutrients (Cuddihy and Stone 1990). *Clidemia hirta* (Koster's curse), a noxious shrub first cultivated in Wahiawa on Oahu, spread to the Koolau Mountains prior to 1941, where it is now rapidly displacing native vegetation (Wagner *et al.* 1985). Koster's curse spread to the Waianae Mountains around 1970 and is now widespread throughout the southern half of that mountain range (Cuddihy and Stone 1990, Smith 1985, Wagner *et al.* 1985). This pest forms a dense understory, shading out other plants and hindering plant regeneration, and is considered the major alien plant threat in the Koolau Mountains (HHP 1987; Smith 1989; S. Perlman, pers. comm., 1991). At present, Koster's curse threatens *Cyanea truncata*, *Eugenia koolauensis*, *Hesperomannia arborescens*, *Lobelia oahuensis*, *Lycopodium nutans*, *Rollandia crispa*, and *Tetraplasandra gymnocarpa* (HHP 1993a1, 1993a2, 1993b2, 1993d1, 1993d2; HPCC 1990b1; J. Lau, K. Nagata, J. Obata, and S. Perlman, pers. comms., 1991).

Tibouchina herbacea, a relative of Koster's curse, first became established on the island of Hawaii in the late 1970s and, by 1982, was collected in Lanilili on West Maui (Almeda 1990). Although the disruptive potential of this alien plant is not fully known, *Tibouchina herbacea* appears to be rapidly invading mesic and wet forests of Maui, and is considered the primary alien plant threat to the only population of *Hesperomannia arborescens* on that island (Cuddihy and Stone 1990; HPCC 1990b2; J. Lau, pers. comm., 1991).

Psidium cattleianum (strawberry guava) has become widely naturalized on all the main islands of Hawaii. Found in mesic and wet forests in the Koolau Mountains, strawberry guava develops into dense stands in which few other plants can grow, displacing natural vegetation. Strawberry guava is eaten by pigs that disperse the plant's seeds through the forest (Smith 1985, Wagner *et al.* 1985). *Cyanea truncata*, *Eugenia koolauensis*, *Hesperomannia arborescens*, *Lycopodium nutans*, and *Rollandia crispa* are seriously threatened by this pervasive weed (HHP 1991e8, 1991f1, 1991j16, 1993a4, 1993b1; HPCC 1991b1, 1991b2; K. Nagata, S. Perlman, pers. comms., 1991).

After escaping from cultivation, *Schinus terebinthifolius* (Christmas berry) became naturalized on most of the main Hawaiian Islands (Wagner *et al.* 1990) and is a pervasive threat in the Koolau Mountain Range. This fast-growing tree, distributed mainly by feral pigs and fruit-eating birds, is able to form dense thickets that displace other plants (Cuddihy and Stone 1990, Smith 1985, Stone 1985). It is now replacing the native vegetation of the Koolau Mountains and threatens to occupy the habitat of *Chamaesyce deppeana* and *Eugenia koolauensis* (HHP 1991e5, HPCC 1990a).

Lantana camara (lantana) is an aggressive thicket-forming shrub, brought to Hawaii as an ornamental, that has now become naturalized in mesic forests, dry shrublands, and other disturbed habitats (Smith 1989, Wagner *et al.* 1990). Lantana poses an immediate threat to a population of *Eugenia koolauensis* in the Koolau Mountains (HHP 1991e7).

Paspalum conjugatum (Hilo grass) is one of several perennial grasses purposely introduced for cattle fodder that have become noxious weeds on Oahu as well as other Hawaiian islands (Cuddihy and Stone 1990, Scott *et al.* 1986, Tomich 1986). Hilo grass rapidly forms a dense ground cover in wet habitats from sea level to 6,600 ft (2,000 m) in elevation and competes with ferns and other native plants (Cuddihy and Stone 1990, Haselwood and Motter 1983, O'Connor 1990, Smith 1985). Its small hairy seeds are easily transported on humans and animals or carried by the wind through native forests. Hilo grass threatens *Chamaesyce deppeana* and *Hesperomannia arborescens* (S. Perlman, pers. comm., 1991).

Casuarina equisetifolia (common ironwood) is a large, fast-growing tree that reaches up to 65 ft (20 m) in height (Wagner *et al.* 1990). This large tree shades out other plants, takes up much of the available nutrients, and possibly releases a chemical agent that prevents other plants from growing beneath it (Neal 1965, Smith 1985). Like Hilo grass, common ironwood is becoming a significant component of the wet forest vegetation in Nuuanu Valley and poses a significant threat to *Chamaesyce deppeana* (HHP 1991a; HPCC 1990a; S. Perlman, pers. comm., 1991).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to make this rule final. Based on this evaluation, this rulemaking will list these 11 plant taxa as endangered. Ten of the taxa in this final rule either number no more than about 100 individuals or are known from 5 or fewer populations. The 11 plant taxa are threatened by one or more of the following: Habitat degradation and/or predation by feral pigs and goats; competition for space, light, water, and nutrients by alien plants; habitat loss from fires; recreational activities; and predation by animals. Small population sizes and limited distributions make these plant taxa particularly vulnerable to extinction from reduced reproductive vigor or from stochastic events. Because these 11 plant taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Critical habitat is not being proposed for the 11 plant taxa included in this final rule, for reasons discussed in the "Critical Habitat" section of this rule.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these 11 plant taxa. As discussed under Factor B in the "Summary of Factors Affecting the Species," the species face numerous

anthropogenic threats. The publication of precise maps and descriptions of critical habitat in the **Federal Register**, as required in a proposal for critical habitat, would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline. The listing of these species as endangered publicizes the rarity of the plants and, thus, can make these plants attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the major landowners have been notified of the location and importance of protecting the habitat of these species. Protection of the habitat of the species will be addressed through the recovery process and through the Section 7 consultation process.

Therefore, the Service finds that designation of critical habitat for these species is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed endangered species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Four endangered species grow on federally owned land and five species occur on land leased by the U.S. Army from the State and private parties. There are no other known Federal activities that occur within the present known habitat of these 11 plant species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plants set forth a series of general prohibitions and exceptions that apply to all endangered and threatened plant species. With respect to the 11 plant species, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. It is anticipated that few permits would ever be sought or issued because the species are not common in cultivation or in the wild.

Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 NE. 11th Avenue, Portland, Oregon 97232-4181 (503/231-6241; FAX 503/231-6243).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Office. (See **ADDRESSES** above.)

Author

The primary authors of this final rule are Marie M. Bruegmann, Loyal A. Mehrhoff, and Joan M. Yoshioka, Ecological Services, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. Section 17.12(h) is amended by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historical range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* * *	*	*	*	*		*
Araliaceae—Ginseng family:						
Tetraplasandra gymnocarpa.	'Ohe'ohe	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Asteraceae—Aster family:						
Hesperomannia arborescens.	None	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Campanulaceae—Bellflower family:						
Cyanea truncata	Haha	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Lobelia oahuensis	None	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Rollandia crispa	None	U.S.A. (HI)	E	537	NA	NA
* * *	*	*	*	*		*
Euphorbiaceae—Spurge family:						
Chamaesyce deppeana	'Akoko	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Gesneriaceae—African Violet family:						
Cyrtandra crenata	Ha'iwale	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Cyrtandra polyantha	Ha'iwale	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Lycopodiaceae—Clubmoss family:						
Lycopodium nutans	Wawae'iole	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Myrtaceae—Myrtle family:						
Eugenia koolauensis	Nioi	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*
Rutaceae—Citrus family:						
Melicope lydgatei (=*Pelea l.*).	Alani	U.S.A. (HI)	E	536	NA	NA
* * *	*	*	*	*		*

Dated: February 28, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94-7223 Filed 3-25-94; 8:45 am]

BILLING CODE 4310-55-P

federal register

Monday
March 28, 1994

Part VI

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB84

Endangered and Threatened Wildlife and Plants; Proposed Addition of 30 African Birds to List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule and notice of petition finding.

SUMMARY: The Service proposes to add 30 kinds of birds, found in Africa and on associated islands, to the List of Endangered and Threatened Wildlife. All have restricted distributions and are threatened by habitat destruction, human hunting, predation by introduced animals, and various other factors. All were subjects of petitions from the International Council for Bird Preservation, submitted in 1980 and 1991. This proposal, if made final, would implement the protection of the Endangered Species Act of 1973, as amended, for these birds. The Service also makes the finding that the listing of 38 additional species of birds, included in the 1991 petition, is warranted but precluded because of other listing activity.

DATES: Comments on the proposed rule must be submitted by July 26, 1994. Public hearing requests must be received by May 12, 1994.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240 (Fax number 703–358–2276). Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703–358–1708).

SUPPLEMENTARY INFORMATION:

Background

In a petition of November 24, 1980, to the U.S. Fish and Wildlife Service (Service), the International Council for Bird Preservation (ICBP) requested the addition of 79 kinds of birds to the U.S. List of Endangered and Threatened Wildlife. Of that number, 58 occurred entirely outside of the United States and its territories. Of those foreign birds, 6 have now been listed and the rest have been covered by petition findings that their listing is warranted but precluded by other listing activity.

Subsequently, in a petition dated April 30, 1991, and received by the Service on May 6, 1991, the ICBP requested the addition of another 53 species of foreign birds to the List of Endangered and Threatened Wildlife. In the **Federal Register** of December 16, 1991 (56 FR 65207–65208), the Service announced the finding that this petition had presented substantial information indicating that the requested action may be warranted. At that same time the Service initiated a status review of these 53 birds, with the comment period lasting until March 16, 1992. The review yielded 22 comments, one of them expressing general support for listing and all the rest suggesting that listing of the salmon-crested cockatoo and/or the blue-throated macaw would interfere unnecessarily with the captive propagation of these species and with commerce in birds resulting from such propagation (there did not appear to be any question that wild populations of both species face severe threats and that importation of wild-caught individuals should be generally prohibited).

Section 4(b)(3) of the Endangered Species Act of 1973, as amended in 1982 (Act), requires that, within 12 months of receipt of a petition to list, delist, or reclassify a species, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other listing activity. In the case of the 1991 ICBP petition, available information supports listing of all 53 species. With respect to 15 of these species—those occurring in Africa and Madagascar, and on associated islands of the Atlantic and Indian Oceans—a recently published book (Collar and Stuart 1985) provides detailed status data. This same source provides data supporting the listing of 13 of the African birds covered by the 1980 ICBP petition, and the Service also possesses sufficient data to support the listing of the other 2 African birds so covered. With respect to the other birds included in the two petitions, data are available from several sources, some of which are unpublished. Compilation of these data is in progress and a listing proposal will be completed as soon as allowed by the Service's other listing responsibilities.

Considering the above, the Service makes the finding, hereby incorporated and published together with this proposal, that the action requested by the ICBP 1980 and 1991 petitions, with respect to the 30 African birds named below in the "Summary of Factors Affecting the Species," is warranted, and that the action requested by the 1991 petition, with respect to the 38 remaining species covered therein, is warranted but precluded by other listing activity. As soon as time allows, the Service will proceed with preparation of a proposed rule on these 38 species, which are: Kalinowski's tinamou (*Nothoprocta kalinowskii*), Junin grebe (*Podiceps taczanowskii*), Beck's petrel (*Pterodroma becki*), Fiji petrel (*Pterodroma macgillivrayi*), Heinroth's shearwater (*Puffinus heinrothi*), greater adjutant (*Leptoptilos dubius*), giant ibis (*Pseudibis gigantea*), Andean flamingo (*Phoenicoparrus andinus*), Brazilian merganser (*Mergus octosetaceus*), southern helmeted curassow (*Pauxi unicornis*), blue-billed curassow (*Crax alberti*), Bogota rail (*Rallus semiplumbeus*), Junin rail (*Laterallus tuerosi*), Jerdon's courser (*Cursorius bitorquatus*), slender-billed curlew (*Numenius tenuirostris*), salmon-crested cockatoo (*Cacatua moluccensis*), blue-throated macaw (*Ara glaucogularis*), black-breasted puffleg (*Eriocnemis nigrivestris*), Esmeraldas woodstar (*Acestrura berlepschi*), yellow-browed toucanet (*Aulacorhynchus huallagae*), helmeted woodpecker (*Dryocopus galeatus*), royal cinclodes (*Cinclodes aricomae*), white-browed tit-spinetail (*Leptasthenura xenothorax*), brown-banded antpitta (*Grallaria milleri*), Stresemann's bristlefront (*Merulaxis stresemanni*), Brasilia tapaculo (*Scytalopus novacapitalis*), grey-winged cotinga (*Tijuca condita*), Kaempfer's tody-tyrant (*Idioptilon kaempferi*), ash-breasted tit-tyrant (*Anairetes alpinus*), Bananal tyrannulet (*Serpophaga araguayae*), Peruvian plantcutter (*Phytoma raimondii*), Gurney's pitta (*Pitta gurneyi*), Niceforo's wren (*Thryothorus nicefori*), Socorro mockingbird (*Mimodes graysoni*), Caerulean paradise-flycatcher (*Eutrichomyias rowleyi*), Tumaco seedeater (*Sporophila insulata*), Floreana tree-finch (*Camarhynchus pauper*), and black-backed tanager (*Tangara peruviana*).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be

determined to be endangered or threatened due to one or more of the following five factors described in Section 4(a)(1): (A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. The application of these factors to the 30 African species named below is shown by the appropriate letter in parentheses (information from Collar and Andrew 1988, Collar and Stuart 1985, and Grzimek 1975, unless otherwise noted). Also indicated is the date of the petition covering each species, the formal ICBP classification, and the proposed U.S. classification.

Amsterdam albatross (*Diomedia amsterdamensis*).—1991 petition, ICBP endangered, proposed U.S. endangered; a large sea bird of the family Diomedeidae; known to breed only on Amsterdam Island, a French possession in the southern Indian Ocean. Destruction of nesting habitat by fires and introduced cattle (A) and predation by introduced rats and cats (C) have reduced numbers drastically. On the average, only five pairs were known to breed each year during the early 1980s.

Thyolo alethe (*Alethe choloensis*).—1991 petition, ICBP endangered, proposed U.S. endangered; a small, ground-dwelling bird of the family Muscicapidae, related to the Old World robins and thrushes; known only from 13 small patches of submontane evergreen forest in southern Malawi and from 2 such areas in northern Mozambique. Suitable habitat already has been largely destroyed through human clearing and encroachment and remaining sites are at risk of destruction (A). About 1,500 pairs are estimated to survive.

Uluguru bush-shrike (*Malaconotus alius*).—1980 petition, ICBP rare, proposed U.S. threatened; a small predatory bird of the family Laniidae, resembling the true shrikes in structure but utilizing more densely vegetated habitat and dwelling in the forest canopy; known only from the Uluguru Mountains in central Tanzania. Because of its dense forest habitat and evident low numbers, this bird has been difficult to locate and little is known of its status. However, the lower slopes of the mountains on which it lives are being steadily cleared and such activity places the species at risk (A). The Service would be particularly interested in receiving new information on the severity of this problem.

Madagascar sea eagle (*Haliaeetus vociferoides*).—1980 petition, ICBP endangered, proposed U.S. endangered; a fish-hunting species of the family Accipitridae, related to and somewhat smaller than the American bald eagle; confined to the rivers, shorelines, and offshore islands of the west coast of central to northern Madagascar. Its numbers have dropped sharply since the last century, with only 96 individuals being counted during the mid-1980s. Although reasons for the decline are unclear, hunting and deliberate nest destruction by people (B) are thought to be partly responsible.

Madagascar serpent eagle (*Eutriorchis astur*).—1980 petition, ICBP endangered, proposed U.S. endangered; a raptor of the family Accipitridae, more closely related to the harrier hawks than to most other eagles; until recently, known only from 11 specimens collected over 50 years ago in the eastern forests of Madagascar. In 1988 an individual was observed and in 1990 a dead specimen was recovered, both in northeastern Madagascar (Raxworthy and Colston 1992). The species thus is known to survive, but it is apparently dependent on large tracts of undisturbed primary rainforest, and such habitat is rapidly being destroyed or adversely modified by human activity (A).

Mauritius fody (*Foudia rubra*).—1980 petition, ICBP endangered, proposed U.S. endangered; a small weaver of the family Ploceidae, feeding on insects, nectar and small fruits; formerly widespread in the upland forests of the island of Mauritius, a part of the nation of the same name in the Indian Ocean. It now is restricted to the southwestern part of Mauritius, where perhaps only 150 breeding pairs survive. More than half of the population had been wiped out in 1973–1974 during a large-scale forest clearing project (A). The remaining birds are subject to intensive nest predation from rats, macaques, and other introduced animals (C).

Rodrigues fody (*Foudia flavicans*).—1980 petition, ICBP endangered, proposed U.S. endangered; another small insectivorous weaver of the family Ploceidae; occurs only on the island of Rodrigues, a part of Mauritius in the Indian Ocean. Formerly abundant in a variety of habitats on the island, by 1983 only about 100 individuals survived in remnant patches of evergreen forest. The main problem appears to be competition with the related Madagascar fody (*Foudia madagascariensis*), which was introduced by people and which evidently has adapted better to all habitats except mature forest (E). Since the latter habitat has been largely destroyed by human activity, the range of *F. flavicans* has been greatly reduced (A). In addition, the species is threatened by predation from introduced rats (C) and by the effects of cyclones (E).

Djibouti francolin (*Francolinus ochropectus*).—1991 petition, ICBP endangered, proposed U.S. endangered; a ground-dwelling, partridgelike bird of the family Phasianidae; restricted to highland forest in the country of Djibouti in northeastern Africa. Its restricted habitat is rapidly being destroyed by overgrazing, clearing, and other human activity (A). Only about 1,500 birds were thought to survive in 1985.

Freira (*Pterodroma madeira*).—1991 petition, ICBP endangered, proposed U.S. endangered; a small sea bird of the family Procellariidae (petrels and shearwaters); known to breed only in the mountains of Madeira, an island possession of Portugal in the Atlantic Ocean. It has declined because of human bird and egg collectors (B), predation by introduced rats (C), and possibly natural climatic changes (E). Only 20 breeding pairs may survive.

Alaotra grebe (*Tachybaptus rufolavatus*).—1991 petition, ICBP endangered, proposed U.S. endangered; a small diving bird of the family Podicipedidae; known primarily from Lake Alaotra and adjacent marshes in northeastern Madagascar. Human alteration of the limited habitat of the Alaotra grebe (A), especially the introduction of exotic fish, resulted in a great increase there of the much more widespread little grebe (*Tachybaptus ruficollis*) and to extensive hybridization between the two species (E). It appears that the resulting genetic swamping of the Alaotra grebe is irreversible.

White-breasted guineafowl (*Agelastes meleagrides*).—1991 petition, ICBP endangered, proposed U.S. endangered; a medium-sized ground-dwelling bird of the family Numididae, related to turkeys and peacocks; originally occurred throughout the rainforest zone from Sierra Leone to Ghana. This species evidently is dependent on primary forest and is unable to survive in the dense undergrowth of secondary forest. It has disappeared from most of its range, mainly because of timber exploitation (A). It also has been severely affected by human hunting pressure (B). It may survive only in Ivory Coast and Liberia, and in only small numbers even there.

Raso lark (*Alauda razae*).—1991 petition, ICBP endangered, proposed U.S. endangered; a songbird of the family Alauidae, closely related to the common Old World skylark; known

only from Raso, one of the islands in the nation of Cape Verde off the west coast of Africa. This species was once common and widespread on Raso, but declined drastically because of a severe drought in the 1960s (E). The population may have fallen to only about 20 individuals in 1981. Numbers subsequently increased to at least 150, but the species is potentially threatened by climatic fluctuations (E), human settlement (A), and predation by introduced rats (C).

Ibadan malimbe (*Malimbus ibadanensis*).—1991 petition, ICBP endangered, proposed U.S. endangered; another small weaver of the family Ploceidae, about the size of a house sparrow and with red markings; known only from southwestern Nigeria. The restricted range of this species is subject to intensive forest clearing (A). Although considered common when it was first discovered in 1951, it subsequently became very rare and prospects for survival are not favorable. The Ibadan malimbe does seem to have a limited tolerance to habitat modification, and the Service would be interested in obtaining more information about its potential to sustain itself.

Algerian nuthatch (*Sitta ledanti*).—1980 petition, ICBP rare, proposed U.S. endangered; a member of the family Sittidae, about the size of a house sparrow but with a compact build, a long beak, and grayish coloration; known only from Mount Babor in northern Algeria. Discovered in 1975, this small arboreal species is dependent on forest habitat, including standing dead wood for nesting. Such habitat is being reduced by lumbering, fire, grazing of domestic livestock, and removal of dead wood for forestry management (A). About 80 pairs were estimated to survive in 1982.

Canarian black oystercatcher (*Haematopus meadewaldoi*).—1980 petition, ICBP extinct, proposed U.S. endangered; a shore bird of the family Haematopodidae, somewhat like a rail but with much stouter bill and legs, generally black plumage; known with certainty only from the eastern Canary Islands, a Spanish possession off northwestern Africa. This species seems always to have been uncommon and there have been no definite records since about 1913. It may have disappeared because of human disruption of its limited habitat and harvesting of the mollusks on which it fed (A), and because of predation by introduced cats and rats (C). Four apparently genuine reports of black oystercatchers—two on Tenerife in the Canaries and two on the coast of Senegal in West Africa—were made from 1968 to 1981, and give hope that the species still exists. The species is being included in this proposal based on the recent reports and on the reasonable prospect of rediscovery. Rare and elusive species are routinely found alive after years, decades, or even centuries of presumed extinction. Indeed, rediscovery of two of the other birds covered by this proposal—the Madagascar serpent eagle and the Madagascar pochard—was announced while the proposal was being drafted. The October 1993 issue of the journal *Oryx* contains announcements that three species—a bird, a mammal, and a reptile—none of which had been seen for at least 30 years, had all been found alive. The U.S. List of Endangered and Threatened Wildlife already includes many such rediscovered species. Examples are the parma wallaby (*Macropus parma*), which was thought extinct for 33 years; the dibbler (*Antechinus apicalis*), which was thought extinct for 83 years; and the mountain pygmy possum (*Burramys parvus*), which was thought to have disappeared many thousands of years ago in the Ice Age. The Service makes a special request for new information that might help assess the status of the Canarian black oystercatcher and for informed opinions from authorities as to its appropriate treatment. Such comments, or the lack thereof, will be considered in the development of any final rule and could lead to a decision not to proceed with the listing of this species.

Seychelles lesser vasa parrot (*Coracopsis nigra barklyi*).—1980 petition, ICBP endangered, proposed U.S. endangered; a member of the family Psittacidae, generally dark brown in color and about 10 inches (25 centimeters) long; known only from Praslin, one of the islands in Seychelles, a nation off the east coast of Africa. Originally common on the island, this species declined rapidly in the mid-20th century as its palm forest habitat was destroyed by human cutting and burning (A). The one remaining population was estimated to number about 30 to 50 individuals in 1965, though it subsequently may have increased to about 100 after efforts were made to protect it and its remaining habitat (King 1981, Silva 1989).

