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

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

WHO: The Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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: July 28 at 9:00 am

WHERE: Office of the Federal Register
Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Regulation of Advanced Nuclear Power Plants; Statement of Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Policy Statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) intends to improve the licensing environment for advanced nuclear power reactors to minimize complexity and uncertainty in the regulatory process. This statement gives the Commission's policy regarding the review of, and desired characteristics associated with, advanced reactors. This policy statement is a revision of the final policy statement titled "Regulation of Advanced Nuclear Power Plants, Statement of Policy" that was published on July 8, 1986. The purpose of this revision is to update the Commission's policy statement on advanced reactors to reference the Commission's metrication policy.

EFFECTIVE DATE: July 12, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen P. Sands, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–504–3154.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1986 (51 FR 24643), the Commission published its final policy statement on advanced reactors in the **Federal Register**. The Commission's primary objectives in issuing the advanced reactor policy statement were threefold:

- First, to maintain the earliest possible interaction of applicants, vendors, and government agencies, with the NRC;
- Second, to provide all interested parties, including the public, with the Commission's views concerning the desired characteristics of advanced reactor designs; and
- Third, to express the Commission's intent to issue timely comment on the implications of such designs for safety and the regulatory process.

On August 10, 1988, Congress passed the Omnibus Trade and Competitiveness Act [the Act], (19 U.S.C. 2901 *et seq.*), which amended the Metric Conversion Act of 1975, (15 U.S.C. 205a *et seq.*). Section 5164 of the Act (15 U.S.C. 205a) designates the metric system as the preferred system of weights and measures for U.S. trade and commerce.

In an effort to effect an orderly change to the metric system, the Act requires that all Federal agencies convert to the metric system of measurement in their procurement, grants, and other business-related activities by the end of fiscal year 1992, "except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to U.S. firms, such as when foreign competitors are producing competing products in non-metric units," Section 5614(b)(2).

In response to the Act, the NRC published its metrication policy statement for comment in the **Federal Register** on February 10, 1992 (57 FR 4891). The purpose of the metrication policy statement was to inform NRC licensees and the public how the Commission intended to meet its obligations under the Act. Comments on the draft statement were submitted by 12 responders, including 5 power reactor licensees, 3 standards organizations, a reactor vendor, a materials licensee, the Nuclear Management and Resources Council, and a joint letter submitted by three individuals. All commenters supported the Commission's position and the final policy statement was published on October 7, 1992 (57 FR 46202).

The Commission supports and encourages the use of the metric system of measurement by NRC licensees and applicants. However, Commission experience to date in design certification reviews is that it is impracticable and uneconomical to convert a design to the metric system late in the design process and that applicants should consider metrication early in the design process. Therefore, the Commission is revising the advanced reactor policy statement to incorporate its policy on metrication to encourage licensees and license applicants to employ the metric system of measurement wherever and whenever its use is not potentially detrimental to the public health and safety or is not economically impracticable.

Commission Policy

Consistent with its legislative mandate, the Commission's policy with respect to regulating nuclear power reactors is to ensure adequate protection of the public health and safety and the environment. Regarding advanced reactors, the Commission expects, as a minimum, at least the same degree of protection of the public and the environment that is required for current-generation light water reactors. Furthermore, the Commission expects that advanced reactors will provide enhanced margins of safety and/or utilize simplified, inherent, passive, or other innovative means to accomplish their safety functions. The Commission also expects that advanced reactor designs will comply with the Commission's safety goal policy statement and the policy statement on conversion to the metric system.

Among the attributes that could assist in establishing the acceptability or licensability of a proposed advanced reactor design, and that therefore should be considered in advanced designs, are:

- Highly reliable and less complex shutdown and decay heat removal systems. The use of inherent or passive means to accomplish this objective is encouraged (negative temperature coefficient, natural circulation, etc.).
- Longer time constants and sufficient instrumentation to allow for more diagnosis and management before reaching safety systems challenge and/or exposure of vital equipment to adverse conditions.
- Simplified safety systems that, where possible, reduce required operator actions, equipment subjected to severe environmental conditions, and components needed for maintaining safe shutdown conditions. Such simplified systems should facilitate operator comprehension, reliable system function, and more straightforward engineering analysis.
- Designs that minimize the potential for severe accidents and their consequences by providing sufficient inherent safety, reliability, redundancy,

diversity, and independence in safety systems.

- Designs that provide reliable equipment in the balance of plant (BOP) (or safety-system independence from BOP) to reduce the number of challenges to safety systems.
- Designs that provide easily maintainable equipment and components.
- Designs that reduce potential radiation exposures to plant personnel.
- Designs that incorporate defense-in-depth philosophy by maintaining multiple barriers against radiation release, and by reducing the potential for and consequences of severe accidents.
- Design features that can be proven by citation of existing technology or that can be satisfactorily established by commitment to a suitable technology development program.