Mascarene black petrel (*Pterodroma aterrima*).—1980 petition, ICBP endangered, proposed U.S. endangered; a small sea bird of the family Procellariidae; originally found on the islands of Reunion and Rodrigues, which are parts of Mauritius in the Indian Ocean. It seems to have disappeared from Rodrigues by the 18th century and to have become extremely rare on Reunion. Reasons for the decline are not precisely known, but may involve human hunting (B), predation by introduced rats and cats (C), and absorption of pesticides harmful to reproduction (E).

Pink pigeon (*Nesoenas mayeri*).—1980 petition, ICBP endangered, proposed U.S. endangered; a member of the family Columbidae, about the size of the domestic pigeon (*Columba domestica*), but with shorter and more rounded wings and generally pink in color (Goodwin 1977); known only from southwestern Mauritius in the Indian Ocean. This species has declined because of the clearing of its native forest habitat by people (A), human hunting for use as food (B), and predation by introduced rats and macaques (C). Remnant populations also became more vulnerable to the effects of cyclones and natural food shortages (E). The pink pigeon already was rare by the 1830s and currently the single known wild group contains only about 20 birds. Larger numbers exist in captivity.

White-tailed laurel pigeon (*Columba junoniae*).—1980 petition, ICBP rare, proposed U.S. threatened; a large member of the family Columbidae, closely related to the common Old World wood pigeon (*Columba palumbus*); known only from the Canary Islands, a Spanish possession off northwestern Africa. Early reports suggest that this species may once have occurred throughout the Canaries, though it is known with certainty only from the western islands of Tenerife, La Palma, and Gomera. It now is relatively common only on parts of La Palma. Elsewhere it has disappeared or declined in conjunction with human destruction of the endemic Canarian laurel forests (A). Some of the remnant populations appear to be stable, following legal measures to protect them and their forest habitat.

Madagascar pochard (*Aythya innotata*).—1991 petition, ICBP endangered, proposed U.S. endangered; a diving duck of the family Anatidae; apparently confined to freshwater lakes and pools in the northern central plateau of Madagascar. Although still common around 1930, this species subsequently declined drastically because of large-scale hunting by people (B). It may also have been adversely affected by the introduction of exotic fish and accidental capture by people netting the fish (E). It probably is on the brink of extinction; there had been no definite records between 1970 and August 1991, when a specimen was captured alive and placed in the

Botanical Garden at Antananarivo (*Oryx*, April 1992, 26:73).

Dappled mountain robin (*Modulatrix orostruthus*).—1980 petition, ICBP rare, proposed U.S. threatened; a thrush of the family Muscicapidae; occurs in three isolated patches of montane forest, one in northern Mozambique and two in eastern Tanzania. Much of the rainforest habitat on which the species depends has been cleared for agricultural purposes (A). The population in Mozambique has not been recorded since 1932. The other two populations may number in the hundreds or low thousands.

Marungu sunbird (*Nectarinia prigoginei*).—1991 petition, ICBP endangered, proposed U.S. endangered; a nectar-feeding bird of the family Nectarinidae, characterized by small size and a long bill, somewhat comparable to the hummingbirds superficially; known only from the Marungu Highlands of southeastern Zaire. The remnant riparian forest on which this species probably depends covers only a small part of the Marungu Highlands and is under severe pressure from logging and from the erosion of stream banks caused by the overgrazing of cattle (A).

Taita thrush (*Turdus helleri*).—1991 petition, ICBP endangered, proposed U.S. endangered; a dark-colored, ground-dwelling member of the family Muscicapidae; apparently confined to highlands in southeastern Kenya. This species occurs at low density and depends on limited forest habitat. Such areas now have been mostly cleared for agricultural purposes or to obtain firewood (A). The only relatively well-known population occupies an area of about 3 square miles (5 square kilometers) and may contain several hundred individuals.

Bannerman's turaco (*Tauraco bannermani*).—1991 petition, ICBP endangered, proposed U.S. endangered; a frugivorous parrot of the family Musophagidae, characterized by a generally greenish color and a conspicuous crest; known only from the Bamenda-Banso Highlands in western Cameroon. The montane forest habitat of this species is being rapidly cleared as a result of cultivation, overgrazing by domestic livestock, wood-cutting, and fires (A).

Seychelles turtle dove (*Streptopelia picturata rostrata*).—1980 petition, ICBP endangered, proposed U.S. endangered; a member of the family Columbidae, somewhat smaller than the domestic pigeon (*Columba domestica*) and generally dark grayish purple in color (Goodwin 1977); formerly found throughout Seychelles, an island nation off eastern Africa. This subspecies declined through hybridization with the related and more adaptable *S. p. picturata*, which was introduced from Madagascar in the mid-19th century (E). *S. p. rostrata* had become very rare by 1965 and pure individuals may have nearly vanished by 1975 (King 1981). However, according to Dr. Mike Rands, who operates the ICBP Seychelles program, and Ms. Alison Stattersfield (letter of November 11, 1993), also of the ICBP and who recently visited Seychelles, the subspecies *rostrata* does survive and is morphologically distinctive, at least on Cousin Island, though some hybridization probably has occurred. Therefore, even if genetically pure populations of this turtle dove no longer exist—which itself is not yet known with certainty—there are groups that could potentially be salvageable for captive breeding experiments and eventual efforts at restoration of a wild population with the predominant original morphological, behavioral, and ecological characters of the subspecies.

Pollen's vanga (*Xenopirostris polleni*).—1980 petition, ICBP rare, proposed U.S. threatened; a predatory bird of the endemic Malagasy family Vangidae, somewhat similar to the shrikes; occurs in the rainforests of eastern Madagascar. Although still widely distributed, this species has declined and become rare as its forest habitat has been destroyed and modified by people (A).

Van Dam's vanga (*Xenopirostris damii*).—1980 petition, ICBP rare, proposed U.S. threatened; another member of the Vangidae; occurs in northwestern Madagascar. Because of deforestation this species appears to have become restricted to a single area of primary deciduous forest at Ankarafantsika (A). However, that area is currently protected and the bird reportedly is present there in fairly good numbers.

Aldabra warbler (*Nesillas aldabranus*).—1991 petition, ICBP endangered, proposed U.S. endangered; a small song bird of the family Muscicapidae; restricted to a small part of Aldabra, one of the islands of Seychelles, a nation off the east coast of Africa. The ICBP refers to this warbler as the "rarest, most restricted and most highly threatened species of bird in the world." Discovered only in 1967, it seems to have been confined to an area of approximately 25 acres (10 hectares) of coastal vegetation on Aldabra. This habitat is being destroyed by introduced goats and rats (A), and the latter also prey on nests (C).

Banded wattle-eye (*Platysteira laticincta*).—1991 petition, ICBP endangered, proposed U.S. endangered; a small flycatcher of the family Muscicapidae, characterized by pale plumage and a wattle of bare red skin above the eye; known only from the Bamenda Highlands in western Cameroon. Although this species is considered reasonably common in the remnant montane forests on which it depends, such habitat is being rapidly cleared and fragmented as a result of cultivation, overgrazing by domestic livestock, wood-cutting, and fires (A).

Clarke's weaver (*Ploceus golandi*).—1991 petition, ICBP endangered, proposed U.S. endangered; a member of the family Ploceidae; known only from a small forested area between Kilifi Creek and the Sabaki River on the southeastern coast of Kenya. Numbers have been estimated at 1,000 to 2,000 pairs, but are declining because of excessive logging (A). At present rates of destruction, all favorable habitat could be eliminated within about 15 years. Even though a portion of the habitat is legally protected, enforcement has not been effective (D).

The decision to propose the addition of the above 30 kinds of African birds to the List of Endangered and Threatened Wildlife was based on an assessment of the best available scientific information, and of past, present, and probable future threats to these birds. All have suffered substantial losses in habitat and/or numbers in recent years and are vulnerable to human exploitation and disturbance. If conservation measures are not implemented, further declines are likely to occur, increasing the danger of extinction for these birds. Critical habitat is not being determined, as such designation is not applicable to foreign species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened pursuant to the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat (if any). Section 7(a)(2) requires Federal agencies to ensure that

activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. No such activities are currently known with respect to the species covered by this rule.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take within the United States or on the high seas, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife. It also is illegal to possess, sell, deliver, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. For threatened species, there also are permits available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, private interests, and other parties. Comments particularly are sought concerning the following:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the subject species;

(2) The location of any additional populations of the subject species;

(3) Additional information concerning the distribution of these species; and

(4) Current or planned activities in the involved areas, and their possible effect on the subject species.

Final promulgation of the regulations on the subject species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final decision that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of publication of the proposal, must be in writing, and should be directed to the party named in the above **ADDRESSES** section.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** of October 25, 1983 (48 FR 49244).

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Author

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List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. Section 17.11(h) is amended by adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
.	.	.	.	.	.	.	.
Birds							

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Albatross, Amsterdam.	*Diomedia amsterdamensis.*	Amsterdam Island (Indian Ocean).	Entire	E		NA	NA
Alethe, Thyolo	*Alethe choloensis*	Malawi, Mozambique.	Entire	E		NA	NA
Bush-shrike, Ulugura	*Malaconotus alius*	Tanzania	Entire	T		NA	NA
Eagle, Madagascar sea.	*Haliaeetus vociferoides.*	Madagascar	Entire	E		NA	NA
Eagle, Madagascar serpent.	*Eutriorchis astur*	Madagascar	Entire	E		NA	NA
Fody, Mauritius	*Foudia rubra*	Mauritius	Entire	E		NA	NA
Fody, Rodrigues	*Foudia flavicans*	Rodrigues Island (Mauritius).	Entire	E		NA	NA
Francolin, Djibouti	*Francolinus ochropectus.*	Djibouti	Entire	E		NA	NA
Freira	*Pterodroma madeira*	Madeira Island (Atlantic Ocean).	Entire	E		NA	NA
Grebe, Alaotra	*Tachybaptus rufoflavatus.*	Madagascar	Entire	E		NA	NA
Guineafowl, white-breasted.	*Agelastes meleagrides.*	West Africa	Entire	E		NA	NA
Lark, Raso	*Alauda razae*	Raso Island (Cape Verde).	Entire	E		NA	NA
Malimbe, Ibadan	*Malimbus ibadanensis.*	Nigeria	Entire	E		NA	NA
Nuthatch, Algerian	*Sitta ledanti*	Algeria	Entire	E		NA	NA
Oystercatcher, Canarian black.	*Haematopus meadewaldoi.*	Canary Islands (Atlantic Ocean).	Entire	E		NA	NA
Parrot, Seychelles lesser vasa.	*Coracopsis nigra barklyi.*	Praslin Island (Seychelles).	Entire	E		NA	NA
Petrel, Mascarene black.	*Pterodroma aterrima*	Reunion Island (Mauritius).	Entire	E		NA	NA
Pigeon, pink	*Nesoenas mayeri*	Mauritius	Entire	E		NA	NA
Pigeon, white-tailed laurel.	*Columba junoniae*	Canary Islands (Atlantic Ocean).	Entire	T		NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	•
Pochard, Madagascar.	*Aythya innotata*	Madagascar	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Robin, dappled mountain.	*Modulatrix orostruthus.*	Mozambique, Tanzania.	Entire	T		NA	NA
•	•	•	•	•	•	•	•
Sunbird, Marungu	*Nectarinia prigoginei*	Zaire	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Thrush, Taita	*Turdus helleri*	Kenya	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Turaco, Bannerman's	*Tauraco bannermani.*	Cameroon	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Turtle dove, Seychelles.	*Streptopelia picturata rostrata.*	Seychelles	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Vanga, Pollen's	*Xenopirostris polleni*	Madagascar	Entire	T		NA	NA
•	•	•	•	•	•	•	•
Vanga, Van Dam's	Xenopirostris damii	Madagascar	Entire	T		NA	NA
•	•	•	•	•	•	•	•
Warbler, Aldabra	Nesillas aldabranus	Aldabra Island (Seychelles).	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Wattle-eye, banded	Platysteira laticincta	Cameroon	Entire	E		NA	NA
•	•	•	•	•	•	•	•
Weaver, Clarke's	Ploceus golandi	Kenya	Entire	E		NA	NA
•	•	•	•	•	•	•	•

Dated: March 14, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–7226 Filed 3–25–94; 8:45 am]

BILLING CODE 4310–55–P

federal register

Monday
March 28, 1994

Part VII

Department of Education

Strengthening Institutions Program; Notice Inviting Applications for New Awards for Fiscal Year 1994; Notice

DEPARTMENT OF EDUCATION

(CFDA NO. 84.031A)

Strengthening Institutions Program; Notice Inviting Applications for New Awards for Fiscal Year 1994

Purpose of Program: Provide grants to eligible institutions of higher education to improve their academic quality, institutional management, and fiscal stability so they can become self-sufficient.

This grant program should be seen as an opportunity for applicants to support those elements of the National Education Goals that are relevant to their unique missions.

Deadline for Transmittal of Applications: May 16, 1994.

Deadline for Intergovernmental Review: June 16, 1994.

Applications Available: Applications will be mailed by April 1 to the Office of the President of all institutions that are designated as eligible to apply for a grant under the Strengthening Institutions Program.

Available Funds: $23,000,000.

Estimated Range of Awards: $25,000 to $35,000 for planning grants; $300,000 to $350,000 per year for development grants.

Estimated Average Size of Awards: $30,000 for planning grants; $325,000 per year for five-year development grants.

Estimated Number of Awards: 12 planning grants and 70 development grants.

Project Period: Up to 12 months for planning grants; 60 months for development grants.

Note: The Department is not bound by any estimates in this notice.

Special Funding Considerations: In tie-breaking situations described in 34 CFR 607.23 of the Strengthening Institutions Program regulations, 34 CFR 607.23, the Secretary awards additional points under §§ 607.21 and 607.22 to an application from an institution which has an endowment fund for which the current market value, per FTE student, is less than the average, per FTE student, at similar type institutions; and has expenditures for library materials, per FTE student, which are less than the average, per FTE student, at similar type institutions.

For the purposes of these funding considerations, an applicant must be able to demonstrate that the current market value of its endowment fund, per FTE student, or expenditures for library materials, per FTE student, is less than the following national averages for base year 1990–91.

	Average market value of endowment fund, per FTE	Average library expenditures for materials, per FTE
Two-year Public Institutions	$1,425	$44
Two-year Nonprofit, Private Institutions	6,683	100
Four-year Public Institutions	1,699	159
Four-year Nonprofit, Private Institutions	29,175	244.00

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) the Strengthening Institutions Program Regulations, 34 CFR part 607.

Supplementary Information: On September 16, 1993, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the **Federal Register** (58 FR 48478).

It is not the policy of the Department of Education to solicit applications before the publication of final regulations. However, in this case, it is necessary to solicit applications on the basis of the NPRM, with the modifications described below, to be able to implement section 314(c) of the HEA. That section requires the Secretary to notify an applicant by June 30, 1994 of (1) the score given the applicant by a panel of reviewers, (2) the recommendation of the panel with regard to such application, and (3) the Secretary's reasons for funding or not funding an application, and any modification in a panel recommendation with regard to an application.

Anticipated Changes to the NPRM

Since the publication of the NPRM, Congress enacted the Higher Education Technical Amendments of 1993, Public Law 103–208. One of those technical amendments revised section 313(b) of the HEA.

Prior to its amendment, section 313(b) of the HEA provided that "In awarding grants under this part, the Secretary shall give priority to applicants who are not already receiving a grant under this part." The Higher Education Technical Amendments of 1993 added the following exception to that section: "Except that a grant made under section 354(a)(1) shall not be considered a grant under this part." (Section 354(a)(1) authorizes the Secretary to fund "cooperative arrangement" grants.)

In proposed § 607.13, the Secretary had provided that an institution could not apply for both an individual development grant and a cooperative arrangement grant. However, as a result of the amendment to section 313(b), that limitation has been eliminated and an applicant may apply for both types of grants. In addition, as a result of the amendment to section 313(b) of the HEA, a recipient of a cooperative arrangement grant does not fall into a lower funding priority, and § 607.20(b) will be amended accordingly.

The Secretary anticipates making the following two additional changes in the NPRM. If these changes are not ultimately made, applicants will be given the opportunity to revise their applications as necessary.

Under the first anticipated change, in § 607.11, an applicant must justify its failure to complete activities funded under a previous grant regardless of whether the applicant is requesting additional grant funds to complete those activities. In the NPRM, an applicant had to justify its failure to complete funded activities only if it was requesting additional grant funds to complete those activities.

Under the second anticipated change, under § 607.10, an applicant may choose a "Dean" to be a project coordinator or activity director under a grant and may use grant funds to pay the salary of that individual as long as that "Dean" does not report directly to the President of the applicant institution and does not have college-wide administrative authority and responsibility.

For Information Contact: Louis J. Venuto, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3042, ROB–3, Washington, DC 20202–5335. Telephone: (202) 708–8840. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1057.

Dated: March 22, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–7184 Filed 3–25–94; 8:45 am]

BILLING CODE 4000–01–P

federal register

Monday
March 28, 1994

Part VIII

Department of Health and Human Services

National Institutes of Health

NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

RIN 0905–ZA18

NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research

Editorial Note: This document was originally published at 59 FR 11146, March 9, 1994, and is being reprinted in its entirety because of typesetting errors.

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) is establishing guidelines on the inclusion of women and minorities and their subpopulations in research involving human subjects, including clinical trials, supported by the NIH, as required in the NIH Revitalization Act of 1993.

EFFECTIVE DATE: March 9, 1994.

ADDRESSES: Although these guidelines are effective on the date of publication, written comments can be sent to either the Office of Research on Women's Health, National Institutes of Health, Building 1, room 203, Bethesda, MD 20892, or to the Office of Research on Minority Health, National Institutes of Health, Building 1, room 255, Bethesda, MD 20892. During the first year of implementation, NIH will review the comments and experience with the guidelines in order to determine whether modifications to the guidelines are warranted.

FOR FURTHER INFORMATION CONTACT: Programmatic inquiries should be directed to senior extramural staff of the relevant NIH Institute or Center named at the end of this notice.

SUPPLEMENTARY INFORMATION: NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research.

I. Introduction

This document sets forth guidelines on the inclusion of women and members of minority groups and their subpopulations in clinical research, including clinical trials, supported by the National Institutes of Health (NIH). For the purposes of this document, clinical research is defined as NIH-supported biomedical and behavioral research involving human subjects. These guidelines, implemented in accordance with section 492B of the Public Health Service Act, added by the NIH Revitalization Act of 1993, Public Law. (Pub.L.) 103–43, supersede and strengthen the previous policies, NIH/ADAMHA Policy Concerning the Inclusion of Women in Study Populations, and ADAMHA/NIH Policy Concerning the Inclusion of Minorities in Study Populations, published in the NIH GUIDE FOR GRANTS AND CONTRACTS, 1990.

The 1993 guidelines continue the 1990 guidelines with three major additions. The new policy requires that, in addition to the continuing inclusion of women and members of minority groups in all NIH-supported biomedical and behavioral research involving human subjects, the NIH must:

- Ensure that women and members of minorities and their subpopulations are included in all human subject research.
- For Phase III clinical trials, ensure that women and minorities and their subpopulations must be included such that valid analyses of differences in intervention effect can be accomplished;
- Not allow cost as an acceptable reason for excluding these groups; and,
- Initiate programs and support for outreach efforts to recruit these groups into clinical studies.

Since a primary aim of research is to provide scientific evidence leading to a change in health policy or a standard of care, it is imperative to determine whether the intervention or therapy being studied affects women or men or members of minority groups and their subpopulations differently. To this end, the guidelines published here are intended to ensure that all future NIH-supported biomedical and behavioral research involving human subjects will be carried out in a manner sufficient to elicit information about individuals of both genders and the diverse racial and ethnic groups and, in the case of clinical trials, to examine differential effects on such groups. Increased attention, therefore, must be given to gender, race, and ethnicity in earlier stages of research to allow for informed decisions at the Phase III clinical trial stage.

These guidelines reaffirm NIH's commitment to the fundamental principles of inclusion of women and racial and ethnic minority groups and their subpopulations in research. This policy should result in a variety of new research opportunities to address significant gaps in knowledge about health problems that affect women and racial/ethnic minorities and their subpopulations.

The NIH recognizes that issues will arise with the implementation of these guidelines and thus welcomes comments. During the first year of implementation, NIH will review the comments, and consider modifications, within the scope of the statute, to the guidelines.

II. Background

The NIH Revitalization Act of 1993, PL 103–43, signed by President Clinton on June 10, 1993, directs the NIH to establish guidelines for inclusion of women and minorities in clinical research. This guidance shall include guidelines regarding—

(A) the circumstances under which the inclusion of women and minorities as subjects in projects of clinical research is inappropriate * * *;

(B) the manner in which clinical trials are required to be designed and carried out * * *; and

(C) the operation of outreach programs * * * 492B(d)(1)

The statute states that

In conducting or supporting clinical research for the purposes of this title, the Director of NIH shall * * * ensure that—

A. women are included as subjects in each project of such research; and

B. members of minority groups are included in such research. 492B(a)(1)

The statute further defines "clinical research" to include "clinical trials" and states that

In the case of any clinical trial in which women or members of minority groups will be included as subjects, the Director of NIH shall ensure that the trial is designed and carried out in a manner sufficient to provide for valid analysis of whether the variables being studied in the trial affect women or members of minority groups, as the case may be, differently than other subjects in the trial. 492B(C)

Specifically addressing the issue of minority groups, the statute states that

The term "minority group" includes subpopulations of minority groups. The Director of NIH shall, through the guidelines established * * * defines the terms "minority group" and "subpopulation" for the purposes of the preceding sentence. 492B(g)(2)

The statute speaks specifically to outreach and states that

The Director of NIH, in consultation with the Director of the Office of Research of Women's Health and the Director of the Office of Research on Minority Health, shall conduct or support outreach programs for the recruitment of women and members of minority groups as subjects in the projects of clinical research. 492B(a)(2)

The statute includes a specific provision pertaining to the cost of clinical research and, in particular clinical trials.

(A)(i) In the case of a clinical trial, the guidelines shall provide that the costs of such inclusion in the trial is (sic) not a permissible consideration in determining whether such inclusion is inappropriate. 492B(d)(2)

(ii) In the case of other projects of clinical research, the guidelines shall provide that the costs of such inclusion in the project is (sic) not a permissible consideration in determining whether such inclusion is inappropriate unless the data regarding women or members of minority groups, respectively, that would be obtained in such project (in the event that such inclusion were required) have been or are being obtained through other means that provide data of comparable quality. 492B(d)(2)

Exclusions to the requirement for inclusion of women and minorities are stated in the statute, as follows:

The requirements established regarding women and members of minority groups shall not apply to the project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

(1) Is inappropriate with respect to the health of the subjects;

(2) Is inappropriate with respect to the purpose of the research; or

(3) Is inappropriate under such other circumstances as the Director of NIH may designate. 492B(b)

(B) In the case of a clinical trial, the guidelines may provide that such inclusion in the trial is not required if there is substantial scientific data demonstrating that there is no significant difference between—

(i) The effects that the variables to be studied in the trial have on women or members of minority groups, respectively; and

(ii) The effects that variables have on the individuals who would serve as subjects in the trial in the event that such inclusion were not required. 492B(d)(2)

III. Policy

A. Research Involving Human Subjects

It is the policy of NIH that women and members of minority groups and their subpopulations must be included in all NIH-supported biomedical and behavioral research projects involving human subjects, unless a clear and compelling rationale and justification establishes to the satisfaction of the relevant Institute/Center Director that inclusion is inappropriate with respect to the health of the subjects or the purpose of the research. Exclusion under other circumstances may be made by the Director, NIH, upon the recommendation of a Institute/Center Director based on a compelling rationale and justification. Cost is not an acceptable reason for exclusion except when the study would duplicate data from other sources. Women of childbearing potential should not be routinely excluded from participation in clinical research. All NIH-supported biomedical and behavioral research involving human subjects is defined as clinical research. This policy applies to research subjects of all ages.

The inclusion of women and members of minority groups and their subpopulations must be addressed in developing a research design appropriate to the scientific objectives of the study. The research plan should describe the composition of the proposed study population in terms of gender and racial/ethnic group, and provide a rationale for selection of such subjects. Such a plan should contain a description of the proposed outreach programs for recruiting women and minorities as participants.

B. Clinical Trials

Under the statute, when a Phase III clinical trial (see Definitions, Section V–A) is proposed, evidence must be reviewed to show whether or not clinically important gender or race/ethnicity differences in the intervention effect are to be expected. This evidence may include, but is not limited to, data derived from prior animal studies, clinical observations, metabolic studies, genetic studies, pharmacology studies, and observational, natural history, epidemiology and other relevant studies.

As such, investigators must consider the following when planning a Phase III clinical trial for NIH support.

- If the data from prior studies strongly indicate the existence of significant differences of clinical or public health importance in intervention effect among subgroups (gender and/or racial/ethnic subgroups), the primary question(s) to be addressed by the proposed Phase III trial and the design of that trial must specifically accommodate this. For example, if men and women are thought to respond differently to an intervention, then the Phase III trial must be designed to answer two separate primary questions, one for men and the other for women, with adequate sample size for each.
- If the data from prior studies strongly support no significant differences of clinical or public health importance in intervention effect between subgroups, then gender or race/ethnicity will not be required as subject selection criteria. However, the inclusion of gender or racial/ethnic subgroups is still strongly encouraged.
- If the data from prior studies neither support strongly nor negate strongly the existence of significant differences of clinical or public health importance in intervention effect between subgroups, then the Phase III trial will be required to include sufficient and appropriate entry of gender and racial/ethnic subgroups, so that valid analysis of the intervention effect in subgroups can be performed. However, the trial will not be required to provide high statistical power for each subgroup.

Cost is not an acceptable reason for exclusion of women and minorities from clinical trials.

C. Funding

NIH funding components will not award any grant, cooperative agreement or contract or support any intramural project to be conducted or funded in Fiscal Year 1995 and thereafter which does not comply with this policy. For research awards that are covered by this policy, awardees will report annually on enrollment of women and men, and on the race and ethnicity of research participants.

IV. Implementation

A. Date of Implementation

This policy applies to all applications/proposals and intramural projects to be submitted on and after June 1, 1994 (the date of full implementation) seeking Fiscal Year 1995 support. Projects funded prior to June 10, 1993, must still comply with the 1990 policy and report annually on enrollment of subjects using gender and racial/ethnic categories as required in the Application for Continuation of a Public Health Service Grant (PHS Form 2590), in contracts and in intramural projects.

B. Transition Policy

NIH-supported biomedical and behavioral research projects involving human subjects, with the exception of Phase III clinical trial projects as discussed below, that are awarded between June 10, 1993, the date of enactment, and September 30, 1994, the end of Fiscal Year 1994, shall be subject to the requirements of the 1990 policy and the annual reporting requirements on enrollment using gender and racial/ethnic categories.

For all Phase III clinical trial projects proposed between June 10, 1993 and June 1, 1994, and those awarded between June 10, 1993 and September 30, 1994, Institute/Center staff will examine the applications/proposals, pending awards, awards and intramural projects to determine if the study was developed in a manner consistent with the new guidelines. If it is deemed inconsistent, NIH staff will contact investigators to discuss approaches to accommodate the new policy. Administrative actions may be needed to accommodate or revise the pending trials. Institutes/Centers may need to consider initiating a complementary activity to address any gender or minority representation concerns.

The NIH Director will determine whether the Phase III clinical trial being considered during this transition is in compliance with this policy, whether acceptable modifications have been made, or whether the Institute/Center will initiate a complementary activity that addresses the gender or minority representation concerns. Pending awards will not be funded without this determination.

Solicitations issued by the NIH planned for release after the date of publication of the guidelines in the **Federal Register** will include the new requirements.

C. Roles and Responsibilities

While this policy applies to all applicants for NIH-supported biomedical and behavioral research involving human subjects, certain individuals and groups have special roles and responsibilities with regard to the adoption and implementation of these guidelines.

The NIH staff will provide educational opportunities for the extramural and intramural community concerning this policy; monitor its implementation during the development, review, award and conduct of research; and manage the NIH research portfolio to address the policy.

1. Principal Investigators

Principal investigators should assess the theoretical and/or scientific linkages between gender, race/ethnicity, and their topic of study. Following this assessment, the principal investigator and the applicant institution will address the policy in each application and proposal, providing the required information on inclusion of women and minorities and their subpopulations in research projects, and any required justifications for exceptions to the policy. Depending on the purpose of the study, NIH recognizes that a single study may not include all minority groups.

2. Institutional Review Boards (IRBs)

As the IRBs implement the guidelines, described herein, for the inclusion of women and minorities and their subpopulations, they must also implement the regulations for the protection of human subjects as described in title 45 CFR part 46, "Protection of Human Subjects." They should take into account the Food and Drug Administration's "Guidelines for the Study and Evaluation of Gender Differences in the Clinical Evaluation of Drugs," Vol. 58 **Federal Register** 39406.

3. Peer Review Groups

In conducting peer review for scientific and technical merit, appropriately constituted initial review groups (including study sections), technical evaluation groups, and intramural review panels will be instructed, as follows:

- To evaluate the proposed plan for the inclusion of minorities and both genders for appropriate representation or to evaluate the proposed justification when representation is limited or absent,
- To evaluate the proposed exclusion of minorities and women on the basis that a requirement for inclusion is inappropriate with respect to the health of the subjects,
- To evaluate the proposed exclusion of minorities and women on the basis that a requirement for inclusion is inappropriate with respect to the purpose of the research,
- To determine whether the design of clinical trials is adequate to measure differences when warranted,
- To evaluate the plans for recruitment/outreach for study, participants, and
- To include these criteria as part of the scientific assessment and assigned score.

4. NIH Advisory Councils

In addition to its current responsibilities for review of projects where the peer review groups have raised questions about the appropriate inclusion of women and minorities, the Advisory Council/Board of each Institute/Center shall prepare biennial reports, for inclusion in the overall NIH Director's biennial report, describing the manner in which the Institute/Center has complied with the provisions of the statute.

5. Institute/Center Directors

Institute/Center Directors and their staff shall determine whether: (a) The research involving human subjects, (b) the Phase III clinical trials, and (c) the exclusions meet the requirements of the statute and these guidelines.

6. NIH Director

The NIH Director may approve, on a case-by-case basis, the exclusion of projects, as recommended by the Institute/Center Director, that may be inappropriate to include within the requirements of these guidelines on the basis of circumstances other than the health of the subjects, the purpose of the research, or costs.

7. Recruitment Outreach by Extramural and Intramural Investigators

Investigators and their staff(s) are urged to develop appropriate and culturally sensitive outreach programs and activities commensurate with the goals of the study. The objective should be to actively recruit the most diverse study population consistent with the purposes of the research project. Indeed, the purpose should be to establish a relationship between the investigator(s) and staff(s) and populations and community(ies) of interest such that mutual benefit is derived for participants in the study. Investigator(s) and staff(s) should take precautionary measures to ensure that ethical concerns are clearly noted, such that there is minimal possibility of coercion or undue influence in the incentives or rewards offered in recruiting into or retaining participants in studies. It is also the responsibility of the IRBs to address these ethical concerns.

Furthermore, while the statute focuses on recruitment outreach, NIH staff underscore the need to appropriately retain participants in clinical studies, and thus, the outreach programs and activities should address both recruitment and retention.

To assist investigators and potential study participants, NIH staff have prepared a notebook, "NIH Outreach Notebook On the Inclusion of Women and Minorities in Biomedical and Behavioral Research." The notebook addresses both recruitment and retention of women and minorities in clinical studies, provides relevant references and case studies, and discusses ethical issues. It is not intended as a definitive text on this subject, but should assist investigators in their consideration of an appropriate plan for recruiting and retaining participants in clinical studies. The notebook is expected to be available early in 1994.

8. Educational Outreach by NIH to Inform the Professional Community

NIH staff will present the new guidelines to investigators, IRB members, peer review groups, and Advisory Councils in a variety of public educational forums.

9. Applicability to Foreign Research Involving Human Subjects

For foreign awards, the NIH policy on inclusion of women in research conducted outside the U.S. is the same as that for research conducted in the U.S.

However, with regard to the population of the foreign country, the

definition of the minority groups may be different than in the U.S. If there is scientific rationale for examining subpopulation group differences within the foreign population, investigators should consider designing their studies to accommodate these differences.

V. Definitions

Throughout the section of the statute pertaining to the inclusion of women and minorities, terms are used which require definition for the purpose of implementing these guidelines. These terms, drawn directly from the statute, are defined below.

A. Clinical Trial

For the purpose of these guidelines, a "clinical trial" is a broadly based prospective Phase III clinical investigation, usually involving several hundred or more human subjects, for the purpose of evaluating an experimental intervention in comparison with a standard or control intervention or comparing two or more existing treatments. Often the aim of such investigation is to provide evidence leading to a scientific basis for consideration of a change in health policy or standard of care. The definition includes pharmacologic, non-pharmacologic, and behavioral interventions given for disease prevention, prophylaxis, diagnosis, or therapy. Community trials and other population-based intervention trials are also included.

B. Research Involving Human Subjects

All NIH-supported biomedical and behavioral research involving human subjects is defined as clinical research under this policy. Under this policy, the definition of human subjects in title 45 CFR part 46, the Department of Health and Human Services regulations for the protection of human subjects applies: "Human subject means a living individual about whom an investigator (whether professional or student) conducting research obtains: (1) Data through intervention or interaction with the individual, or (2) identifiable private information." These regulations specifically address the protection of human subjects from research risks. It should be noted that there are research areas (Exemptions 1–6) that are exempt from these regulations. However, under these guidelines, NIH-supported biomedical and behavioral research projects involving human subjects which are exempt from the human subjects regulations should still address the inclusion of women and minorities in their study design. Therefore, all biomedical and behavioral research projects involving human subjects will be evaluated for compliance with this policy.

C. Valid Analysis

The term "valid analysis" means an unbiased assessment. Such an assessment will, on average, yield the correct estimate of the difference in outcomes between two groups of subjects. Valid analysis can and should be conducted for both small and large studies. A valid analysis does not need to have a high statistical power for detecting a stated effect. The principal requirements for ensuring a valid analysis of the question of interest are:

- Allocation of study participants of both genders and from different racial/ethnic groups to the intervention and control groups by an unbiased process such as randomization,
- Unbiased evaluation of the outcome(s) of study participants, and
- Use of unbiased statistical analyses and proper methods of inference to estimate and compare the intervention effects among the gender and racial/ethnic groups.

D. Significant Difference

For purposes of this policy, a "significant difference" is a difference that is of clinical or public health importance, based on substantial scientific data. This definition differs from the commonly used "statistically significant difference," which refers to the event that, for a given set of data, the statistical test for a difference between the effects in two groups achieves statistical significance. Statistical significance depends upon the amount of information in the data set. With a very large amount of information, one could find a statistically significant, but clinically small difference that is of very little clinical importance. Conversely, with less information one could find a large difference of potential importance that is not statistically significant.

E. Racial and Ethnic Categories

1. Minority Groups

A minority group is a readily identifiable subset of the U.S. population which is distinguished by either racial, ethnic, and/or cultural heritage.

The Office of Management and Budget (OMB) Directive No. 15 defines the minimum standard of basic racial and ethnic categories, which are used below. NIH has chosen to continue the use of these definitions because they allow comparisons to many national data bases, especially national health data bases. Therefore, the racial and ethnic categories described below should be used as basic guidance, cognizant of the distinction based on cultural heritage.

American Indian or Alaskan Native: A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander: A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands and Samoa.

Black, not of Hispanic Origin: A person having origins in any of the black racial groups of Africa.

Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

2. Majority Group

White, not of Hispanic Origin: A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

NIH recognizes the diversity of the U.S. population and that changing demographics are reflected in the changing racial and ethnic composition of the population. The terms "minority groups" and "minority subpopulations" are meant to be inclusive, rather than exclusive, of differing racial and ethnic categories.

3. Subpopulations

Each minority group contains subpopulations which are delimited by geographic origins, national origins and/or cultural differences. It is recognized that there are different ways of defining and reporting racial and ethnic subpopulation data. The subpopulation to which an individual is assigned depends on self-reporting of specific racial and ethnic origin. Attention to subpopulations also applies to individuals of mixed racial and/or ethnic parentage. Researchers should be cognizant of the possibility that these racial/ethnic combinations may have biomedical and/or cultural implications related to the scientific question under study.

F. Outreach Strategies

These are outreach efforts by investigators and their staff(s) to appropriately recruit and retain populations of interest into research studies. Such efforts should represent a thoughtful and culturally sensitive plan of outreach and generally include involvement of other individuals and organizations relevant to the

populations and communities of interest, e.g., family, religious organizations, community leaders and informal gatekeepers, and public and private institutions and organizations. The objective is to establish appropriate lines of communication and cooperation to build mutual trust and cooperation such that both the study and the participants benefit from such collaboration.

G. Research Portfolio

Each Institute and Center at the NIH has its own research portfolio, i.e., its "holdings" in research grants, cooperative agreements, contracts and intramural studies. The Institute or Center evaluates the research awards in its portfolio to identify those areas where there are knowledge gaps or which need special attention to advance the science involved. NIH may consider funding projects to achieve a research portfolio reflecting diverse study populations. With the implementation of this new policy, there will be a need to ensure that sufficient resources are provided within a program to allow for data to be developed for a smooth transition from basic research to Phase III clinical trials that meet the policy requirements.

VI. Discussion—Issues in Scientific Plans and Study Designs

A. Issues in Research Involving Human Subjects

The biomedical and behavioral research process can be viewed as a stepwise process progressing from discovery of new knowledge through research in the laboratory, research involving animals, research involving human subjects, validation of interventions through clinical trials, and broad application to improve the health of the public.

All NIH-supported biomedical and behavioral research involving human subjects is defined broadly in this guidance as clinical research. This is broader than the definition provided in the 1990 NIH Guidance and in many program announcements, requests for applications, and requests for proposals since 1990.

The definition was broadened because of the need to obtain data about minorities and both genders early in the research process when hypotheses are being formulated, baseline data are being collected, and various measurement instruments and intervention strategies are being developed. Broad inclusion at these early stages of research provides valuable information for designing broadly based clinical trials, which are a subset of studies under the broad category of research studies.

The policy on inclusion of minorities and both genders applies to all NIH-supported biomedical and behavioral research involving human subjects so that the maximum information may be obtained to understand the implications of the research findings on the gender or minority group.

Investigators should consider the types of information concerning gender and minority groups which will be required when designing future Phase III clinical trials, and try to obtain it in their earlier stages of research involving human subjects. NIH recognizes that the understanding of health problems and conditions of different U.S. populations may require attention to socioeconomic differences involving occupation, education, and income gradients.

B. Issues in Clinical Trials

The statute requires appropriate representation of subjects of different gender and race/ethnicity in clinical trials so as to provide the opportunity for detecting major qualitative differences (if they exist) among gender and racial/ethnic subgroups and to identify more subtle differences that might, if warranted, be explored in further specifically targeted studies. Other interpretations may not serve as well the health needs of women, minorities, and all other constituencies.

Preparatory to any Phase III clinical trial, certain data are typically obtained. Such data are necessary for the design of an appropriate Phase III trial and include observational clinical study data, basic laboratory (i.e. *in vitro* and animal) data, and clinical, physiologic, pharmacokinetic, or biochemical data from Phase I and Phase II studies. Genetic studies, behavioral studies, and observational, natural history, and epidemiological studies may also contribute data.

It is essential that data be reviewed from prior studies on a diverse population, that is, in subjects of both genders and from different racial/ethnic groups. These data must be examined to determine if there are significant differences of clinical or public health importance observed between the subgroups.

While data from prior studies relating to possible differences among intervention effects in different subgroups must be reviewed, evidence of this nature is likely to be less convincing than that deriving from the subgroup analyses that can be performed in usual-sized Phase III trials. This is because the evidence from preliminary studies is likely to be of a more indirect nature (e.g. based on surrogate endpoints), deriving from uncontrolled studies (e.g. non-randomized Phase II trials), and based on smaller numbers of subjects than in Phase III secondary analyses. For this reason, it is likely that data from preliminary studies will, in the majority of cases, neither clearly reveal significant differences of clinical or public health importance between subgroups of patients, nor strongly negate them.

In these cases, Phase III trials should still have appropriate gender and racial/ethnic representation, but they would not need to have the large sample sizes necessary to provide a high statistical power for detecting differences in intervention effects among subgroups. Nevertheless, analyses of subgroup effects must be conducted and comparisons between the subgroups must be made. Depending on the results of these analyses, the results of other relevant research, and the results of meta-analyses of clinical trials, one might initiate subsequent trials to examine more fully these subgroup differences.

C. Issues Concerning Appropriate Gender Representation

The "population at risk" may refer to only one gender where the disease, disorders, or conditions are gender specific. In all other cases, there should be approximately equal numbers of both sexes in studies of populations or subpopulations at risk, unless different proportions are appropriate because of the known prevalance, incidence, morbidity, mortality rates, or expected intervention effect.

D. Issues Concerning Appropriate Representation of Minority Groups and Subpopulations in All Research Involving Human Subjects Including Phase III Clinical Trials

While the inclusion of minority subpopulations in research is a complex and challenging issue, it nonetheless provides the opportunity for researchers to collect data on subpopulations where knowledge gaps exist. Researchers must consider the inclusion of subpopulations in all stages of research design. In meeting this objective, they should be aware of concurrent research that addresses specific subpopulations, and consider potential collaborations which may result in complementary subpopulation data.

At the present time, there are gaps in baseline and other types of data necessary for research involving certain minority groups and/or subpopulations

of minority groups. In these areas, it would be appropriate for researchers to obtain such data, including baseline data, by studying a single minority group.

It would also be appropriate for researchers to test survey instruments, recruitment procedures, and other methodologies used in the majority or other population(s) with the objective of assessing their feasibility, applicability, and cultural competence/relevance to a particular minority group or subpopulation. This testing may provide data on the validity of the methodologies across groups. Likewise, if an intervention has been tried in the majority population and not in certain minority groups, it would be appropriate to assess the intervention effect on a single minority group and compare the effect to that obtained in the majority population. These types of studies will advance scientific research and assist in closing knowledge gaps.

A complex issue arises over how broad or narrow the division into different subgroups should be, given the purpose of the research. Division into many racial/ethnic subgroups is tempting in view of the cultural and biological differences that exist among these groups and the possibility that some of these differences may in fact impact in some way upon the scientific question. Alternatively, from a practical perspective, a limit has to be placed on the number of such subgroups that can realistically be studied in detail for each intervention that is researched. The investigator should clearly address the rationale for inclusion or exclusion of subgroups in terms of the purpose of the research. Emphasis should be placed upon inclusion of subpopulations in which the disease manifests itself or the intervention operates in an appreciable different way. Investigators should report the subpopulations included in the study.

An important issue is the appropriate representation of minority groups in research, especially in geographical locations which may have limited numbers of racial/ethnic population groups available for study. The investigator must address this issue in terms of the purpose of the research, and other factors, such as the size of the study, relevant characteristics of the disease, disorder or condition, and the feasibility of making a collaboration or consortium or other arrangements to include minority groups. A justification is required if there is limited representation. Peer reviewers and NIH staff will consider the justification in their evaluations of the project.

NIH interprets the statute in a manner that leads to feasible and real improvements in the representativeness of different racial/ethnic groups in research and places emphasis on research in those subpopulations that are disproportionately affected by certain diseases or disorders.

VII. NIH Contacts for More Information

The following senior extramural staff from the NIH Institutes and Centers may be contacted for further information about the policy and relevant Institute/Center programs:

Dr. Marvin Kalt, National Cancer Institute, 6130 Executive Boulevard, Executive Plaza North, room 600A, Bethesda, Maryland 20892, Tel: (301) 496–5147.

Dr. Richard Mowery, National Eye Institute, 6120 Executive Boulevard, Executive Plaza South, room 350, Rockville, Maryland 20892, Tel: (301) 496–5301.

Dr. Lawrence Friedman, National Heart, Lung and Blood Institute, 7550 Wisconsin Avenue, Federal Building, room 212, Bethesda, Maryland 20892, Tel: (301) 496–2533.

Dr. Miriam Kelty, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Building, room 2C218, Bethesda, Maryland 20892, Tel: (301) 496–9322.

Dr. Cherry Lowman, National Institute on Alcohol Abuse and Alcoholism, 6000 Executive Boulevard, Rockville, Maryland 20892, Tel: (301) 443–0796.

Dr. George Counts, National Institute of Allergy and Infectious Diseases, 6003 Executive Boulevard, Solar Building, room 207P, Bethesda, Maryland 20892, Tel: (301) 496–8214.

Dr. Michael Lockshin, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 9000 Rockville Pike, Building 31, room 4C32, Bethesda, Maryland 20892, Tel: (301) 496–0802.

Ms. Hildegard Topper, Bethesda, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, room 2A–03, Bethesda, Maryland 20892, Tel: (301) 496–0104.

Dr. Earleen Elkins, National Institute of Deafness and Other Communication Disorders, 6120 Executive Boulevard, Executive Plaza South, room 400, Rockville, Maryland 20892, Tel: (301) 496–8683.