If specific advanced reactor designs with some or all of the above foregoing attributes are brought to the NRC for comment and/or evaluation, the Commission can develop preliminary design safety evaluation and licensing criteria for their safety-related aspects. Combination of some or all of the above attributes may help obtain early licensing approval with minimum regulatory burden. Designs with some or all of these attributes are also likely to be more readily understood by the general public. Indeed, the number and nature of the regulatory requirements may depend on the extent to which an individual advanced reactor design incorporates general attributes such as those listed above. However, until such time as conceptual designs are submitted, the Commission believes that regulatory guidance must be sufficiently general to avoid placing unnecessary constraints on the development of new design concepts.

To provide for more timely and effective regulation of advanced reactors, the Commission encourages the earliest possible interaction of applicants, vendors, other government agencies, and the NRC to provide for early identification of regulatory requirements for advanced reactors, and to provide all interested parties, including the public, with a timely, independent assessment of the safety characteristics of advanced reactor designs. Such licensing interaction and guidance early in the design process will contribute toward minimizing complexity and adding stability and predictability in the licensing and regulation of advanced reactors.

While the NRC itself does not develop new designs, the Commission intends to develop the capability for timely assessment and response to innovative and advanced designs that might be presented for NRC review. Prior experience has shown that new reactor designs—even variations of established designs—may involve technical problems that must be solved in order to ensure adequate protection of the public health and safety. The earlier such design problems are identified, the earlier satisfactory resolution can be achieved. Prospective applicants are reminded that, while the NRC will undertake to review and comment on new design concepts, the applicants are responsible for documentation and research necessary to support a specific license application. (NRC research is conducted to provide the technical bases for rulemaking and regulatory decisions, to support licensing and inspection activities, and to increase NRC's understanding of phenomena for which analytical methods are needed in regulatory activities.)

During the initial phase of advanced reactor development, the Commission particularly encourages design innovations that enhance safety and reliability (such as those described above) and that generally depend on technology that is either proven or can be demonstrated by a straightforward technology development program. In the absence of a significant history of operating experience on an advanced concept reactor, plans for innovative use of proven technology and/or new technology development programs should be presented to the NRC for review as early as possible, so that the NRC can assess how the proposed program might influence regulatory requirements. To achieve these broad objectives, the Advanced Reactor Projects Directorate (PDAR) was established in the Office of Nuclear Reactor Regulation. This group is the focal point for NRC interaction with the Department of Energy, reactor designers, and potential applicants, and coordinates the development of regulatory criteria and guidance for proposed advanced reactors. In addition, the group maintains knowledge of advanced reactor designs, developments, and operating experience in other countries, and provides guidance on an NRC-funded advanced reactor safety research program to ensure that it supports, and is consistent with, the Commission's advanced reactor policy. The PDAR also provides guidance regarding the timing and format of submittals for review. The Advisory Committee on Reactor Safeguards plays a significant role in reviewing proposed advanced design concepts and supporting activities.

The NRC believes that conversion to the metric system is important to the national interest. The Commission strongly encourages its licensees and license applicants to employ the metric system of measurement wherever and whenever its use is not potentially detrimental to the public health and safety or is not economically infeasible. In order to facilitate use of the metric system by licensees and applicants, the NRC began publishing, as of January 7, 1993, the following documents in dual units: new regulations, major amendments to existing regulations, regulatory guides, NUREG-series documents, policy statements, information notices, generic letters, bulletins, and all written communications directed to the public. Licensees and applicants should follow the guidance outlined in the Commission's position and final policy statement on metrication published on October 7, 1992 (57 FR 46202).

Dated at Rockville, Maryland, this 5th day of July, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 94-16818 Filed 7-11-94; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM93-4-003; Order No. 563-B]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued: July 1, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order denying clarification and rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order denying a request for clarification and rehearing of Order No. 563-A with respect to a proposed Index of Purchasers. The Commission finds the request is premature because the Commission has not made a final determination on this issue.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–2294.
Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1283.
Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0666.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Order Denying Clarification and Rehearing; Order No. 563–B

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

[Docket No. RM93–4–003]

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

Issued: July 1, 1994.

On June 1, 1994, ANR Pipeline Company (ANR) filed a request for clarification or, in the alternative, for rehearing of Order No. 563–A.[1] ANR seeks clarification that the Commission will not require all pipelines to provide an electronic Index of Purchasers, or, in the alternative, rehearing of the Commission's decision adopting this requirement. The Commission denies the request for clarification and rehearing as premature.