Dr. Norman S. Braveman, National Institute on Dental Research, 5333 Westbard Avenue, Westwood Building, room 509, Bethesda, Maryland 20892, Tel: (301) 594–7648.

Dr. Walter Stolz, National Institute of Diabetes and Digestive and Kidney Diseases, 5333 Westbard Avenue, Westwood Building, room 657, Bethesda, Maryland 20892, Tel: (301) 594–7527.

Ms. Eleanor Friedenberg, National Institute on Drug Abuse, 5600 Fishers Lane, Parklawn Building, room 10–42, Rockville, Maryland 20857, Tel: (301) 434–2755.

Dr. Gwen Collman, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, Tel: (919) 541–4980.

Dr. Lee Van Lenten, National Institute of General Medical Sciences, 5333 Westbard Avenue, Westwood Building, room 905, Bethesda, Maryland 20892, Tel: (301) 594–7744.

Dr. Dolores Parron, National Institute of Mental Health, 5600 Fishers Lane, Parklawn Building, room 17C–14, Rockville, Maryland 20857, Tel: (301) 443–2847.

Dr. Constance Atwell, National Institute of Neurological Disorders and Stroke, 7550 Wisconsin Ave., Federal Building, room 1016, Bethesda, Maryland 20892, Tel: (301) 496–9248.

Dr. Mark Guyer, National Center for Human Genome Research, 9000 Rockville Pike, Building 38A, room 605, Bethesda, Maryland 20892, Tel: (301) 496–0844.

Dr. Teresa Radebaugh, National Center for Nursing Research, 5333 Westbard Avenue, Westwood Building, room 754, Bethesda, Maryland 20892, Tel: (301) 594–7590.

Dr. Harriet Gordon, National Center for Research Resources, 5333 Westbard Avenue, Westwood Building, room 10A03, Bethesda, Maryland 20892, Tel: (301) 594–7945.

Dr. David Wolff, Fogarty International Center, 9000 Rockville Pike, Building 31, room B2C39, Bethesda, Maryland 20892, Tel: (301) 496–1653.

Dated: March 3, 1994.

Harold Varmus,

Director, NIH.

[FR Doc. 94–5435 Filed 3–8–94; 8:45 am]

BILLING CODE 1505–01–D

federal register

Monday
March 28, 1994

Part IX

Corporation for National and Community Service

Availability of Funds for Training and Technical Service; Notice

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Training and Technical Assistance

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service announces the availability of approximately $5.1 million to provide training and technical assistance to State Commissions or alternative entities, AmeriCorps grantees (except where otherwise stated for Learn and Serve grantees) and those interested in becoming AmeriCorps grantees. The Corporation seeks proposals and concept papers describing activities to meet the technical assistance and training needs outlined in this Notice. The Corporation also invites concept papers proposing additional or alternative technical assistance and training activities.

DATES: Deadlines for submission of technical assistance and training (T/TA) proposals are 6 pm Eastern Standard Time on the following dates:

T/TA for the National Leadership Corps	May 3, 1994
Maintaining a Strong Organization	May 18, 1994
National Priority Skills Development Centers	June 1, 1994

The deadlines for submission of concept papers are 6 pm Eastern Standard Time May 27, 1994, and September 13, 1994. Following the May deadline, the Corporation expects to invite potential applicants to submit a detailed proposal by July 15, 1994.

ADDRESSES: All proposals and concept papers should be submitted to the Corporation for National and Community Service, 1100 Vermont Avenue NW., Washington, DC 20525. Attn.: T/TA Proposal or Concept Paper Review. Applicants are requested to include four copies of proposals or concept papers to facilitate the review processes.

FOR FURTHER INFORMATION CONTACT: Kathryn Frucher or Tracy Gray at the Corporation for National and Community Service, (202)606–5000 ext. 106. Questions about this Notice will be answered during technical assistance and training conference calls which are scheduled to take place on March 31, April 7, April 14, and April 21, 1994 from 2:00 pm–3:00 pm. To reserve a place on a conference call, please call the Corporation at (202)606–5000 ext. 432 or fax a request to (202)606–4816.

SUPPLEMENTARY INFORMATION:

Outline

Summary—Training and Technical Assistance Activities

(I) Application by Proposal
- (A) Training and Technical Assistance for the National Leadership Corps
- (B) Maintaining a Strong Organization—Fundraising, Program Management, Evaluation, Fiscal Management, and Grievance Procedures
- (C) National Priority Skills Development Centers

(II) Application by Concept Paper
- (A) National Service Resource Center
- (B) Strengthening the Basics of National Service Programs
- (C) Service and Citizenship
- (D) Strengthening Program Diversity
- (E) Peer Exchange Visitation Program
- (F) Learn and Serve America K–12—Resource Publications
  Training Initiatives on Service-Learning
- (G) Learn and Serve America Higher Education—
  Higher Education Service Resource Center
  Institutionalizing Service-Learning Infrastructure and Capacity-Building
- (H) Training and Technical Assistance for State Commissions

(III) Invitation for Original Concept Papers Proposing Additional or Alternative Training and Technical Assistance Activities

Summary

Background

On September 21, 1993, the President signed into law the National and Community Service Trust Act, which created the Corporation for National and Community Service (the Corporation). The Corporation's mission is to engage Americans of all ages and backgrounds in service that addresses the nation's education, public safety, health, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation will foster civic responsibility, strengthen the ties that bind us together as a people, and provide educational opportunity for those who make a substantial commitment to service.

The Corporation is a new government corporation that encompasses the work and staff of two existing independent agencies, the Commission on National and Community Service and ACTION. The Corporation will fund a new national service initiative called AmeriCorps. AmeriCorps includes a wide variety of programs operated by grantees (including local non-profits), the National Civilian Community Corps, and the Volunteers in Service to America (VISTA) program. The Corporation will also support service-learning initiatives for elementary and secondary schools and institutions of higher education called Learn and Serve America, and operate the senior volunteer programs previously operated by ACTION.

The Act authorizes the Corporation to support and improve Summer of Service programs, AmeriCorps grants programs, and Learn and Serve programs through a variety of training and technical assistance (T/TA) activities. These activities should build on the AmeriCorps regulations and the "Principles for High Quality National Service Programs" document which lay out the Corporation's vision and expectations for AmeriCorps programs. The regulations and "Principles" document should be read by all potential T/TA providers. Copies may be obtained by calling the Corporation at 202–606–4949 or writing the Corporation at 1100 Vermont Avenue NW., Washington, DC, 20525. To receive information on getting the "Principles" or regulations on Internet, please send a blank electronic mail message to: cncs@ace.esusda.gov. There should be no text in the body of the message. An automatic response will be sent back to you with information on how to retrieve the regulations.

Overview

The Corporation announces the availability of approximately $5.1 million in fiscal year 1994 for training and technical assistance initiatives. Under each fundable activity, estimated levels of funding are listed. Most grants or cooperative agreements will be made for a term of one year, unless specified otherwise. The Corporation requests proposals, and, in some cases, concept papers for the specific activities described herein. This Notice lists applications requiring full proposals and areas in which concept papers are requested. In most cases, applicants are not required to cover all of the needs in a given area; for example, an organization can apply to train grantees in fundraising skills only in the "Maintaining a Strong Organization" section.

Concept papers may also be submitted describing activities that meet needs of AmeriCorps or Learn and Serve programs not described in this Notice. Guidelines are described in the "Invitation for Original Concept Papers" section.

In all cases, applicants should demonstrate an understanding of and commitment to the Corporation's mission and goals, a need that relates to that mission and goals, a sound plan for accomplishing the activity, and a fulfillment of the selection criteria listed below.

Eligibility

Public agencies (including federal, state, and local agencies and other units of government), non-profit organizations (including youth-serving groups, community-based organizations, service organizations, etc.), institutions of higher education, Indian tribes, and for-profit companies are eligible to apply. State and federal agencies and non-governmental organizations that intend to operate AmeriCorps or Learn and Serve programs are also eligible. Organizations may apply to provide T/TA in partnership with organizations seeking other Corporation funds.

Applications for Continuation of Assistance for Current Technical Assistance Grantees

The former Commission on National and Community Service issued a number of technical assistance grants to organizations in fiscal years 1992 and 1993. Pursuant to the National and Community Service Trust act of 1993, the administration of these grants transferred to the Corporation for National and Community Service. Existing technical assistance grantees interested in the continuation of funding or undertaking new technical assistance activities may submit competitive applications in accordance with the applicable due dates and activities described in this Notice.

Objectives of the Training and Technical Assistance Activities

The goal of training and technical assistance is to improve the ability of AmeriCorps programs and participants to "get things done" by achieving direct and demonstrable results in communities, fostering civic responsibility, and strengthening the ties that bind communities together. To best support programs, the Corporation will fund technical assistance that strengthens program performance and effectiveness in the short term and builds leadership and permanent resources in the long term. Technical assistance must be relevant to program needs, responsive to changing needs, and easily accessed by states and grantees. Training and technical assistance providers will build a strong infrastructure by—

—Increasing the effectiveness and capacity of programs and states;

—Increasing the resources available to support high quality work; and

—Developing leaders at all levels.

Training and technical assistance providers will also foster a national identity and common understanding of the goals and mission of national service among AmeriCorps participants, programs, and states.

In addition, the Corporation is committed to strengthening service nationwide. Although technical assistance providers should show preference to AmeriCorps program grantees (except where activities pertain to Learn and Serve grantees), T/TA providers may be expected to serve those who wish to become grantees as well. (For more on this, see "Requirements" section below).

These principles guide the Corporation's technical assistance strategy:

—Treat technical assistance as a full partnership among the Corporation, states, and programs, with roles for all in designing and delivering technical assistance.

—Encourage collaboration among partners, especially efforts that team service programs and those experienced in working in the issue areas.

—"Train the trainers"—focus on developing resource capacity in local areas.

—Instead of repeating the excellent work of others, build on existing training, materials, and expertise.

—Focus on the most pressing needs to have the greatest impact.

—Invest sufficiently to provide adequate technical assistance support in the first years.

Application Guidelines

Applications can be of two kinds as specified: full proposals and concept papers. While many of the same elements will be addressed in these two types of applications, proposals ask applicants to give a much more comprehensive and detailed overview of planned activities, organizational capacity, budget, and workplan than do concept papers. After reviewing concept papers, the Corporation may ask for full proposals from a select number of applicants based on program need, availability of funds, and the strength of concept paper ideas received by the Corporation.

Where specified, a full proposal should be submitted for each activity, unless the proposal thoughtfully combines activities into a single coordinated initiative. A full proposal must include:

—A cover page listing: the title of the organization applying; the amount of funds requested; a brief summary of the proposed T/TA program or activity; the name, address, phone number, and fax number of the organization; and the name and title of a contact person.

—A narrative of no more than 10 double-spaced typed pages in 12-point font, describing—

(a) The scope of activity being proposed, e.g., number of trainers hired and programs served by them, relative to the amount of the grant requested;

(b) the organization's plan and ability to meet compelling and ongoing needs, in collaboration with others where possible and appropriate;

(c) the organization's capacity, including staff strengths and backgrounds, resumes of key people, and the organization's track record;

(d) the innovation and replicability of the proposed T/TA activity; and

(e) outcome objectives and indicators to be used to assess success.

—A detailed budget, including an estimate of travel costs for delivery of T/TA services, with a supporting narrative explaining how costs are calculated and information on funding from other sources.

—A detailed workplan for accomplishing the specific objectives including a timeline showing when each step toward the objectives will be accomplished.

Where specified, a concept paper must include:

—A cover page listing the title of the organization applying; the amount of funds requested; a brief summary of the proposed T/TA program or activity; the name, address, phone number, and fax number of the organization; and the name and title of a contact person.

—A brief narrative of no more than 5 double-spaced typed pages in 12-point font describing proposed T/TA activity.

—A brief budget, with major expense line items, which may include a supporting narrative.

—A preliminary workplan for accomplishing the specific objectives.

—A preliminary timeline.

Selection Criteria

The Corporation will assess applications based on the criteria listed below. The percentage weight of each criterion in the assessment is given.

Quality (45%). The Corporation will consider the quality of the proposed activities, based on—

—Scope of proposed T/TA activity relative to the amount of the grant requested, the number of people, programs, and/or State Commissions proposed T/TA activities are expected to reach;

—Demonstration that the proposed activities meet clear compelling program and/or state needs related to the Corporation's mission and goals for national service;

—Description of proposed T/TA techniques, including opportunities for

peer exchange and peer training, experiential learning, and individual assistance tailored to meet specific program or state needs; also description of plans to use tested methods or ways to test training activities or curricula on a small scale and refine them before offering them on a large scale;

—Plan for implementing mechanisms continually to assess and improve value and impact of T/TA services. This may include providing opportunities for customer(s) participation in design of activity and opportunities for ongoing training and feedback from AmeriCorps or Learn and Serve participants and programs, community partners of AmeriCorps or Learn and Serve programs, State Commissions, Corporation staff, and others;

—Commitment to build on existing resources and collaborate with other technical assistance providers; ability to coordinate planning, development, and execution with other providers; efforts to prevent duplication of work or inefficient use of resources; and ways to establish networks with other T/TA providers to ensure coordination among providers and presentation of a clear, coherent set of assistance activities to programs, states, and the Corporation; and

—Cost-effectiveness of proposed activity, the degree to which the T/TA provider proposes a reasonable estimate of the amount of services the organization will be able to provide given the requested amount of funds and the organization's existing resources.

Organizational Capacity (45%). Applicants should demonstrate evidence of either organizational experience and success in delivering high-quality technical assistance and training, particularly in the specific area under consideration, or the similar experience of identified staff retained for the T/TA project. Backgrounds of key staff, leadership, and other individuals proposed to contribute to the proposed program will be considered in assessing organizational capacity.

In some cases, the capacity to begin providing training and/or technical assistance quickly will be required. In certain instances, noted in the description of applicable activities, services will be needed as early as summer 1994. The applicant must demonstrate the ability to provide high quality services in the desired time frame.

Innovation and Replicability (10%). The Corporation will assess the extent to which the T/TA activity, or its elements, are creative or distinctive in approach or in the need that is met.

The Corporation will assess the degree to which the proposed T/TA activity could serve as a long-term resource by identifying other sources of funding and the extent to which the activity or its elements are applicable or adaptable to various program types, locations, or approaches to service.

In addition, the Corporation will assess the use of innovative technology in providing training or technical assistance, where appropriate. This criterion includes use of technology to increase access to training and technical assistance activities and convenience for users. For example, an information session might be conducted by video conference, allowing users to participate from a local facility and avoid travel costs. The Corporation expects that all of its program grantees will be connected through on-line networks. Training and technical assistance providers will be expected to be connected to electronic networks as well and should be prepared to use technology and to distribute information through on-line networks when appropriate.

Requirements

There are certain requirements that every recipient of a T/TA grant or cooperative agreement must fulfill. They include the following provisions:

(a) T/TA providers must work closely with Corporation staff and other T/TA providers, especially the "National Service Resource Center" described in the "Concept Paper" section below. Providers must be willing to receive input from Corporation staff during development and delivery of T/TA activities; periodically attend meetings and conferences at the Corporation's request; inform other T/TA providers of plans and progress and coordinate efforts when appropriate; and work with Corporation staff to assess the direction and value of each T/TA activity every six months and modify T/TA activity to better serve the users of T/TA and adapt to changing needs.

(b) T/TA grantees must develop and continually apply mechanisms for assessing the value and impact of their T/TA activities and show evidence of continuous program improvement resulting from the application of such mechanisms.

(c) While the Corporation has a vested interest in promoting best practices throughout the field, to grantee and potential grantees alike, grantees will be given preference when resources are limited.

(d) Databases or other on-line materials should be created in Foxpro or Oracle software. This will allow easy data transfer both to the Corporation and among T/TA grantees. Assistance may be available to convert existing databases to Foxpro or Oracle if necessary.

TRAINING AND TECHNICAL ASSISTANCE ACTIVITIES

The Corporation expects to give grants to or enter into cooperative agreements with organizations to accomplish the following activities.

(I) Application by Proposal

Proposed T/TA activities in this category include:

(A) Technical Assistance and Training for the National Leadership Corps.

(B) Maintaining a Strong Organization.

(C) National Priority Skills Development Centers.

(A) Technical Assistance and Training for the National Leadership Corps

—Proposals due May 3, 1994.

—Must be able to deliver services by July 1, 1994.

Summary

The National Leadership Corps will create a diverse cadre of emerging service leaders to help build the highest quality AmeriCorps programs and strengthen the national service infrastructure and identity. In the first year, the Corporation will recruit up to 50 members from programs such as Peace Corps, VISTA, the Armed Forces, youth corps, and other full-time service programs. T/TA providers will help design and carry out initial training for the Corps which will last two to five weeks and begin in mid-July or early August, 1994. Providers will also help with ongoing training which will occur at least three times during the year. Leadership Corps (LC) members will bring skills and expertise to new AmeriCorps programs in year-long assignments starting September, 1994.

Amount and Duration of Funding

The Corporation expects to issue one or more grants or cooperative agreements totaling approximately $100,000 to accomplish the tasks listed below. Funding would be for one year, with possibility of renewal subject to performance, continuing need, and availability of funds.

Description of T/TA Activities Desired

The Corporation seeks T/TA providers who will work with Corporation staff and other T/TA

providers to design and deliver training for the Leadership Corps.

Proposals may address one or all of the activities outlined below, or may suggest additional activities. These include:

—*Team building* among Leadership Corps members. Since LC members will be placed in separate AmeriCorps programs around the country, it is important that members develop strong bonds with each other during training so that they are able to provide support to each other and share resources, ideas, and lessons learned throughout their experience.

—*Specialty skills.* This component of training will give LC members an understanding of how to organize and carry out projects that meet community needs in one or more of the Corporation's national priority areas. (The national priorities areas are discussed more fully in the "National Priority Skills Development" section below). This element of training will ensure that members know how to make demonstrable impacts on specific community problems and bring resources to programs that do not already exist.

—*Leadership skills.* Training that helps LC members master the main tasks required of front-line supervisors such as group facilitation, organizing and managing service projects, team building, handling conflict, community relations, working with diverse peoples and organizations, and others.

—*Communication skills.* Training that teaches LC members how to communicate effectively, including public speaking and media training.

Proposals should include a plan to train leaders in any or all of the activities mentioned above over a 2–5 week period during the initial training in July, 1994, as well as periodically throughout the year. The Corporation intends to involve leaders in curriculum design for ongoing training, so applicant plans should be flexible enough to accommodate their input.

Encouraged Approaches

While the Corporation will consider any proposal that accomplishes one or more of the activities listed above, it especially encourages the following approaches:

(a) A proposal by an organization that has experience and expertise in one or more of the components listed above and can arrange to have expert resources and information available starting in mid-May to provide assistance to the Corporation in designing and delivering training.

(b) A proposal by a consortium of organizations whose members collectively have the expertise to work with the Corporation to provide all of the training components listed above. This sort of proposal should clearly describe the specific responsibilities of each provider, the amount of funds to be allocated to each, the amount of staff time devoted by each, and the mechanisms for cooperation and coordination among members and the Corporation. If possible, the consortium should have experts available to work with the Corporation starting in mid-May as discussed above. For more information on the leadership pool, please contact Jane Marsh at (202) 606–5000, extension 173.

(B) Maintaining a Strong Organization: Fundraising, Program Management, Evaluation, Fiscal Administration, and Grievance Procedures

—Proposals due May 18, 1994.

—Preference will be given to organizations which can have the majority of services available by August 1994.

Summary

Strong management, well-planned and well-executed fundraising, evaluation, and careful, appropriate administration of funds are critical to the success of AmeriCorps programs. The Corporation will fund activities that provide information, training, and technical assistance to State Commissions and AmeriCorps programs to strengthen the ability of programs to manage, fundraise, and leverage community resources, design and perform program evaluation, administer funds effectively, establish grievance procedures, and perform other critical functions.

Amount and Duration of Funding

The Corporation expects to make up to five grants or cooperative agreements in this area. Together, grants will total approximately $1,000,000. Grants will be for one year, with the possibility of renewal based on performance, need, and availability of funds.

Description of T/TA Activity Desired

Specific tasks include but are not limited to providing, arranging for, or connecting programs to information, training, and technical assistance on the factors involved in establishing and maintaining a strong organization, including:

(a) *Fundraising:* Building on existing Corporation materials, assist grantees in developing comprehensive fundraising strategies. Proposals may also describe ways in which technical assistance can help organizations put fundraising plans into action. The Corporation has an interest, as manifested through the match requirement, to encourage grantees not to rely solely on Corporation funds, but rather to solicit a broad range of financial and in-kind resources from foundations, corporations, individuals, and other governmental agencies. As the match increases, grantees will need to raise additional funds, create more partnerships, build larger constituencies, and leverage additional resources. Technical assistance should be designed with this mission in mind.

(b) *Program Management:* Help programs build a strong leadership team as well as feedback mechanisms such as participant advisory councils or other vehicles which allow for regular input from participants and/or community members and involve them in program design, operation, and evaluation.

(c) *Evaluation and organizational development:* Help programs use evaluation as a tool for program improvement. Aid them in developing a mission statement, goals, and annual objectives, concrete operating plans, and tailored evaluation strategies. As needed, work with Corporation evaluation staff to create materials, develop and conduct trainings, and/or offer technical assistance to State Commissions and AmeriCorps programs related to setting direct and demonstrable objectives and performing program monitoring and evaluation functions.

(d) *Fiscal Management:* Building on Corporation materials, help establish appropriate and effective fiscal management and accounting processes, including compliance with all federal laws and regulations.

(e) *Grievance Procedures:* Help grantees develop grievance procedures that give programs systems in which to resolve disputes with staff members, program participants, community residents, and others. These procedures should comply with the requirements for grievance procedures described in the National and Community Service Trust Act of 1993.

In each case, providers are expected to:

—Bring to bear existing training and subject expertise. Efforts will focus on arranging or providing assistance, rather than developing new training and resources using Corporation funds;

—Comply with federal requirements for administering federal funds. The T/TA provider will work with Corporation staff as needed to develop training on this topic;

—Demonstrate a commitment to and experience in evaluation that examines outcomes and uses its findings as tools for redesigning and improving program activities and approaches; and

—Assist Corporation evaluation and T/TA staff in providing other training or technical assistance, as requested.

Encouraged Approaches

While the Corporation will consider any proposal that accomplishes the activities listed above, it encourages the following approaches:

(a) A proposal that includes a partnership among providers who together can offer training and technical assistance in the areas listed above and who together have a presence across the country that enables them to provide training and assistance regionally. Such a proposal must clearly describe the specific responsibilities of each partner, the amount of funds to be allocated to each, the amount of staff time dedicated by each, and the mechanisms for cooperation and coordination among partners and the Corporation.

(b) A proposal that includes a partnership of which at least one member has experience providing training and technical assistance in complying with federal requirements for administering federal funds.

(C) National Priority Skills Development Centers

—Proposals due June 1, 1994.

—Preference will be given to applicants that can begin delivering assistance by August 1994.

Summary

National Priority Skills Development Centers will help meet the short-term, immediate training and technical assistance needs of the Corporation, states, and AmeriCorps programs in their efforts to make direct and demonstrable impacts in the areas of need the Corporation has identified as "national priorities." The Centers will provide information and hands-on support, create networks and expert groups, and carry out other activities as needed.

National Priority Skills Development Centers also provide an opportunity to begin developing resources to serve the service field over the long-run. Based on the lessons learned and foundations laid by the Skills Development Centers, grantees may begin to develop "Centers of Excellence." Centers of Excellence will serve as more permanent resources for the service field and as such, will receive a much more significant investment of funds from the Corporation. These Centers will be much larger than the Skills Development Centers. Over time, they will develop more extensive expertise in the practices that make for high-quality, effective service programs in various priority area fields.

At present, funding is only available for the Skills Development Centers. The Corporation encourages providers to devote some of their resources to developing plans to expand their Skills Development Center(s) into more comprehensive and permanent Center(s) of Excellence.

Need

AmeriCorps programs must achieve direct and demonstrable results in the areas of education, public safety, health, human needs, and the environment. Programs funded through the AmeriCorps direct competition must achieve the results in more specific national priority areas. The national priority areas are as follows:

In Education:

—*School Readiness:* furthering early childhood development.

—*School Success:* improving the educational achievement of school-age children and adults who lack basic academic skills.

In Public Safety:

—*Crime Control:* improving criminal justice services, law enforcement, and victim services.

—*Crime Prevention:* reducing the incidence of violence.

In Human Needs:

—*Health:* providing independent living assistance and home- and community-based health care.

—*Home:* rebuilding neighborhoods and helping people who are homeless or hungry.

In Environment:

—*Neighborhood Environment:* reducing community environmental hazards.

—*Natural Environment:* conserving, restoring, and sustaining natural habitats.

The Corporation will fund Skills Development Centers to help programs and participants achieve demonstrable results in these areas by providing them with training, information, technical support, and other resources. T/TA providers will be expected to work closely with service programs so that providers' expertise in how to make impacts in certain needs areas is complemented by an understanding of service programs, regardless of the area of need addressed. The "Principles of High Quality National Service Programs" document mentioned in the Background section more extensively describes the Corporation's current thinking in these areas. Applicants should have the expertise to expand the Corporation's thinking and the ability to help make programs working in each area more effective.

Amount and Duration of Funding

The Corporation will make available approximately $1,500,000 for all activities. Up to eight Skills Development Centers may be funded to provide the T/TA activities described below. Grants will range from $50,000 to approximately $300,000, with most awards between $100,000 and $150,000. Up to $25,000 of each award can be used in planning for a future "Center of Excellence" in the priority area addressed. Grants or cooperative agreements will be for up to one year, with the possibility of renewal or of an award to implement a "Center of Excellence," subject to performance, need, and availability of funds. There is no guarantee of renewal or implementation award.

Description of T/TA Activity Desired

The Corporation will fund Skills Development Centers to help programs and participants meet needs in the areas listed below. Applicants may propose to provide T/TA in one or more areas. Applicants may also combine areas rather than running two distinct Centers, for example, as long as the applicant's proposal provides an explanation of the manner in which the needs of each area can be addressed when combined with others.

Skills Development Centers will be developed in the following areas:

Crime Control: T/TA activities to help programs improve criminal justice services, enforcement, and victim services.

Crime Prevention: T/TA activities to help programs and participants reduce the incidence of violence.

Early Childhood Development: (including the Corporation's School Success priority) T/TA activities to help programs and participants further early childhood development.

School Success: T/TA activities to help programs and participants improve educational achievement.

Comprehensive Services: (including the Corporation's Home and Neighborhood Environment priorities) T/TA activities to help programs and participants link community resources together to provide for disadvantaged residents' basic needs.

Preventive Health Care: T/TA activities to help programs and participants successfully carry out health outreach, education, and prevention campaigns.

Independent Living: T/TA activities to help programs and participants provide independent living assistance and home-based health care.

Natural Environment: T/TA activities to help programs and participants conserve, restore, and sustain natural habitats.

In each case, Skills Development Centers are expected to:

(a) *Develop and/or maintain a network of geographically dispersed expert resource people and organizations around the country and maintain a database of these resources.* Providers should identify expert resources from the specific field—organizations and individuals—that the Corporation, state commissions, and programs can access when needed. A database, developed in Foxpro or Oracle software, with pertinent information about these expert resources should be maintained and linked to the National Service Resource Center database (described below) so that capacity building is ensured. The provider should train resource people as needed to make sure that they provide useful assistance; receive regular feedback from T/TA customer's on resource peoples' performance; and work with Resource Center staff to make recommendations on how to "certify" trainers and other T/TA providers should the Corporation decide that this is necessary. The provider should also gather information from Corporation staff, state commissions, programs, and other T/TA grantees in order to expand the pool of resources in the database.

(b) *Provide hands-on support to programs using the network of expert trainers and other resource people.* Working with the National Service Resource Center, National Service Skills Development Centers should respond to individual requests for assistance from the Corporation, state commissions, or programs to provide help with project design and implementation, specific project improvement issues, or other forms of training and technical assistance. Applicants should estimate how many person days they expect to devote to this and how many people and/or programs they think they have the capacity to serve. Whenever possible, T/TA providers should use local resource people to carry out these tasks. This way, T/TA efforts will help build capacity and relationships on the local level.

(c) *Demonstrate an understanding of the central characteristics of successful service programs.* T/TA providers are expected to have expertise in the specific fields their T/TA will cover (e.g. crime prevention) so that they can help service programs produce direct and demonstrable results in those areas. Providers must also understand the more generic, common components of successful service programs, regardless of what needs service programs address. For suggestions on how to gain this knowledge, see "Encouraged approaches" below. Providers will be expected to collaborate with other Corporation T/TA providers, particularly those working to "Strengthen the Basics of National Service Programs" (as described in section below).

(d) *Gather and provide critical information on at least one of the priority areas.* T/TA providers should identify the most important information and resources (including databases) from the specific field(s) addressed. This might include training curricula, standards of best practice, examples of effective practices in service and community work, and in project planning, and participant training and support specific to the needs of that field. Providers should focus their efforts by gathering the 50 or so "best" resources. The resource materials should be made available to the National Service Resource Center and should be adapted to meet the needs of Corporation staff, state commissions, and AmeriCorps programs where necessary. (Reproduction and distribution issues will be negotiated in the terms of the grant.)

(e) *Convene an expert group.* With input from the Corporation, regularly convene a sounding board of leading individuals from the priority area field, the service community, and other areas to develop an agenda for T/TA activity in each priority area.

(f) *Plan for a "Center of Excellence."* T/TA providers should lay the groundwork for more established future "Centers of Excellence," focusing on particular priority areas. Providers are encouraged to develop a plan to submit to the Corporation by January, 1995, for a potential "Center of Excellence" in a specific area. A maximum of $25,000 may be expended for this planning activity, and there is no guarantee of future funding from the Corporation.

(g) *Assist in applicant outreach.* Providers may be asked to assist the Corporation in reaching out to potential AmeriCorps program applicants in the priority area(s) addressed.

Encouraged Approaches

While the Corporation will consider any proposal that accomplishes the activities listed above, it encourages the following approaches:

—Proposals by a small consortium of organizations that include at least one organization with expertise in each national priority area being addressed, and at least one organization with experience in the operation of service programs. Service programs will help organizations with issue-area expertise better understand issues such as participant recruitment, selection, training and preparation, management, and support; and project issues including project conception and selection, formation of working relationships with service sponsors, orientation of service sponsors, and project management and evaluation.

—Proposals in which the organization(s) providing expertise in specific priority area(s) has a partnership with a service program or operates a service program, and where it tests project models and T/TA models directly in the program as it develops them for national use.

For example, a proposal in the area of school readiness might include a national center that does program development and assistance in the early childhood area, and which operates its own pre-school program. The center would test certain service projects in its program, and test training for participants who work in the program. These activities would help refine and improve the training and technical assistance it offers to national service programs funded by the Corporation.

(II) Application by Concept Paper

Proposed activities in this category include:

(A) National Service Resource Center
(B) Strengthening the Basics of National Service Programs
(C) Service and Citizenship
(D) Strengthening Program Diversity
(E) Peer Exchange Visitation Program
(F) Learn and Serve America K–12—
  Resource Publications
  Training Initiatives on Service-Learning
(G) Learn and Serve America Higher Education—
  Higher Education Service Resource Center
  Institutionalizing Service-Learning
  Infrastructure and Capacity-Building
(H) Training and Technical Assistance for State Commissions

Concept papers will be accepted on May 27, 1994 and September 13, 1994. Following the May deadline, the Corporation expects to invite likely applicants to submit a detailed proposal by June 30, 1994.

(A) National Service Resource Center

—Preference will be given to applicants which can begin delivering assistance by August, 1994.

Summary

The Corporation seeks to provide a National Service Resource Center to compile, store, and retrieve the T/TA resources provided by the Corporation and other T/TA providers. Rather than producing materials and resources, the resource center will ensure that State Commissions and AmeriCorps programs have easy access to the T/TA services and resources other T/TA providers produce.

The Resource Center will develop and manage the following:

—A *resource library* that gathers training curricula, effective strategies for program planning and management, and other information and materials from Corporation T/TA providers and the service field. The Resource Center will also develop means of dissemination, both in print and through electronic outlets.

—A *start-up survey* of T/TA providers around the nation who can meet needs of State Commissions and AmeriCorps programs. This survey should be done as quickly as possible, to provide an immediate resource for Corporation grantees, and to establish the foundation for the long-term project of creating and developing a comprehensive database for the directory service.

—A T/TA *directory service* that draws on the start-up survey and subsequent database to respond to queries for information from state commissions and national service programs in search of trainers, consultants, and other resources. On a toll-free assistance line, trained information specialist(s) will respond to day-to-day questions and inquires from grantees, state commissions, and Corporation staff, matching their needs with T/TA services whenever possible. The Resource Center will be responsible for marketing the directory service to AmeriCorps programs and State Commissions in order to make its services as accessible as possible and may make the directory service database available to them through print and/or electronic means.

AmeriCorps program grantees will be required to assess the T/TA they use and report back to the Corporation program staff and the Resource Center with their evaluations. This information will inform Resource Center listings and eventually may serve as the foundation for a system of consumer-based T/TA service provider ratings. The Resource Center will be expected to make recommendations to the Corporation on how to certify T/TA providers should the Corporation decide that this is necessary.

Grantee evaluations are especially important in the case of T/TA purchased with the up to $5,000 of discretionary T/TA money each AmeriCorps program grantee will be allotted. The purpose of these funds is to flexibly meet immediate program needs not met by other Corporation- or state-funded T/TA services, tap grantee-based networks, and help to establish a consumer-driven marketplace. The Resource Center, working closely with Corporation staff, will be the repository for all grantee evaluations of T/TA and will incorporate those evaluations into the resource library and directory service.

Amount and Duration of Funding

The Corporation will make available one grant totaling approximately $500,000. The grant or cooperative agreement will be issued for 18 months, with no guarantee of renewal but possibility of renewal based on performance, need, and availability of funds.

Requirements

—The resource library staff must work closely with Corporation staff to make sure that the Corporation's own internal resource room is kept up to date with important materials and other pieces of information.

—The Commission on National and Community Service, predecessor to the Corporation, awarded funds to a consortium of organizations led by the National Youth Leadership Council to establish a clearinghouse for information and technical assistance on service-learning primarily for K–12. To avoid duplication of effort and unnecessary costs, will be expected to refer interested parties to the Service-Learning Cooperative and coordinate other efforts with them whenever possible.

—Providers must use Foxpro or Oracle software when establishing any databases.

(B) Strengthening the Basics of National Service Programs

—Preference will be given to applicants who can begin delivering assistance August 1994.

Summary

The Corporation will fund T/TA activities that help programs strengthen the basic components that enable programs to implement excellent service projects and engage participants in addressing vital community needs. The Corporation hopes that many seasoned service providers will share their expertise with others in the service field through these activities.

The Corporation describes many of these components in the second half of its "Principles of High Quality National Service Programs." Opportunities to provide technical assistance supporting several of these components—building a strong organization, evaluation procedures, and developing fundraising expertise—are listed in the "Maintaining a Strong Organization" section of this Notice. Here, the Corporation encourages potential grantees to provide assistance in—

—Designing excellent service projects;

—Providing a high quality participant experience through participant preparation and support;

—Front-line supervisor training;

—Training in mediation and conflict resolution; and

—Creating strong community partnerships.

Amount and Duration of Funding

The Corporation expects to make available approximately $500,000 total for up to 10 grants or cooperative agreements with 18 month durations. The possibility of renewal is subject to performance, continuing need, and availability of funds.

Description of T/TA Activities Desired

The Corporation would like T/TA providers to provide trainings and/or develop resource materials in the following areas:

Excellent service projects: Develop strategies and provide trainings to increase the effectiveness of national service programs at conceiving, planning, and executing excellent service projects, regardless of the area of need addressed by them.

Participant training and support: Develop strategies and provide trainings to program staff on the key elements of orienting and training program participants in all types of service programs.

Front-line supervisor training: Develop strategies and provide trainings on ways to train and support front-line supervisors—whether team leaders or coordinators of individually-placed participants—to supervise and support participants in all types of national service programs. Activities could include developing ways to help program directors and/or other program supervisors address the professional development needs of their front-line supervisors; designing support

structures for front-line supervisors such as peer networks, on-call resources, or resource lists; or preparing flexible designs for training modules for regional conferences or trainings

By July 1995, the Corporation would also like the T/TA provider(s) in this area to train approximately 30–35 groups of supervisors in key tasks including but not limited to:

—Planning and managing service projects or internship placements;

—Management and development of participants;

—Creating good working relationships with service sponsors, and other community members and organizations;

—Teambuilding at various levels among participants, with community partners, and among staff;

—Communication at all levels, within the program, with media, with community through other vehicles

—Facilitation of service-learning among participants that encourages their development into engaged, active citizens.

Conflict resolution and mediation: developing strategies and providing trainings to program staff and participants on how to deal effectively with conflicts through conflict resolution and mediation techniques.

Community Partnerships: developing strategies and providing trainings on ways to help programs build and maintain strong partnerships and engage in collaborative efforts with a broad range of organizations and individuals working to solve community problems.

For each activity listed above, T/TA providers will be expected to:—Coordinate efforts with other T/TA providers, especially the "National Priority Skills Development Centers" and the "National Service Resource Center";

—Provide hands-on training, consulting and other services on the subject;

—Identify best practices in accomplishing these tasks, adapt as necessary and package for program use. Material might include management tools, training curricula, or other useful items; and

—In the long term, lead the development and refinement of best practices in accomplishing high quality service projects.

(C) Service and Citizenship

Summary

The Corporation will fund T/TA activities that help programs develop participants' understanding of the relationship between service and the rights and responsibilities that citizenship entails.

Amount and Duration of Funding

The Corporation expects to make approximately $100,000 total available for up to two grants or cooperative agreements. Grantees will develop and pilot a variety of training curricula with several AmeriCorps programs, with the aim of developing trainings that can meet the needs of many different participants and program types. The possibility of renewal is subject to performance, continuing need, and availability of funds.

Description of T/TA Activities Desired

Whether addressing immediate community problems or examining broader social needs, AmeriCorps participants take on a variety of civic responsibilities. The Corporation will fund the provision of technical assistance and training to enable AmeriCorps participants to constructively examine and explore larger issues associated with their service work and strengthen their understanding of their engagement in public life.

(D) Strengthening Program Diversity

Summary

The Corporation will fund the development and implementation of a strategy to provide technical assistance and training to AmeriCorps programs and State Commissions on how to enhance their work, build stronger communities, and draw strength from diversity through full inclusion of diverse populations of participants in programs. This will include developing strategies which encourage mutual respect and cooperation among citizens of different races, ethnicities, socioeconomic backgrounds, educational levels, ages, and sexual orientations, including both men and women and individuals with both physical and cognitive disabilities.

Amount and Duration of Funding

The Corporation expects to make three or more grants or cooperative agreements in the first year. The amount of funds will be determined in light of need. The possibility of renewal is subject to performance, continuing need, and availability of funds. In its concept paper the applicant should present a proposed budget for the first and second years of activity.

Description of T/TA Activities Desired

The Corporation will fund the provision of technical assistance and training and development of resource materials for State Commissions and AmeriCorps programs to give them practical guidance on how to build diversity into programs and identify resources, especially local and regional resources, which they can tap for these purposes when needed.

Possible activities include—

—Strategies to improve recruitment, retention, and training of diverse staff and program participants;

—Strategies to find appropriate participant placements;

—Ways to ensure that programs are sensitive to the specific cultural needs of the community in which the service is being performed;

—Strategies specifically aimed at recruiting and ensuring full inclusion of people with physical and cognitive disabilities as participants in AmeriCorps programs;

—Ways to help AmeriCorps programs comply with laws regarding accommodation of people with disabilities; and

—Other strategies to assist programs in building diversity into their programs.

T/TA providers will be expected to work closely with the National Service Resource Center.

(E) Peer Exchange Visitation Program

Summary

The Corporation seeks to enhance the opportunities for program planners, staff and participants of AmeriCorps programs, and State Commission members to visit existing service programs in order to learn more about different approaches to accomplishing high quality service. To this end, the Corporation is making funds available to existing service programs to prepare for and host such visits.

Eligible Applicants

Only existing service programs may apply. While an applicant does not have to be a former or current grantee of the Corporation or the Commission on National and Community Service, the applicant should demonstrate that the program activities it will exhibit to visitors are consistent with the Corporation program requirements and "Principles for High Quality Programs."

Amount and Duration of Funding

The Corporation expects to make up to ten grants totaling approximately $200,000. Grants will be for one year, with possibility of renewal subject to performance, continuing need, and availability of funds.

Description of T/TA Activities Desired

The applicant should accomplish activities including but not limited to—

—Making Corporation grantees aware of the opportunity to visit by being included in Corporation communications that list T/TA opportunities;

—Helping potential visitors determine if a visit would be of use to them, and helping them select an appropriate delegation to visit;

—Preparing a visit schedule for each group of visitors that includes relevant aspects of the program they should see. Possible activities should include observing project work, talking with participants, staff and/or service sponsors and other community partners, attending program meeting or educational activities, etc.;

—Facilitating a debriefing session or discussion in which the visitors may discuss questions or concerns regarding what they have seen and learned; and

—Providing a small amount of follow-up contact with visitors, especially in cases where the visitor wishes to adopt a practice observed during the visit. Note that the host organization will *not* be expected to pay for the travel costs of the visitors.

Requirements

—Program activities to be exhibited to visitors must be consistent with the Corporation's program requirements and "Principles for High Quality Programs."

—The grantee must report regularly to the Corporation on visits: number of visits, who visited, what was presented, some assessment of the value gained by visitors, and any improvements planned for the visitation program.

(F) Learn and Serve America K–12

Resource Publications

The Corporation will fund development and publication of materials on critical subjects to the field.

Amount and Duration of Funding

Up to three grants totaling approximately $50,000 will be made available. Funding is for one year, with possibility of renewal subject to performance, continuing need, and availability of funds.

Description of T/TA Activities Desired

Focus areas may include service-learning evaluation models, case studies, linking service-learning to education reform or school restructuring efforts, integrating service-learning into school-to-work transition initiatives, integrating service-learning into academic curricula, and other topics that would be useful in advancing the service-learning field.

T/TA providers will be expected to coordinate resources and activities with the National Service Learning Cooperative funded by the Commission on National and Community Service whenever possible.

Training Initiatives on Service-Learning

The Corporation will fund training in service-learning methodology for teachers, administrators, community-based organization personnel, potential trainers and other appropriate individuals.

Amount and Duration of Funding

Up to four grants totaling approximately $480,000 will be made available. Funding will be for one year, with possibility of renewal subject to performance, continuing need, and availability of funds.

Description of Program Desired

The Corporation is interested in a broad range of training opportunities that include regional seminars, introductory workshops, institutes with specific focus areas (i.e. engaging youth with disabilities in service-learning, linking service-learning to education reform or school-to-work transition initiatives, or service-learning as a vehicle for addressing specific educational, public safety, human, or environmental needs).

(G) Learn and Serve America: Higher Education

Summary

The Corporation seeks to enhance the quality and sustainability of higher education service-learning programs, through T/TA activities that offer ready resources for effectively integrating service and education, that help strengthen institutional commitment to service-learning, that develop the ability of grantees to support one another, and that build capacity at state, regional, and national levels to support campus-based service-learning.

The Corporation will make grants or cooperative agreements for the following activities:

Higher Education Service Resource Center

Summary

The Corporation will fund T/TA activities that provide detailed, user-friendly resources and consultation to meet the needs of individual programs, Corporation staff, and State Commissions. This resource center should focus on service-learning in higher education, and should be flexible in its design so that its resources may be integrated eventually with the National Service Resource Center and/or the National Service Learning Cooperative funded by the Commission on National and Community Service.

Amount and Duration of Funding

One grant or cooperative agreement of approximately $100,000 will be made, with the possibility of renewal.

Description of T/TA Activities Desired

Specific tasks include but are not limited to—

—Actively collecting, selecting, organizing, and disseminating information on model programs, best practices, and innovations in the higher education service-learning field;

—Developing resources on various subject areas, including service integrated with academic disciplines, service-learning programs addressing community needs in the national priorities, critical reflection, co-curricular service-learning, and evaluation of service-learning programs;

—Regularly providing grantees, Corporation staff, and State Commissions with an updated inventory of resources, and responding to their questions and requests for information; and

—Working with Corporation staff and grantees to identify areas requiring resource development.

Providers will be expected to:

—Have experience in collecting and disseminating information that is relevant to the higher education service-learning field;

—Demonstrate an ability to set and adhere to high standards of quality in collecting and reviewing resources;

—Apply in partnership with one or more organizations in order to broaden the scope of information and constituencies connected to the resource center;

—Have adequate electronic capacity and staff to manage efficiently a high volume of incoming and outgoing information;

—Be equipped to participate in a phone system, on-line computer network, or other technological systems, as instructed by the Corporation; and

—Be prepared to work closely with the K–12 service-learning clearinghouse funded by the Commission on National and Community Service, toward the goal of integrating all the resource matching and clearinghouse efforts funded by the Corporation.

Institutionalizing Service-Learning

Summary

The Corporation will fund T/TA activities that help bring sustainability to programs in institutions of higher education.