Background

In Order No. 563, the Commission adopted a final rule establishing standards governing the electronic dissemination of information relating to transportation of natural gas. The standards generally reflected consensus agreements reached by industry Working Groups composed of members from all facets of the gas industry.

Parties had proposed to include in the standards an electronic Index of Purchasers which would disclose certain information about the capacity rights of shippers on pipelines. The Working Groups, however, were unable to reach consensus on an approach, and a number of participants submitted alternative approaches. One proposal, supported by 44 participants, was to replace some of the Commission's reporting requirements relating to firm and interruptible transportation with an electronic Index composed of nine data elements, available in downloadable form.[2]

In Order No. 563–A, the Commission found that this proposal had significant merit because it would provide useful information to the market about capacity, while setting the stage for reducing filing burdens and streamlining the Commission's reporting requirements. The Commission expressed interest in pursuing this proposal further and instructed Commission staff to work with the industry Working Groups to develop a final proposal by September 30, 1994.

ANR contends the Commission's order is not clear on whether the Index of Purchasers will be adopted upon the submission of the September 30, 1994 report, without an opportunity for further comment. It argues that the Commission should clarify whether this proposal is still open for discussion.

In addition, ANR questions whether the Index of Purchasers is needed to promote the Commission's capacity release objectives. It agrees that such an Index does offer the advantage of reducing reporting and tariff requirements, but maintains that, if the Commission adopts the Index for that reason, it should do so only if it concomitantly eliminates the other reporting requirements. Finally, ANR argues that if the Commission requires information not covered by the existing reporting requirements, the Commission must justify the inclusion of such information. In particular, ANR contends the Commission should not require dissemination of competitively sensitive information.

Discussion

The Commission denies ANR's request that the Commission clarify that pipelines will not have to adopt the Index of Purchasers and ANR's alternative request for rehearing. ANR's requests at this point are premature.

In Order No. 563–A, the Commission only expressed interest in pursuing the Index of Purchasers proposal, but did not make a final determination on the issue. After receiving the September 30, 1994 report from the Working Group, the Commission will evaluate the proposal and determine how best to proceed. As the Commission stated in Order No. 563–A, the Commission will comply with the Administrative Procedure Act and will provide notice and an opportunity for comment prior to making any changes or revisions to the standards.[3] Thus, ANR will have the opportunity to have its views considered at the appropriate time.

The Commission orders:

The request for clarification and rehearing is denied.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16843 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–P

[1] Standards For Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Dec. 23, 1993), *order on reh'g*, Order No. 563–A, 59 FR 23624 (May 6, 1994), III FERC Stats. & Regs. Preambles ¶ 30,994 (May 2, 1994).

[2] The proposal would replace the Commission's initial and subsequent reports (but not the annual reports and bypass reports) and the requirement to include an Index of Purchasers in pipeline tariffs.

[3] Order No. 563–A, III FERC Stats. & Regs. Preambles at 31,036–37.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 90 and 91

RIN 0790–AF61 and RIN 0790–AF64

Revitalizing Base Closure Communities and Community Assistance

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Interim final rule; notice of public hearing.

SUMMARY: The Department of Defense will hold a public hearing to receive

comments on the interim final rule regarding Revitalizing Base Closure Communities published in the **Federal Register** on April 6, 1994 (59 FR 16123). On Tuesday, July 5, 1994 (59 FR 34382), the Department of Defense published in the **Federal Register**, an extension of public comment period through August 5, 1994, to accommodate this public hearing.

DATES: Friday, August 5, 1994, 9:30 a.m. to 12:30 p.m.

ADDRESSES: General Services Administration Headquarters Auditorium, 18th and F Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven Kleiman or Frank Savat, telephone 703–614–5356.

Dated: July 7, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–16839 Filed 7–11–94; 8:45 am]

BILLING CODE 5000–04–M

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32 CFR Part 155

Defense Industrial Personnel Security Clearance Program

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This rule is published to make administrative amendments to reflect an organizational name change within the Department of Defense.

EFFECTIVE DATE: May 20, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. L. Schachter, telephone 703–696–4599.

List of Subjects in 32 CFR Part 155

Administrative practice and procedure; Business and industry; Classified information.

Accordingly, 32 CFR part 155 is amended as follows:

PART 155—[AMENDED]

1. The authority citation for part 155 continues to read as follows:

Authority: 10 U.S.C. 139; E.O. 10865, 25 FR 1583, 3 CFR, 1959–1963 Comp., p. 398.