Amount and Duration of Funding

One or two grants or cooperative agreements of approximately $150,000 will be made, with the possibility of renewal.

Description of T/TA Activities Desired

Specific tasks include but are not limited to—

—Engaging faculty, administrators, students, and/or community partners from funded programs in intensive strategic planning, tailored to the needs of each program, on how to make the program a permanent part of the institution;

—Creating mechanisms that enable faculty members with expertise in service-learning to provide ongoing, hands-on support to their peers on integrating service with specific academic disciplines and expanding faculty interest and involvement in service-learning within institutions;

—Providing ongoing consultation to programs on effective strategies for securing support from the institution's top administrative and academic leadership;

—Developing resource materials that present "case studies" describing the evolution and institutionalization of high-quality service-learning programs, courses, and centers on a diverse array of college and university campuses.

Providers will be expected to:

—Have experience in guiding service-learning programs beyond the start-up phase and into a stage of stability and institutionalization;

—Have sufficient organizational resources and stature in the higher education service-learning field to work effectively with faculty members and top administrative and academic officials; and

—Coordinate the distribution of resource materials and the implementation of workshops or institutes with the Corporation staff.

Infrastructure- and Capacity-Building

Summary

The Corporation will fund T/TA activities that develop the ability of grantees to support one another, and that build capacity at state, regional, and national levels to support campus-based service-learning.

Amount and Duration of Funding

One or two grant(s) or cooperative agreement(s) of approximately $200,000 will be made, with the possibility of renewal.

Description of T/TA Activities Desired

Specific tasks include but are not limited to—

—Organizing regional conferences that convene grantees in early 1995 (after the first quarter or semester of activity) and that address T/TA needs identified by the Corporation staff;

—Developing from the regional conferences a variety of facilitated mechanisms—utilizing electronic networks and other technology—that enable grantees to build and sustain supportive relationships with one another;

—Working closely with Corporation staff to conduct outreach to State Commissions and higher education organizations and associations to encourage their attendance at the regional conferences, to orient them to higher education service-learning programs and build their capacity to support service-learning at state, regional, or national levels; and

—Developing and implementing a strategic follow-up plan that sustains and strengthens relationships and initiatives catalyzed by the regional conferences.

Providers will be expected to:

—Have sufficient expertise, contacts, and organizational capacity to plan regional conferences for up to 150 higher education service-learning grantees;

—Work in partnership with organizations or individuals with expertise in structuring sustainable peer networks that facilitate lateral knowledge transfer (i.e., peer-to-peer technical assistance);

—Have at least some experience in working with state commissions and higher education organizations and associations;

—Have adequate capacity, creativity, and flexibility to channel the momentum developed at the regional conferences toward longer-term efforts and objectives, and to identify and respond actively to needs for on-going follow-up.

(H) Training and Technical Assistance to State Commissions

Summary

The Corporation will fund provision of information, training, and support to all State Commissions involved in AmeriCorps, as provided by the National and Community Service Trust Act of 1993. This can be provided by independent organizations or by the States themselves, acting as peer trainers.

Amount and Duration of Funding

Up to three grants or cooperative agreements totaling approximately $400,000. Funding would be for one year, with possibility of renewal subject to performance, continuing need, and availability of funds.

Description of Program Desired

T/TA activities may address one or more of the following issues, or may address other issues as proposed by the applicant:

—Help states develop a technical assistance strategy and network of possible T/TA providers within their states;

—Assist states in setting objectives and designing and implementing an evaluation plan;

—Help states develop specific statewide recruitment strategies that are consistent with the Corporation's national recruitment plan;

—Help states design peer review panels;

—Help states design participant advisory groups and other vehicles through which they can engage participants in decision-making processes and feedback mechanisms;

—Provide orientation or training to State Commission members and staffs about national service and the role of State Commissioners; and

—Provide other training or assistance to State Commissions as needed.

(III) Invitation for Original Concept Papers Proposing Additional or Alternative T/TA Activities

The Corporation has created a National Program Innovation Fund, through which it will support innovative training and technical assistance that helps make programs more effective.

The Corporation requests concept papers which suggest ways in which it might best support its goals through T/TA activities. Concept papers may expand on the activities specified in this Notice, improve on them, or suggest original approaches.

In proposing an original activity, the applicant must demonstrate a need for it that relates to the goals of AmeriCorps, present a sound plan for accomplishing the activity, and otherwise satisfy the quality criteria listed in this Notice.

An applicant may propose an original concept under this section and apply at the same time to undertake one or more of the activities listed in another section.

Dated: March 22, 1994.

Terry Russell,

Acting General Counsel.

[FR Doc. 94–7146 Filed 3–25–94; 8:45 am]

BILLING CODE 6820–BA–P

federal register

Monday
March 28, 1994

Part X

Department of Agriculture

Food Safety and Inspection Service

9 CFR 317 and 381

Mandatory Safe Handling Statements on Labeling of Raw Meat and Poultry Products; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 93–026F]

RIN 0583–AB67

Mandatory Safe Handling Statements on Labeling of Raw Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to make safe handling instructions mandatory on all raw meat and poultry product labeling. The handling instructions include a rationale statement and address safe storage of raw product, prevention of cross-contamination, cooking of raw product, and handling of leftovers. The rule provides additional safeguards to protect consumers from exposure to possible bacterial contaminants found in raw meat and poultry products. This action is being taken in an effort to reduce the risk of foodborne illness.

DATES: This regulation is effective May 27, 1994. The compliance date for comminuted meat and poultry products is May 27, 1994, and the compliance date for all other meat and poultry products is July 6, 1994.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Director, Evaluation and Enforcement Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 254–2537.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

In publishing the proposal on November 4, 1993 (58 FR 58922), the Agency stated that it had determined that the proposed rule was a significant regulatory action under Executive Order 12866 because the action would likely raise policy issues arising out of the principles set forth in the Executive Order. The proposal advocated a significant new policy direction that would require safe handling instructions on raw and partially cooked meat and poultry products to further combat foodborne illness.

The Agency published an economic analysis for comment in the preamble to the proposed rule. That analysis incorporated comments received in response to an earlier interim rule (58 FR 43478). As discussed in the proposal, a preliminary economic analysis was published for comment in the preamble of that interim rule. Most comments addressed the cost of the rule.

In contrast to the earlier interim rule, the proposal generated relatively few comments that criticized the analysis and the assumptions behind the analysis. Presumably, the fewer critical comments reflected the modifications that were made in response to data supplied in comments on the preliminary analysis published with the interim rule. Comments on the modified analysis published with the proposal are discussed in the following paragraphs.

At least one commenter misunderstood the statement that: "The Department also anticipates that stores will utilize point-of-purchase materials that will minimize any labor costs." The commenter stated that the assertion was inaccurate because the proposed rule does not allow for point-of-purchase information except as a supplement to the label on each package. This statement was referring to the period after the effective date and before April 15, 1994. Under the proposal, before April 15, 1994, official establishments and retailers would be allowed alternative approaches, such as point-of-purchase materials, for affected products other than comminuted products. The Agency included the above statement to acknowledge that there would be some labor costs associated with point-of-purchase materials, but that such costs could easily minimized.

The same commenter pointed out that many stores, especially smaller ones, do not have label application guns and questioned basing the estimate for labor costs on the use of label application guns. The Agency was not implying that it believes that most retail stores currently have label guns. However, since hand-held label application guns are low cost option for applying safe handling instructions, the Department would expect to see widespread use of such equipment.

One commenter stated that USDA has dismissed, based upon non-public information, the cost estimates provided by the regulated industry regarding label costs. The reference to non-public information is related to the statement in the proposal that "Discussions with label manufacturers indicate that the lower prices are available for even small quantities."

The proposal points out that the preliminary analysis (published with the interim rule) estimated that the cost of an additional pressure-sensitive label would range from $.01 to $.025. That estimate was based on discussions with label manufacturers and/or wholesale distributors. Most of the comments on the interim rule suggest that the preliminary estimate was accurate. In fact, the most frequent response was that the labels would cost $.01 each. The proposal acknowledged that some comments including one from the U.S. Small Business Administration suggested that some retail firms were paying more. Because the comments on the interim rule are more compelling evidence than provided by the earlier discussions with label manufacturers, the quoted sentence would have been better stated as "Comments on the interim rule support the preliminary estimate that the lower prices are available for even small quantities."

With respect to the comment on non-public information, the process of conducting a preliminary regulatory cost analysis involves a wide mix of formal surveys and informal information gathering. In this case the preliminary estimate was based on informal discussions with 4 or 5 manufacturers and/or wholesale distributors of pressure-sensitive labels and the fact that pressure-sensitive address labels are widely advertised at costs ranging from $.01 to $.025. Because the details of the specific label were not available the discussions were limited to general questions concerning the range of costs and the relationship between label size and cost. The information collected was not recorded by name of firm. Individual firm confidentiality is also a standard practice for more formal cost surveys. For example, in conducting the regulatory impact analysis for the nutrition labeling rule, a survey was mailed to 650 meat and poultry firms. Confidentiality of individual responses was assured.

A comment from a meat industry trade association noted the lack of "hard numbers" used in the cost-vs-benefit section. This commenter specifically questioned why the Department estimated that annual deaths attributable to *Escherichia coli* 0157:H7 could range from 146 to 389.

The estimate referred to was published in Agricultural Outlook, Economic Research Service, USDA, AO–197, June 1993. The discussion in the preamble stated that "the estimates in Table 1 were developed after the epidemic outbreak of foodborne illness attributed to *E. coli* 0157:H7 in undercooked hamburgers from a fast-food chain in 1993. Although the States have voted to make foodborne illness from *E. coli* 0157:H7, a disease that must be reported to the Center for Disease

Control and Prevention (CDC), such reporting will not be effective for some time. Thus, cost estimates for *E. coli* should be reviewed as preliminary." Table 1 from the proposal is repeated here also as Table 1.

TABLE 1.—ESTIMATED ANNUAL COSTS FOR SELECTED FOODBORNE PATHOGENS, 1992

Pathogen[1]	Cases	Deaths	Annual medical & productivity costs	Attributable to meat and poultry	Costs[2]
				Percent of cases	
	Number	*Number*	*$ million*	*Percent*	*$ million*
Bacteria:					
Salmonella	1,920,000	960–1,920	1,188–1,588	50	600–800
Campylobacter jejuni or *coli*	2,100,000	120–360	907–1,016	50	450–500
Escherichia coli 0157:H7	7,668–20,448	146–389	229–610	50	100–300
Listeria monocytogenes	1,526–1,581	378–433	209–233	50	100
Parasites:					
Toxoplasma gondii[3]	2,090	42	2,628	100	2,630
Trichinella spiralis	131	0	0.8	100	0
Taenia saginata	894	0	0.2	100	0
Taenia solium[4]	210	0	0.1	100	0
Total	.....	.....	5,162–6,076	.....	3,880–4,330

[1] Analysis assumes 100% of human illnesses are foodborne for *Campylobacter, Escherichia coli, Trichinella,* and the *Taenias* and assumes 96% of *Salmonella* cases, 85% of *Listeria* cases, and 50% of *Toxoplasma* cases are foodborne. Meat and poultry are assumed to be responsible for 100% of foodborne parasitic diseases and 50% of foodborne bacterial diseases.

[2] Estimates rounded.

[3] Productivity losses are high for survivors who develop mental retardation or blindness as a result of toxoplasmosis. These costs exclude toxoplasmic encephalitis infections in 2,250 to 10,200 AIDS patients annually which are a significant cause of premature death (50% of cases may also have a foodborne origin).

[4] Costs are estimated at less than $0.1 million, although estimates do not include costs for cysterlcercosis which may have an indirect foodborne transmission.

Reference: Agricultural Outlook, Economic Research Service, USDA, AO–197 (June 1993), pp 32–36.

The Agricultural Outlook publication (which was available in the FSIS Hearing Clerk's office) states that "CDC researchers estimate that between 7,668 and 20,448 persons became ill from exposure to *E. coli* 0157:H7 annually in the U.S." The range in estimated deaths is directly related to the range in the CDC estimate for number of cases. CDC researchers have estimated that 1.9 percent of the 7,668 to 20,448 cases result in death.

Several comments point out that costs are affected by the effective date, especially in view of the upcoming implementation date for nutrition labeling. The Department agrees that costs are affected by the implementation schedule. However, it is beyond the scope of the cost analysis to be able to differentiate or estimate the cost savings that would be attributable to processors and retailers having an additional 30 or 60 days to comply. The issue of effective date is discussed elsewhere under comments related to the implementation schedule.

One comment alleged that the Department did not make sufficient supporting material available to the public, particularly in the area of the cost and benefit analysis. The data from Table 1 represents the latest and best estimates of the cost of foodborne illness prepared by the Department's Economic Research Service (ERS). ERS has been publishing articles on their cost of foodborne illness research for more than a decade. The methodology has been refined and updated over time. From the perspective of Executive Order 12866, the relevant information is the available data on costs and benefits that is based on the latest methodology. The Department is not obligated to identify all the materials that have been published during the development and refinement of these methods.

Another comment stated that USDA failed to place on the record any studies or other information relied upon by USDA regarding foodborne illnesses other than *E. coli* 0157:H7. The Agricultural Outlook article summarizes CDC findings for all foodborne diseases caused by bacterial and parasitic agents.

While recognizing that in the majority of cases, the cause is unknown, CDC has found that when a source or likely source is identified, approximately 50 percent of cases of all foodborne diseases are associated with meat or poultry products. The CDC analysis supports the ERS estimates that meat and poultry are associated with approximately 50 percent of foodborne bacterial diseases.

A supermarket chain commented that scale upgrades would cost almost $500,000, or approximately $9,700 per store. While this cost is slightly outside the estimate of $6,000 to $9,000 used in the analysis, changing the range from $6,000 to $10,000 would not have an effect on the net benefit conclusions.

The same commenter pointed out that upgrading equipment does not eliminate labor costs, since there would always be some items that were not compatible with automated equipment and would have to be done by hand. The Department agrees, but accounting for this in the analytical model would have minimal effect on net benefits.

A large processor commented that the Agency did not include in its cost estimate many of the significant costs associated with label redesign. The analysis did recognize that the cost of revising a label varies widely and that variation is included in the estimate of a one-time cost for processors of $50 to $100 million. The Agency is aware that some firms spend several thousand dollars on label revisions. Other firms spend far less. The Department considers an average cost of $1,000 per label to be a reasonable estimate for an average cost for a label revision of this type.

A supermarket chain from a large urban area submitted a detailed estimate of its costs using a labor rate of $24.00 per hour. The cost analysis used a labor rate of approximately $10.00 per hour.

The Department recognizes that wages will vary widely. Aggregate cost and benefit analyses must, however, be based on national averages.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirement on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA or PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA or PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the FMIA and PPIA, States that maintain meat and poultry inspection programs must impose requirements that are at least equal to those required under the FMIA and PPIA. The States may, however, impose more stringent requirements on such State inspected products and establishments.

No retroactive effect will be given to this rule. The administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this rule, if the challenge involves any decision of an inspector relating to inspection services provided under the FMIA or PPIA. The administrative procedures specified in 9 CFR 335 and 381, Subpart W, must be exhausted prior to any judicial challenge of the application of the provisions of this rule with respect to labeling decisions.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The rule will affect a substantial number of small entities, but the economic impact on such small entities will not be significant.

The final rule affects both retail stores and inspected establishments. In 1991, USDA estimated there were 253,000 foodstores in the United States. These stores are categorized as follows:

Supermarkets	23,813
(Sales >$2.5 million each)	
Superettes	94,647
(Sales <$2.5 million each)	
Convenience Stores	51,700
Specialty stores	82,895
Total	253,055

Most of the small businesses affected would be superettes and specialty stores, such as meat markets, butcher shops, and locker plants. The specialty store category includes a large number of small businesses that do not sell meat and poultry products, e.g., confectionery stores. Most convenience stores do not sell raw or partially cooked meat and poultry products.

The Department recognizes that small retail firms would experience the greatest relative ongoing costs because they may not be able to afford new or modified equipment that can minimize costs. However, the public health risks do not allow for alternative small business considerations. At least one of the recent foodborne illness incidents described in the interim rule referred to earlier involved ground beef sold through a small market in a small community.

Background

Introduction

The Secretary of Agriculture has statutory authority to require meat and poultry products to bear labels including such "information as the Secretary may require * * * to assure that * * * the public will be informed of the manner of handling required to maintain the article in a wholesome condition." Federal Meat Inspection Act, 21 U.S.C. 601 (n) (12); Poultry Products Inspection Act, 21 U.S.C. 453 (h) (12). The Secretary issued an interim final rule on August 16, 1993, requiring raw and partially cooked meat and poultry products to carry safe handling instructions, effective October 15, 1993 (58 FR 43478), and solicited comments for 30 days. In light of these comments, the Secretary issued a final rule on October 12, 1993, which made significant changes in response to the comments (58 FR 52856). Due to continued outbreaks of foodborne illness involving meat and poultry products which resulted in serious illness and death, the Secretary invoked the "good cause" exception to the notice and comment requirement of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(13)(B)).

On September 23, 1993, the Texas Food Industry Association, the National American Wholesale Grocers' Association, the International Foodservice Distributors Association, and the National Grocers Association filed a complaint in the United States District Court for the Western District of Texas (District Court) alleging that the issuance of the interim rule violated the APA and requested that the Court issue a preliminary injunction.

On October 14, the District Court granted plaintiffs' request for a preliminary injunction and enjoined the Department from enforcing or implementing the interim or final regulations against the plaintiffs or any other affected entities or individuals. The Department filed a motion with the United States Court of Appeals for the Fifth Circuit on October 15 to stay the preliminary injunction and allow the safe handling regulations to take effect. This motion was denied on October 19, 1993.

While the Department believed it would prevail on the APA issue in further litigation, it recognized that a notice and comment rulemaking would take less time than further litigating the APA issue with the plaintiffs. Due to the importance of protecting public health and the related need to provide this crucial information to consumers as quickly as possible, the Department published simultaneously on November 4, 1993, a proposal to amend the regulations to require safe handling instructions on raw and partially cooked meat and poultry products, and a final rule withdrawing the provisions of the interim and final rules (58 FR 43478 and 58 FR 52856).

Authority

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) direct the Secretary of Agriculture to maintain meat and poultry inspection programs designed to assure consumers that meat and poultry products distributed to them (including imports) are wholesome, not adulterated, and properly marked, labeled, and packaged.

Section 2 of the FMIA (21 U.S.C. 602) and section 2 of the PPIA (21 U.S.C. 451) state that unwholesome, adulterated, or misbranded meat or meat food products and poultry products are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly marked, labeled, and packaged products, and result in sundry losses to producers and processors of meat and poultry products, as well as injury to consumers. Therefore, Congress has granted the Secretary authority to regulate meat, meat food products, and poultry products to protect consumers' health and welfare. Subsection 1(n)(12) of the FMIA (21 U.S.C. 601(n)(12)) and subsection 4

(h)(12) of the PPIA (21 U.S.C. 453(h)(12)) state that the term "misbranded" applies to any product if it fails to bear, directly thereon or on its container, as the Secretary may be regulations prescribe, the inspection legend, and unrestricted by any of the foregoing, such information as the Secretary may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition. Section 7(d) of the FMIA (21 U.S.C. 607(d)) states: "No article subject to this title shall be sold or offered for sale by any person, firm, or corporation, in commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the Secretary are permitted." The PPIA contains similar language in section 8(c) (21 U.S.C. 457(c)).

Safe Handling Labeling Instructions

In 1972, the American Public Health Association, individual consumers, and six other public health and consumer interest groups brought suit in the U.S. District Court for the District of Columbia against the U.S. Department of Agriculture alleging that labels placed on meat and poultry products were false and misleading because they failed to warn consumers against the dangers of foodborne illness caused by Salmonella and other bacteria in such products. The Court of Appeals affirmed the District Court's order dismissing the action, and ruled that the Secretary of Agriculture did not abuse his discretion by choosing to undertake a consumer education program instead of requiring labeling instructions for meat and poultry products. Since that ruling, USDA has conducted a massive and increasingly targeted food safety campaign to inform consumers about safe handling and cooking of meat and poultry products. FSIS has offered a toll-free nationwide hotline, staffed by food safety specialists, and conducted campaigns, directed at such specialized audiences as food handlers, institutions, health professionals, and at-risk populations, as well as food handlers in the home. Additionally, FSIS has permitted the voluntary labeling of poultry products with safe handling instructions since 1987. FSIS does not monitor participation in voluntary labeling; however, one trade association has said that 75 percent of its members offer handling instructions on their labels.

New Policy Direction

In recent years, FSIS has been aware that a growing percentage of the U.S. population consists of persons lacking experience in food preparation and knowledge of safe food handling and storage methods. Studies of foodborne illness outbreaks have repeatedly shown improper food handling to be the frequent cause of foodborne illnesses. Improper cooling of cooked foods has been ranked as the leading factor. Other factors cited included inadequate cooking, cross-contamination, and inadequate reheating.

Studies of consumer knowledge and practices indicate that a significant number lack basic food safety information and skills, particularly with respect to the relationship between temperature and foodborne illness.

Information from the CDC revealed that: (1) Undercooking was a factor in 108 of 345 (31.3 percent) home outbreaks of foodborne illness that occurred between 1973 and 1982 (data include all foods); and (2) cooking foods ahead, i.e., 12 hours or more before serving, was a factor in 12.8 percent of the home outbreaks.

While the Agency has long been committed to a program of consumer education to help prevent foodborne illness, as exemplified by its distribution of publications for consumers and its Meat and Poultry Hotline, it has become convinced of the need for more direct methods of placing food safety information in the hands of consumers. Thus, Agency officials in early January 1993 began to advocate in their speeches and writings that the mandatory safe handling instructions on the labeling of meat and poultry products was a necessary component of a program to combat foodborne illness.

The Agency's new policy direction gained additional impetus following the January 1993 outbreaks of a severe foodborne illness that led to four deaths among approximately 500 confirmed cases in Washington, Idaho, California, and Nevada. The outbreaks were linked to the pathogenic bacterial strain *E. coli* 0157:H7. Because most of the cases were attributed to undercooked hamburgers served at a fast-food restaurant chain, Federal and local authorities have intensified their regulatory activities. In June and July of 1993, the Department became aware of nine separate incidents where *E. coli* 0157:H7 was the direct or suspected cause of illness or death. The incidents led the Department to conclude that it was time to immediately require safe handling information on raw and partially cooked meat and poultry products. On August 16, 1993, FSIS published in the **Federal Register** an interim rule (58 FR 43478) mandating safe handling instructions on all raw and partially cooked meat and poultry product labeling. Also, FSIS established a permanent liaison position with the CDC. The responsibilities of this position include monitoring and tracking all *E. coli* epidemics reported to the CDC. Preliminary data for 1993 from CDC indicates 17 reported clusters of *E. coli* 0157:H7 infections. Many of these cases occurred after publication of the interim rule.

Several noteworthy developments in previously cited cases of foodborne illness and new incidents, not reported in the prior rulemaking publication, which reinforce the exigent need for safe handling instructions are summarized below:

Reading, CT

The Connecticut Department of Health investigated an outbreak of *E. coli* 0157:H7 that appeared to be linked to a country club. Four cases of *E. coli* 0157:H7 were positively linked to undercooked hamburger patties served at the Reading Country Club. *E. coli* 0157:H7 was isolated by the Connecticut State Lab and the FSIS Beltsville Lab.

Ft. Bragg, CA

The Mendocino County Health Department reported confirmed cases of *E. coli* 0157:H7 in a 13 year old girl and an 84 year old woman in Ft. Bragg. The two cases appeared unrelated except that both victims consumed home-cooked hamburgers which may have been made from ground beef purchased at the same supermarket during the same time period. FSIS isolated *E. coli* 0157:H7 from ground beef returned to the market as well as a patty from the residence where the 13 year old girl had eaten.

Texas

A total of 10 separate cases *E. coli* 0157:H7 occurring over a 6-week period in the autumn of 1993 are being investigated by the Texas Health Department. These included three cases that resulted in hemolytic uremic syndrome and one death. No common source has been identified.

Parameters of Good Safety

After reviewing available information, FSIS in conjunction with the Food and Drug Administration (FDA) identified the following parameters of safe handling by consumers: How to safely store raw product and thaw frozen

product; how to avoid cross-contamination during preparation; how to cook for optimal safety and palatability; and, how to store leftovers after preparation. For institutions, hot holding of prepared food is an additional parameter. (The term institutions as used throughout this preamble includes hotels, restaurants, or similar institutions.) In addition, the Agency proposed that the safe handling instructions include a rationale statement specifying the reason why it is important to follow such instructions. The Agency believes that consumers will pay more attention to the safe handling instructions if they understand that mishandling will lead to the growth of bacteria and possibly to illness.

Labeling

Various methods have been used in the past to inform consumers of handling instructions. Such methods have included putting the instructions on the product label, on inserts, on tags attached to the product, and on point-of-purchase materials displayed near the product at the point of sale. FSIS has concluded that the outside label is the most appropriate location for safe handling instructions.

The Agency considered three options for presenting safe handling information on the label. These options included long word messages, short word messages, and short word messages with symbols or graphic representations to accompany the message. To collect information on which format would most effectively influence consumer behavior, FSIS initiated consumer focus-study research.

In the FSIS initiated consumer focus-study, most participants wanted to see safe handling instructions on raw meat and poultry products. Consumers in the study expressed a preference for the safe handling instructions to be on the package label and felt that other labeling, such as pamphlets or in-store signs, should only be used to supplement package labels. Instructions with graphic illustrations were generally preferred to those without graphic illustrations and the short word messages were preferred to the long word messages. Also, most participants of the focus-study research felt that the rationale statement was a necessary part of the safe handling instructions.

Current Regulations

The Federal meat and poultry products inspection regulations currently require the placement of safe handling statements on packaged products that require special handling to maintain their wholesome condition. Sections 317.2 and 381.125 of the Federal meat and poultry products inspection regulations (9 CFR 317.2(k) and 9 CFR 381.125, respectively) provide that packaged products which require special handling to maintain their wholesome condition shall have prominently displayed on the principal display panel of the label the statement: "Keep Refrigerated," "Keep Frozen," "Perishable Keep Under Refrigeration," or such similar statement as the Administrator may approve in specific cases.

Proposal

FSIS proposed to amend the Federal meat and poultry products inspection regulations to mandate the inclusion of safe handling instructions on the labeling of raw and partially cooked meat and poultry products along with a rationale statement to indicate the reason why it is important to follow such handling instructions. The Department has established required cooking temperatures for certain beef, poultry, and patty products. These requirements are set forth at 9 CFR 318.17, 381.150, and 318.23, respectively. The proposed rule applied the beef temperature requirements to beef, swine, sheep, goat, horse, and other equine. The Department has also established processing requirements for the curing or other treatment of certain meat products to control microbial activity. Some of these products are identified in part 319 of the meat inspection regulations. These cooked products, e.g., cooked sausage, and some products that have been otherwise further processed so as to render them ready-to-eat, e.g., dry fermented sausage, are not considered to be at sufficient risk of microbial contamination to warrant the application of safe handling labels. However, some products that are traditionally considered ready-to-eat receive no lethal heat treatment and may not be pathogen free. FSIS is reevaluating its policies and regulations governing these products and plans to propose a regulation requiring that these products either bear the safe handling instructions or be processed in such a manner as to assure the destruction of pathogens.

FSIS proposed to permit official establishment and retailers to use alternate approaches to deliver the safe handling instructions until April 15, 1994, except for comminuted products. For comminuted products, FSIS proposed to require that safe handling instructions be included on the label within 30 days after publication of the final rule.

The alternate approaches presented in the proposed rule are: (1) Official establishments may include in the shipping container either pressure-sensitive labels containing the safe handling instructions for retailers to apply to packages or leaflets containing a facsimile of the safe handling instructions in lettering no smaller than one one-sixteenth of an inch for retailers to place in close proximity to the packages to ensure that leaflets are likely to be seen and taken home by consumers; and (2) retailers may distribute leaflets containing the facsimile described above.

In some cases, it was expected that retailers might prefer pressure-sensitive labels or leaflets of their own design and manufacture to those that an official establishment would provide under the permitted alternative. FSIS proposed that if a retailer notifies an official establishment in writing that it intends to supply its own labels or labeling, the official establishment would not be required to supply the materials in the shipping container.

The following rationale statement was proposed for products prepared from inspected and passed meat and/or poultry: This product was prepared from inspected and passed meat and/or poultry. Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions.

FSIS proposed the following rationale statement for poultry slaughtered under exemptions specified in 9 CFR 381.10: Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions.

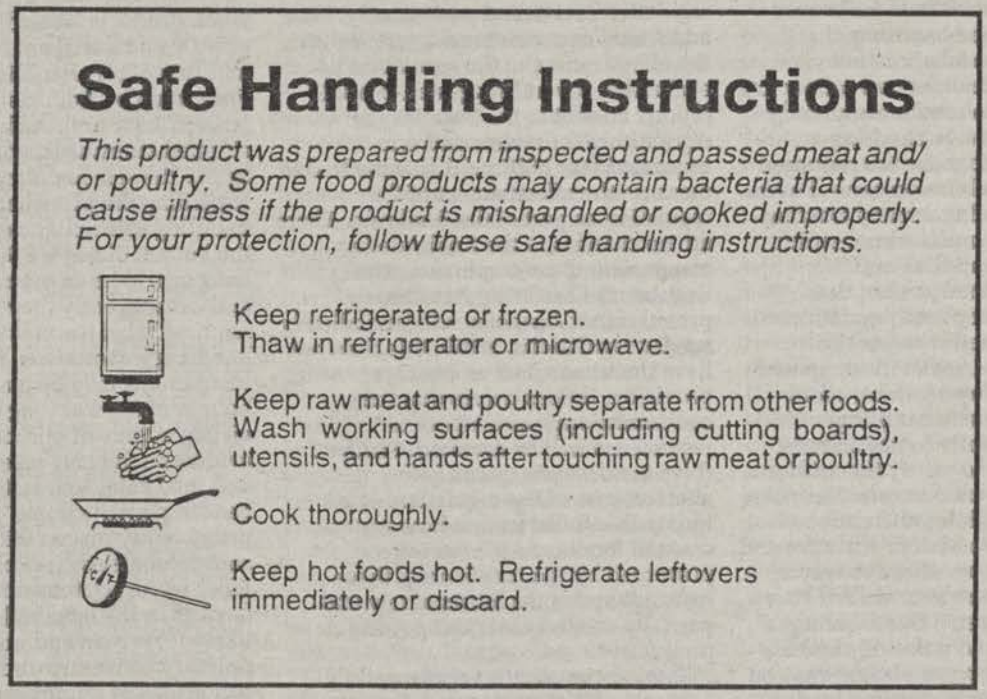
FSIS proposed the following four safe handling statements for use on the label of both red meat and poultry products distributed to both household consumers and institutions: (1) Keep refrigerated or frozen. Thaw in refrigerator or microwave. (Any portion of this statement that is in conflict with the product's specific handling instructions, may be omitted.) (A graphic illustration of a refrigerator shall be displayed next to the statement.); (2) Keep raw meat and poultry separate from other foods. Wash working surfaces (including cutting boards), utensils, and hands after touching raw meat or poultry. (A graphic illustration of soapy hands under a faucet shall be displayed next to the statement.); (3) Cook thoroughly. (A graphic illustration of a skillet shall be displayed next to the statement.); and (4) Keep hot foods hot. Refrigerate leftovers immediately or

discard. (A graphic illustration of a thermometer shall be displayed next to the statement.)

The label for safe handling instructions is shown in Exhibit 1.

BILLING CODE 3410-DM-M

EXHIBIT 1



BILLING CODE 3410-DM-C

FSIS proposed that safe handling instructions may appear anywhere on the label where they would likely to be read. The proposal also required the safe handling instructions to be set off by a border and to one color type printed on a single color contrasting background.

FSIS proposed to exempt products intended for further processing by an inspected establishment from mandatory safe handling labeling requirements. Since products for further processing by another Federal or State establishment will not be available to consumers or food service institutions, FSIS did not believe that it was necessary to require safe handling instructions on such packaging.

FSIS proposed to allow safe handling instructions to be added to labels by the manufacturer and to be approved under the provisions of generic label approval since the regulations prescribe the exact language of the safe handling instructions.

Discussion of Comments

The FSIS Hearing Clerk received 60 comments on the proposed rule. Commenters included consumers, representatives of consumer and other interest groups, State meat and poultry inspection officials, representatives and associations of retail stores, representatives and associations of official meat and poultry establishments, two U.S. Department of Agriculture Agencies, and others.

The following discussion of comments follows the general structure of the proposed rule. General concerns are addressed in the context of specific features of the rule. Where the concerns cannot be logically addressed in the context of specific sections of the rule, they are presented under a "Miscellaneous Issues" section. Changes made in the final rule are described so that it is apparent how they address the concerns of commenters. Where the Agency addresses the meat regulations, conforming changes are also made in the poultry regulations. Any changes unique to either the meat or poultry regulations are identified.

Miscellaneous Issues

One commenter suggested that the comment period should be extended and that additional information that FSIS used in formulating and supporting the regulation should be placed on the regulatory record. We disagree with this comment and not that FSIS had made publicly available, as part of this rulemaking proceeding, all relevant data upon which the regulation is based, including: the August 16, 1993 interim rule and all comments received in response thereto; the studies referenced in the interim rule; the October 12, 1993 final rule; questions and answer papers formulated in response to questions raised by the interim rule; the November 4, 1993 Notice of Proposed Rulemaking and all comments received in response thereto; all studies referenced in the Notice of Proposed Rulemaking, including the Focus-Study Research and Agricultural Outlook (June, 1993); and

documentation of oral presentations made in the course of the rulemaking proceeding.

The majority of commenters supported the labeling of products with safe handling instructions. Several commenters objected to mandatory labeling stating either that other methods of educating consumers would be more appropriate, that the required labeling would be ineffective, that labeling is not a substitute for proper training of safe food handling, that requiring a simple label can not guarantee any consumer will follow that label, or that some products currently include sufficient safe handling instructions which make the proposed safe handling label unnecessary. Seven commenters stated that many existing products contain much more helpful and meaningful handling and preparation information than that required by the proposed regulation. One also questioned whether the information contained in the proposed statements is so demonstrably more effective than the safe handling instructions currently in use on meat and poultry so as to justify the millions of dollars in conversion costs. They also suggest that to prohibit alternative language is unnecessarily restrictive and may preclude a more effective way of conveying the message intended. Five commenters suggested that labeling is only one option and point-of-purchase materials or other types of signs may be equally effective or more effective in instructing the consumer about safe food handling.

FSIS does not agree with these comments. The focus-study research asked participants about other alternatives for safe handling instructions. Participants in the focus-study research expressed a preference for safe handling instructions to be on the package label and felt other labeling, such as pamphlets or in-store signs, should only be used to supplement package labels, but not replace the package labels. The safe handling instructions are not meant to substitute for comprehensive training of safe handling procedures either in the home or food service setting. The instructions primarily alert food preparers that there is a risk of illness if products are mishandled or improperly cooked, and it addresses four broad parameters of food safety. Finally, FSIS does not believe that current handling instructions on labels will make safe handling instructions unnecessary. The safe handling instructions are not meant to replace more comprehensive cooking instructions found on products. In addition, current labeling may cover the four broad parameters of food safety, but does not include a rationale statement explaining to food preparers why it is important to follow the instructions. The focus-study research found that the rationale statement was an essential feature of the label.

Officials from two retail stores and two retail associations suggested that the regulations have a sunset provision and that the effectiveness of the regulation be studied periodically. Five additional commenters suggested that the effectiveness of the regulation be evaluated. Several suggested annual reports be sent to the Secretary of Agriculture for review and one requested that FSIS publish a method to measure the effectiveness of the regulation as part of the final rule. There are no changes in the final rule in response to these comments. The Regulatory Flexibility Act already provides that Agencies will periodically review regulations. While this does not have the same effect as a sunset provision, it does insure that the continuing appropriateness of regulations will be assessed. Further, there is no way to quantify the effectiveness of the regulation. It is impossible to determine how many cases of foodborne illness were prevented by the inclusion of these instructions on the labels of raw and partially cooked meat and poultry products.

Twelve commenters addressed the four sets of "Questions and Answers (Q&A's)" that FSIS disseminated between August 20 and September 15, 1993. Suggestions included codifying the Q&A's as part of the final rule, adding the Q&A's to the proposal and reopening the comment period to allow all interested parties an opportunity to comment on the Q&A's, and including specific responses either in the regulatory language or the preamble of the final rule. Four issues specifically cited were the status of export products, retroactive labeling of products, placement of information on hang tags and on the bottom of trays, and safe handling information requirements for multi-component products which include a meat or poultry portion that is fully cooked or otherwise processed so as to render it ready-to-eat. FSIS does not believe that these Q&A's need to be part of the regulatory language of the final rule. The Q&A's either cited other regulations within Title 9 or provided interpretations of how the safe handling regulation would be applied in specific situations.

In addition, the Q&A's, in large part, related to the interim rule, which was withdrawn. However, we will address the specific questions raised by the commenters. Regarding the need for export products to carry safe handling instructions, the condition under which deviations from labeling requirements are permitted are already set out in 9 CFR 317.7 and 9 CFR 381.128. FSIS will not require retroactive labeling of products, products labeled on or after the effective date will be required to carry safe handling instruction on the label. Products labeled prior to the effective date will not require the addition of safe handling instructions. For example, products in frozen storage, labeled prior to the effective date but shipped afterwards, will not be required to add the safe handling instructions. Regarding the placement of safe handling instructions on hang tags or the bottom of trays, FSIS has considered hang tags to be an extension of the label and consequently they may contain required label features such as safe handling instructions. Also, the instructions may be placed on the bottom of trays as long as they are visible at time of purchase. This is evident in the language of the proposed and final rules that state the safe handling instructions, "shall be prominently placed with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary consumer under customary conditions of purchase and use." Finally, as to whether safe handling instructions need to be on products that include a fully cooked meat filling but where the total product requires cooking, e.g., a fully cooked meat filling in uncooked dough: the rule does not require safe handling instructions on products where the meat or poultry portion is fully cooked or otherwise processed to render that portion ready-to-eat. However, while such products do not require safe handling instructions they are not considered ready-to-eat products.

One commenter suggested that FSIS implement appropriate compliance procedures for safe handling labels, stating the hope that "after all the commotion and rhetoric accompanying this present rule that more effort will be made to assure not only compliance with it but with all the other regulatory initiatives that are sorely in need of the Department's attention." FSIS appreciates the concern of this commenter. It is envisioned that the monitoring of compliance with these requirements will follow the current model of enforcement of misbranding of products at the retail level. Jurisdiction

is primarily exercised by State and local food regulatory agencies. Local codes generally require that food be fully labeled in conformance with requirements of agencies having jurisdiction over the product. FSIS and State meat and poultry inspection programs also monitor meat and poultry products in commerce. If products are found out of compliance with these requirements, they generally require that the specific product be brought into compliance or other appropriate action is taken. FSIS anticipates that initial compliance monitoring of this labeling requirement will have an educational focus. Where noncompliance is found, FSIS Compliance and other enforcement officials will provide guidance on these labeling requirements. Where it is apparent that businesses are making a good faith effort to comply with these requirements, they will not be subject to enforcement action.

One commenter suggested that FSIS replace the term "comminuted" with a different term such as "non-whole muscle" products because historically, "comminuted" has been used to include only very finely ground meat and poultry products produced from by-products of other whole muscle operations. FSIS does not agree with this comment. Other FSIS regulations, including the August 2, 1993, pattie regulation (58 FR 41138), have defined "comminuted" as a processing term used to describe the reduction in size of pieces of meat or poultry, and includes chopping, flaking, grinding, and mincing.

One commenter was concerned that styrofoam trays are sometimes reused in children's crafts and that such a use poses risks. The commenter suggested that these trays should include a message saying to discard them. Meat packed in styrofoam trays could pose a potential health risk if ready-to-eat food products are stored in an unwashed tray. Use of these materials by school children has not resulted in any reported foodborne illness. FSIS believes that most consumers either discard the trays or wash them before giving them to their children to use. On this basis, FSIS does not believe a message is needed to address this concern.

One commenter suggested that the Department introduce two new categories of product that could be sold in addition to the current products that are labeled "USDA Inspected and Passed (or For Wholesomeness)." The first category would be "USDA Inspected for Cosmetics and Marketing Defects Only—Not Health Hazards," and the second category would be "Uninspected." Both of the new categories would be required to include safe handling information on the label. Products meeting the criteria to be labeled "USDA Inspected and Passed (or For Wholesomeness)" would not be required to include safe handling information.

The Agency does not agree with this commenter. The "USDA Inspected and Passed" logo represents an assurance that products are derived only from animals slaughtered under inspection; contain only ingredients from approved sources; are processed in a sanitary environment; and, are processed in accordance with accepted Good Manufacturing Practices. All these assurances are of health and safety concern. The Agency does not agree with an assertion that failure to assure that raw meat and poultry products are sterile reduces inspectional efficacy to assuring only the absence of cosmetic and marketing defects. Inspection of the processing of cooked products is designed to assure a commercially sterile product. Requiring safe handling instructions on the labels of raw and partially cooked meat and poultry products is the appropriate step to alert consumers to the practical limits of the assurance represented by the "USDA Inspected and Passed" logo.

Some commenters suggested that the focus-study research results were misused. Specifically, they state that FSIS is mandating a nationwide labeling plan based on the input of 86 individuals. They also cited a statement in the final report on the focus-study research that cautioned that the findings of focus-study research should not be generalized to a larger population in any statistical sense. FSIS does not believe that its use of the focus-study research findings was inappropriate. Consumers have an important role in assuring meat and poultry are safe to eat. Safe handling labels are a part of the Agency's consumer education campaign. The focus-study research was used to obtain consumer feedback on three label formats proposed by FSIS. The process used was consistent with generally recognized focus group methodology. Focus-study research provides a richness of detail not possible in more structured quantitative research. Focus groups are highly effective for developing understanding and insight into consumer behavior and thinking. The Agency was responsive to focus-study research suggestions as well as public comments in formulating the previous final regulation on safe handling instructions. As previously cited, participants in the focus-study research expressed a preference for safe handling instructions to be on the package label and felt other labeling, such as pamphlets or in-store signs, should only be used to supplement package labels, but not replace the package labels.

Implementation Date

Representatives from many official establishments and their associations, retail stores and their associations, as well as officials of State meat and poultry inspection programs strongly recommended that the effective date of the rule be extended. The most frequently mentioned date was July 6, 1994, to coincide with the effective date for nutrition labeling. Many noted that a 30 day implementation time was not feasible. Retailers state that it will take a minimum of 60 days to either receive and install new equipment or receive new labels, taking into account the lag time from publication of a final rule to receiving the new regulation, and ordering and delivery of equipment or labels. Federally inspected establishments and trade associations commenting on the 30-day implementation timeframe offered varied estimates of the time required to make label changes. These ranged from 4 weeks to 4 months. In addition, several commenters stated that pressure-sensitive stickers pose feasibility problems, including inability of the stickers to remain on the product through processing, lack of adequate space on the current label to place the sticker without obscuring other mandatory features, and extremely high labor costs due to the need to add a labor intensive manual process step where businesses currently use high speed equipment that cannot be easily or economically retrofitted to apply the stickers.

The National Association of State Departments of Agriculture states that "FSIS should consider delaying the implementation to July 6, 1994, to provide an opportunity to educate not only the public, but also those who must enforce the requirement and encourage the public to follow the guidelines. It is essential that FSIS provide a lead time to furnish state officials with accurate and reliable information before the regulation is implemented." One retail store also stated that 30 days did not provide the time necessary to properly train employees.

Regarding FSIS's suggestion that companies revise their nutrition labeling timetable to coincide with safe handling, one official establishment wrote, "it is not practical to simply 'revise our timetable for nutrition

labeling' as FSIS has stated. There is a great deal of analysis, planning, and designing that goes into each nutrition panel. It is simply not a case of printing information that is already dictated as is the case for the handling instructions." Additionally, one commenter questioned whether the incremental cost of complying with the label requirement versus the pamphleting option during the April 15 and July 6 period for noncomminuted products could be justified by any demonstrable benefit. However, one consumer group requested that implementation of these requirements not be delayed for any reason, because of the risks of foodborne illness associated with raw meat and poultry.

FSIS has been persuaded by the comments that in some cases it might be impractical to achieve compliance with a 30-day implementation requirement for comminuted products and an April 15 requirement for other products. However, the Agency does not agree that businesses will require 4 months to comply. A commenter that calculated 4 months as a minimum included time for sketch approval by FSIS in its calculation. That step is not required for these generically approved labels. They also included a period of time to exhaust preexisting label inventories. This is not a factor that impacts on the feasibility of obtaining complying labels. Additionally, they did not consider such alternatives to complete label redesign as pressure-sensitive labels. The latter approach could obviate both time concerns and concerns over utilization of existing label inventories. Finally, many firms demonstrated the ability to make the required label changes within the 2 months following the publication of the interim rule on August 16, 1993. Their performance certainly belies the notion that 4 months is a minimum required to achieve compliance.

FSIS will extend the implementation requirement for the labeling of comminuted products to 60 days after publication and the labeling of other products to July 6, 1994. The Agency believes that the high level of voluntary compliance before these required dates will minimize the impact of extending the timeframes for implementation and eliminating the pamphleting requirement. The Agency believes that these extended timelines will provide retailers as well as establishments the needed time for those companies having difficulty obtaining the necessary labeling. Additionally, it will allow some businesses to make one label change to incorporate both safe handling instructions and nutrition labeling at a cost savings. Many retailers as well as official establishments have already voluntarily complied with this regulation by providing safe handling labels, brochures and other point of sale information. In addition, the Department's educational efforts to inform the public of the need to safely handle and prepare meat and poultry as well as other food products along with publicity surrounding the rule has increased the public's awareness of the necessity and requirements of safe food handling. A major joint voluntary effort to educate consumers began last year. The Food Marketing Institute, the American Meat Institute and the National Livestock and Meat Board, in cooperation with the USDA and FDA, developed "A Consumer Guide to Safe Handling and Preparation of Ground Meat and Ground Poultry." The brochures are for consumers and for food service operators. Each brochure discusses proper handling, preparation and storage methods for ground meat and ground poultry and emphasizes three key points (the three C's): keep it cold; keep it clean; and cook it. These interim measures should minimize the impact of extending the timelines for implementation of these labeling requirements.

Three commenters suggested that FSIS permit companies up to 18 months to exhaust supplies of labels that do not include the safe handling instructions since it would be an economic and environmental burden to discard packaging materials. One commenter cited the nutrition regulation which gave an 18 month implementation time and suggested a similar implementation time. Three additional commenters requested that FSIS permit companies up to 1 year after the effective date of the regulation to use labels with safe handling instructions required by the interim rule. They state that materials were ordered in good faith to comply with the interim rule and it would be an economic burden to destroy such materials. Commenters stated that due to low volume sales of certain products, they expect to have over a year's supply of labels with the original safe handling instructions.

FSIS does not believe that 18 months or even 1 year should be given to exhaust packaging materials that do not include the safe handling instructions. Implementation time required for the nutrition regulations cannot be compared to the safe handling regulations since the two are very different. The safe handling regulations prescribe the exact language required on the label and do not require time consuming laboratory analysis or interpretation of extensive rules regarding formats, serving sizes, claims, etc. However, FSIS has been persuaded by the comments to permit safe handling instructions provided in both the August 16, 1993, interim rule and the October 12, 1993, final rule to be used for 1 year past the effective date of this final rule. The label required under this final rule is unchanged from the label required in the October 12, 1993, final rule.

Product Appropriateness and Inclusiveness

Eleven commenters suggested that we narrow the focus of the regulation making safe handling instructions mandatory on ground meat and poultry products and voluntary on all other meat and poultry products. Many stated that the proposed rule was overly broad and that no evidence was presented to support the requirement of safe handling instructions on products other than ground products. They suggested the labeling effort would be more effective if ground products were targeted so that the information would have a proper impact with consumers. In addition, they stated that to blanket every package in the meat case with the same message would in effect make the message invisible because it would be so repetitive.

Several commenters questioning the scope of the regulation cited information from the preamble of the August 2, 1993, Uncured Meat Pattie regulation which stated "The likelihood of foodborne illness is not the same in all beef products or all hamburger-type products. Ground meat presents a different risk than whole muscle cuts such as steaks, roasts, or chops * * * the production process for ground meat assures that any present pathogens will be distributed throughout the product, including the interior, while bacteria tend to remain on the surface of steaks, roasts, and chops. This factor has major implications for the cooking process. Because a rare steak is thoroughly cooked at the surface, one can presume that pathogenic bacteria present are killed." They proposed limiting this labeling to ground products. One additional commenter objected to pork products in 9 CFR 318.10(a) being suddenly drawn into the proposed regulation.

FSIS agrees that comminuted products present a greater potential threat to public health than whole muscle cuts. For this reason, FSIS is requiring that comminuted products be labeled with safe handling instructions within 60 days after publication of this final rule. As cited elsewhere in this

preamble, many outbreaks of *E. coli* 0157:H7 food poisoning in the past year have been epidemiologically linked to the consumption of comminuted products. However, *E. coli* 0157:H7 is not the only pathogen targeted in this rulemaking proceeding. The proposed rule also cited statistics relating to illness, death, and medical and productivity cost due to other bacteria, including *Salmonella, Camphylobacter jejuni* or *coli, Listeria monocytogenes,* and parasites, including *Toxoplasma gondii, Trichinella spiralis, Taenia saginata,* and *Taenia solium.*

The safe handling instructions were designed to cover the four broad parameters of food safety and to prevent outbreaks of foodborne illness resulting from all sources, not just *E. coli* 0157:H7 in ground beef. Meat and poultry products are known carriers of the pathogenic bacteria and parasites identified in the proposed rule and compliance with the safe handling instructions will prevent some foodborne illnesses and deaths. To require safe handling instructions exclusively on ground meat and poultry might lead consumers to mistakenly believe that other raw or partially cooked meat and poultry products are without risk, and ignores the concern for public health arising from the presence of pathogenic organisms on all types of raw and partially cooked meat and poultry products. It is important to remember that the safe handling instructions include parameters of safe handling beyond cooking instructions. In addition, the scope of the proposed regulation is supported by one official establishment which stated that all types of meat and poultry products should be required to have safe handling instructions since bacterial contamination can take place on any cut or type of meat and one meat trade association which stated that even products traditionally well cooked in the home need to carry safe handling instructions due to the possibility of cross contamination.

Regarding the inclusion of certain pork products in 9 CFR 318.10(a), these products have not suddenly been drawn into the safe handling regulation. These products were included in the interim rule as products needing safe handling instructions. The commenter misinterpreted this section.

One meat trade association questioned the fact that FSIS has taken no initiative to seek FDA efforts to have foods under FDA jurisdiction similarly labeled. FSIS will advise the Food and Drug Administration of the concerns expressed by commenters.

Nine commenters recommended that safe handling instructions not be required for products such as frozen dinners and entrees. Several reasons were given as to why such products do not need safe handling instructions. Commenters stated that FSIS has provided no evidence that such products present a meaningful health risk to consumers. In addition, they state that the four safe handling instructions either appear on the labels already or are unnecessary for frozen dinners and entrees. The commenters state that other regulations require a handling statement on the label, thus the refrigeration statement is redundant and unnecessary. Most of the products are not handled directly by consumers and there is no contact between the products and working surfaces, making the cross contamination statement unnecessary. Frozen dinners and entrees already contain very specific cooking instructions which are far superior to "cook thoroughly." Lastly, most products are single serve items making the statement on leftovers inapplicable, however, many manufacturers currently include statements such as "Promptly refrigerate any unused portion" on their labels.

FSIS disagrees with these comments. While frozen dinners and entrees probably pose a relatively lower risk of foodborne illness than fresh meat and poultry products, these products are vulnerable to the same mishandling risks associated with fresh product. Freezing is not considered a pathogen destruction step, but will only slow their growth. The Agency believes it is prudent to require the safe handling instructions on these types of frozen products if the meat portion is either uncooked or partially cooked. Since current instructions for handling frozen dinners and entrees varies from manufacturer to manufacturer the safe handling instructions will provide a consistent and uniform message. In addition, none of the current handling instructions include a rationale statement which explains to consumers why it is important to follow the prescribed instructions and the focus-study research indicated that the rationale statement was an integral part of the safe handling instructions.

The Texas Department of Health recommended that the exemption for custom slaughter products be eliminated. They state that these products are as likely to contain harmful or pathogenic bacteria that could cause illness if mishandled. However, they suggest that labeling each individual package is not necessary since the product goes back to the owner for use. One meat trade association suggested that we retain the custom exemption since elimination of the exemption could cause more owners to do their own farm slaughter and processing which would result in a greater danger of meat and poultry contamination.

FSIS is not persuaded by the comments to eliminate the exemption of custom slaughtered products. While the Agency encourages the distribution of safe handling information with products slaughtered under the exemption, labeling is not required for such products if they are marked "not for sale."

Location of Information on Label

One official establishment and two meat trade associations misread the proposal as requiring that the labels be placed on either the principal display panel or the information panel. One poultry trade association on behalf of an official establishment requested FSIS to permit the safe handling instructions to appear on the back of an insert label with a referral statement on the front informing consumers that the instructions were on the back.

One consumer group stated that placement of the safe handling instructions anywhere on the label as to render it likely to be read is ambiguous and will likely result in lengthy disputes regarding its meaning. They recommended that FSIS revert to the original requirement from the interim regulation on the placement, i.e., on the principal display panel or information panel, which will have the same result while avoiding unnecessary disputes and litigation.

FSIS is not persuaded by the comments to make any changes in the placement of the safe handling instructions. The instructions may be placed anywhere on the outside label where they will be visible at the time of purchase. Several of the commenters must have misread the proposal when they objected to placement of the instructions on the principal display panel or the information panel. The interim rule required such placement but comments persuaded FSIS to allow flexibility in the placement of the safe handling instructions. We do not believe that the current language is ambiguous or will lead to lengthy disputes.

Several commenters stated that FSIS ignored the previous comments that packages would be too small to carry all mandatory information. As stated in the previous final regulation, FSIS is not aware of labels smaller than those on 12 ounce chubs that would likely require safe handling instructions. FSIS believes

that labels will be large enough to accommodate all mandatory information due to the flexibility provided by the safe handling and nutrition regulations. FSIS received no comments which provided examples of packages that could not accommodate both features.

Rationale Statement

Five commenters suggested changes to the rationale statement. One retail store, one grocers association and one meat association recommended that since all meat and poultry sold in commerce was inspected and passed by either Federal or State authorities, FSIS should permitted the following on all products, "This product was inspected for your safety." These groups suggested the second sentence be changed to "Food products must be handled and prepared properly to prevent potential illness." This would emphasize the positive rather than negative aspects of proper food handling. In addition one commenter suggested the option of a singular "meat" or "Poultry" label. Two consumer groups suggested that the rationale statement did not appraise consumers of the true threat bacterial contamination poses and may even give consumers a false sense of confidence about the safety of the product. Suggested change included eliminating the first sentence of the rationale, the use of a "warning," mentioning the possibility of death, and adding descriptions of the symptoms of foodborne illness. FSIS concluded that the proposed rationale statement strikes a good balance that will neither scare consumers away from meat and poultry products nor cause them to ignore risks of foodborne illness. Given that, and the overwhelming acceptance of the single label message which will reduce the likelihood of errors, no changes are made or further flexibility permitted in the final rule.

Additionally, one commenter stated that a different rationale statement should be permitted for irradiated product. They suggested that a reference should be made to the reductions in bacterial counts that irradiation produces. While FSIS does not agree with this comment, it anticipates addressing the issue of label claims related to emerging pathogen reduction treatments in the future. However, these statements should not be a substitute for the required safe handling instructions since the handling statements also apply to treated products.

Handling Statements

Some commenters suggested allowing flexibility on the cross contamination, cooking, and leftover statements similar to the flexibility permitted in the proposal for the refrigeration statement. Three commenters suggested that deviations in the statements could be approved through the prior approval system.

FSIS does not agree with these comments. In the long term, differences between label messages would work against consumer recognition of the one label message. In addition, this is supported by five commenters who recommended that FSIS make no changes in the text of the safe handling statements and one commenter that stated that it was in the best interest of both consumers and the industry to have only one set of safe handling instructions since the existence of more than one statement would only contribute to consumer and industry confusion.

One commenter suggested that we require the FSIS Hotline number with the label. The Meat and Poultry Hotline telephone number may be included on other parts of the label. FSIS does not have enough information about the impact of including this phone number on the label. Requiring it on 15 billion packages of product per year might easily overwhelm the Hotline resources.

One fast-food restaurant chain suggested that FSIS permit deviations in the refrigeration statement, as well as in other statements, if they conflicted with company policy or other printed company materials including operating manuals. FSIS is not persuaded by this comment to make any changes in the regulation. FSIS believes that the flexibility provided for the refrigeration statement is adequate to accommodate the only significant area of concern identified.

Two commenters suggested that FSIS add a recommendation for disinfecting or sanitizing hard surfaces because washing cutting boards with soap and water will not guarantee elimination of pathogens. One of the commenters suggested that this be included in leaflets containing other expanded information, such as cooking temperatures. They recommend that the leaflets be required to be available at the point-of-sale in addition to the safe handling labels on the products.

Washing of working surfaces has been found to be an effective means of reducing pathogens on cutting boards, utensils, etc. Use of a sanitizing agent would add another margin of safety, however, FSIS believes that the current message conveys the importance of washing working surfaces that have contacted raw product. This was further supported by the focus-study research. Participants preferred short word messages, and indicated that the longer the messages, the less likely consumers would be to read them. While FSIS encourages programs to provide additional information on safe handling at the point-of-sales, it believes that additional verbiage might detract from the efficacy of the label.

One commenter suggested that the cross contamination statement be revised to include washing before and after contact with raw meat and poultry. While FSIS agrees that this is a good practice, the focus of these statements is avoidance of contamination of other ready-to-eat foods with raw meat and poultry products. This change will not be incorporated.

Six commenters stated that more explicit cooking instructions were necessary. The commenters suggested that visual signs of doneness and/or internal temperatures be required or at least allow the flexibility in the cooking statement to include such information. One commenter recommended that FSIS provide the proscribed internal cooking temperatures for each type of raw meat and poultry that would be labeled as well as a descriptive statement to accompany the internal cooking temperature. One suggested that a descriptive visual definition will provide safeguards for any consumer who is unable or unwilling to measure the internal temperature of their meat. One consumer group suggested that visual keys were preferable to the use of internal temperatures, as consumers may misunderstand the internal temperature to be a cooking temperature. They stated that it is critical to provide more specific cooking instructions since there is no single definition of "thoroughly cooked" among consumers. One meat trade association stated that the cooking instructions were adequate for the safe handling label because consumers want simple accurate information. In addition, they stated that it would be more appropriate to include more detailed handling information in a brochure or pamphlet which could be distributed at the point-of-purchase.

FSIS does not believe it would be appropriate to add either an endpoint temperature or more comprehensive cooking directions because cooking temperatures and other visual indications of doneness vary by product. As stated above, this labeling is not intended to replace comprehensive cooking statements that accompany many products. Additionally, as cited earlier, more complex messages might reduce the likelihood of consumer use of the label.

A consumer group suggested that FSIS include a time limit with the leftover statement, such as the two hours mentioned in the interim regulation. Another commenter representing a restaurant chain suggested that the leftover statement be eliminated in situations where company policy strictly controls holding time for products and the sale of leftover meat and poultry products is not permitted.

FSIS is not persuaded by these comments to make any changes in the leftover statement. The Agency believes that current language conveys appropriate information on the importance of prompt refrigeration of leftovers. In addition, the leftover statement is broad enough so as not to conflict with the described company policy.

Symbols

Six retailers and their associations commented on the symbols required by the proposed regulation. They stated the symbols were possibly misleading, do not effectively enhance the message and are meaningless without the word message. In addition, the commenters stated that the symbols were likely to confuse those who can read the label as well as those who cannot read. A specific example cited was that the frying pan may suggest that frying is the preferred method of cooking. In addition, the use of symbols also substantially increases costs to retailers. The commenters recommended that the symbols be eliminated.

One consumer group and one meat trade association supported the use of the symbols. The consumer group stated that the symbols provide important information to those who cannot read English and serve as a reminder of the written instructions to those who have read them. The symbols also draw attention to the labels and convey the instructions to the consumers instantaneously. However, they do not believe the symbol for the cross contamination message is clear or effectively illustrated the need to keep raw meat and poultry separate from other foods.

One USDA Agency suggested that the frying pan be replaced by a pot. This Agency believes that the skillet might be interpreted as a suggestion that the meat be fried, which is inconsistent with nutritional recommendations of the Department. Our focus-study research on labels has indicated that short messages with visual symbols are more acceptable to consumers as a means of alerting them to actions they should take. Symbols convey messages to individuals who have difficulty reading English. The symbols provide visual reminders of actions consumers should take to handle food safely. The symbols were modified from those originally considered to reflect suggestions from participants of the focus-study research and public comments. Regarding the cross contamination symbol, FSIS agrees that the symbol addresses the cleaning portion of the message. However, since no feasible alternatives were offered for the symbol of the soapy hands under a faucet, FSIS will not make any changes in the symbol. Finally, regarding the objections to the skillet symbol, FSIS believes that the skillet is a more recognizable symbol than a pot, given the scale of its representation. Additionally, the Agency considers the likelihood of resulting confusion over preferred cooking method to be low. Therefore, FSIS is retaining the skillet symbol as proposed.

FSIS is adopting the proposed rule as a final rule with the changes as discussed above. Labels prepared in accordance with the August 16, 1993, interim rule may be used for 1 year past the effective date of this final rule.

List of Subjects

9 CFR 317

Food labeling, Meat inspection.

9 CFR 381

Food labeling, Poultry inspection.

Final Rule

For the reasons discussed in the preamble, FSIS is amending 9 CFR parts 317 and 381 of the Federal meat and poultry products inspection regulations to read as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 317.2 is amended by adding a new paragraph (l) to read as follows:

§ 317.2 Labels; definition; required features.

* * * * *

(l) Safe handling instructions shall be provided for: All meat and meat products of cattle, swine, sheep, goat, horse, or other equine not heat processed in a manner that conforms to the time and temperature combinations in the Table for Time/Temperature Combination For Cooked Beef, Roast Beef, and Cooked Corned Beef in § 318.17, or that have not undergone other further processing that would render them ready-to-eat; and all comminuted meat patties not heat processed in a manner that conforms to the time and temperature combinations in the Table for Permitted Heat-Processing Temperature/Time Combinations For Fully-Cooked Patties in § 318.23; except as exempted under paragraph (l)(4) of this section.

(1)(i) Safe handling instructions shall accompany every meat or meat product, specified in this paragraph (l) destined for household consumers, hotels, restaurants, or similar institutions and shall appear on the label. The information shall be in lettering no smaller than one-sixteenth of an inch in size and shall be prominently placed with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(ii) The safe handling information shall be presented on the label under the heading "Safe Handling Instructions" which shall be set in type size larger than the print size of the rationale statement and handling statements as discussed in paragraphs (l)(2) and (l)(3) of this section. The safe handling information shall be set off by a border and shall be one color type printed on a single color contrasting background whenever practical.

(2) The labels of the meat and meat products specified in this paragraph (l) shall include the following rationale statement as part of the safe handling instructions, "This product was prepared from inspected and passed meat and/or poultry. Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions." This statement shall be placed immediately after the heading and before the safe handling statements.

(3) Meat and meat products, specified in this paragraph (l), shall bear the labeling statements:

(i) Keep refrigerated or frozen. Thaw in refrigerator or microwave. (Any portion of this statement that is in conflict with the product's specific handling instructions, may be omitted, e.g., instructions to cook without thawing.) (A graphic illustration of a refrigerator shall be displayed next to the statement.);

(ii) Keep raw meat and poultry separate from other foods. Wash working surfaces (including cutting boards), utensils, and hands after

touching raw meat or poultry. (A graphic illustration of soapy hands under a faucet shall be displayed next to the statement.);

(iii) Cook thoroughly. (A graphic illustration of a skillet shall be displayed next to the statement.); and

(iv) Keep hot foods hot. Refrigerate leftovers immediately or discard. (A graphic illustration of a thermometer shall be displayed next to the statement.)

(4) Meat or meat products intended for further processing at another official establishment are exempt from the requirements prescribed in paragraphs (l)(1) through (l)(3) of this section.

3. Section 317.5 is amended by deleting the word "or" following the semicolon at the end of paragraph (b)(12), replacing the period at the end of paragraph (b)(13) with a semicolon followed by the word "or", and adding a new paragraph (b)(14) to read as follows:

§ 317.5 Generically approved labeling.

* * * * *

(b) * * *

(14) The addition of safe handling instructions as required by § 317.2 of this subchapter.

4. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450, 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

5. Section 381.125 is amended by designating the current paragraph as (a) and adding a new paragraph (b) to read as follows:

§ 381.125 Special handling label requirements.

* * * * *

(b) Safe handling instructions shall be provided for all poultry products not heat processed in accordance with the provisions of § 381.150(b) or that have not undergone other further processing that would render them ready-to-eat, except as exempted under paragraph (b)(4) of this section.

(1) (i) Safe handling instructions shall accompany the poultry products, specified in this paragraph (b), destined for household consumers, hotels, restaurants, or similar institutions and shall appear on the label. The information shall be in lettering no smaller than one-sixteenth of an inch in size and shall be prominently placed with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(ii) The safe handling information shall be presented on the label under the heading "Safe Handling Instructions" which shall be set in type size larger than the print size of the rationale statement and handling statements as discussed in paragraphs (b)(2) and (b)(3) of this section. The safe handling information shall be set off by a border and shall be one color type printed on a single color contrasting background whenever practical.

(2) (i) The labels of the poultry products, specified in this paragraph (b) and prepared from inspected and passed poultry, shall include the following rationale statement as part of the safe handling instructions, "This product was prepared from inspected and passed meat and/or poultry. Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions." This statement shall be placed immediately after the heading and before the safe handling statements.

(ii) The labels of the poultry products, specified in this paragraph (b) and prepared pursuant to § 381.10(a) (2), (5), (6), and (7), shall include the following rationale statement as part of the safe handling instructions, "Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions." This statement shall be placed immediately after the heading and before the safe handling statements.

(3) Poultry products, specified in this paragraph (b), shall bear the labeling statements.

(i) Keep refrigerated or frozen. Thaw in refrigerator or microwave. (Any portion of this statement that is in conflict with the product's specific handling instructions may be omitted, e.g., instructions to cook without thawing.) (A graphic illustration of a refrigerator shall be displayed next to the statement.);

(ii) Keep raw meat and poultry separate from other foods. Wash working surfaces (including cutting boards), utensils, and hands after touching raw meat or poultry. (A graphic illustration of soapy hands under a faucet shall be displayed next to the statement.);

(iii) Cook thoroughly. (A graphic illustration of a skillet shall be displayed next to the statement.); and

(iv) Keep hot foods hot. Refrigerate leftovers immediately or discard. (A graphic illustration of a thermometer shall be displayed next to the statement.)

(4) Poultry products intended for further processing at another official establishment are exempt from the requirements prescribed in paragraphs (b)(1) through (b)(3) of this section.

6. Section 381.134 is amended by deleting the word "or" following the semicolon at the end of paragraph (b)(12), replacing the period at the end of paragraph (b)(13) with a semicolon followed by the word "or", and adding a new paragraph (b)(14) to read as follows:

§ 381.134 Generically approved labeling.

* * * * *

(b) * * *

(14) The addition of safe handling instructions as required by § 381.125 of this subchapter.

Done at Washington, DC, on March 23, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–7217 Filed 3–25–94; 8:45 am]

BILLING CODE 3410–DM–M

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

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