§ 155.2 [Amended]

2. Section 155.2 is amended in paragraph (c) by revising "Directorate for Industrial Security Clearance Review (DISCR)" to read "Defense Office of Hearings and Appeals (DOHA)"

§ 155.5 [Amended]

3. Section 155.5 is amended by revising "(DISCR)" to read "(DOHA)" in paragraph (b)(2), paragraph (b)(3), paragraph (b)(7), paragraph (b)(8), paragraph (b)(9), paragraph (b)(10), paragraph (b)(12), paragraph (b)(14), paragraph (b)(15), paragraph (b)(19), paragraph (c), and paragraph (d) both times.

§ 155.6 [Amended]

4. Section 155.6 is amended by revising "(DISCR)" to read "(DOHA)" in paragraph (b), introductory text, both times and in paragraph (b)(3), both times.

Appendix A to Part 155 [Amended]

5. Appendix A to Part 155 is amended by revising "(DISCR)" to read "(DOHA)" in section 1., section 2., section 4. both times, section 5., section 8., section 11., section 26., section 27., paragraph 36.f., section 37., section 38., section 39., section 40. both times, section 42., section 43., section 44., introductory text, and section 46.

Dated: July 6, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–16840 Filed 7–11–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AG76

Diseases Specific as to Former Prisoners of War

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations concerning diseases subject to presumptive service connection in former prisoners of war by stating that the statutory term "beriberi heart disease" includes ischemic heart disease in former prisoners of war who had experienced localized edema during captivity. The effect of this amendment is to broaden VA's interpretation of that term based upon new epidemiological evidence.

EFFECTIVE DATE: August 24, 1993.

FOR FURTHER INFORMATION CONTACT: Donald England, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233–3005.

SUPPLEMENTARY INFORMATION: In 1970, Congress passed Public Law 91–376, § 3, 84 Stat. 787, 788 (1970), which established a presumption of service connection for seven categories of diseases and conditions, including "beriberi (including beriberi heart disease)," developing to a ten-percent degree of disability at any time after active service in the case of a veteran held as a prisoner of war in World War II, the Korean Conflict, or the Vietnam War who suffered from dietary deficiencies, forced labor, or inhumane treatment in violation of the Geneva Conventions. The intent of Congress was to recognize diseases suffered by former prisoners of war during captivity for which there is no medical documentation.

Concern remained, however, as to the problems encountered by these veterans in their efforts to prove service connection for disabilities attributable to the conditions of their capture and imprisonment. Some claimed that their ability to prove service connection for disabilities was hampered because there are inadequate medical records and that certain disabilities which were considered to be minor at the time of release from service were becoming more serious. Congress therefore enacted the Former Prisoner of War Benefits Act of 1981, Public Law 97–37, 95 Stat. 935, which eliminated the requirement that former prisoners of war must have suffered from dietary deficiencies, forced labor, or inhumane treatment during confinement in order to qualify for the presumption of service connection.

Beriberi is a disease caused by a deficiency of thiamine (vitamin B1). Early thiamine deficiency is characterized by anorexia, irritability, and weight loss. Later, patients experience weakness, peripheral neuropathy, headache, and tachycardia. Advanced thiamine deficiency presents with involvement of two major organ systems predominantly: the cardiovascular system (the syndrome known as "wet beriberi," i.e., beriberi heart disease) and the nervous system, both central and peripheral (known as "dry beriberi"). *Cecil Textbook of Medicine* 1171 (James B. Wyngaarden, M.D., Lloyd H. Smith, Jr., M.D., J. Claude Bennett, M.D., ed., 1992).

In 1992, the Medical Follow-up Agency of the Institute of Medicine, National Academy of Sciences, issued a study entitled "The Health of Former Prisoners of War" which reported the results of a medical examination survey of former World War II and Korean Conflict POWs and comparable control groups. That study found what it termed a noteworthy association between ischemic heart disease and earlier reporting of localized edema of feet, ankles and legs—presumably due to beriberi heart disease (wet beriberi)—

while in captivity. While there is no known satisfactory explanatory biological mechanism linking beriberi or malnutrition and subsequent chronic heart disease, the examination data from the current study provides epidemiological evidence to suggest there is a connection between conditions during captivity and the later development of ischemic heart disease. According to the study, the reporting of edema in prison camp indicates a specific nutritional deficiency, beriberi, and the location of edema in the feet, ankles and legs is presumably related to beriberi heart disease in prison camp which is caused by thiamine deficiency.

After reviewing this study the Secretary has determined, in keeping with the intent of Congress to provide a presumption of service connection for former prisoners of war who have diseases which result from dietary inadequacies or unsanitary conditions and for which service connection may be difficult to establish, that the term beriberi heart disease found at 38 U.S.C. 1112(b)(2) includes ischemic heart disease if the former prisoner of war suffered localized edema during captivity. We have amended 38 CFR 3.309(c) accordingly.

This amendment is effective August 24, 1993, the date of the Secretary's decision. Since this amendment is an interpretation of existing law, publication as a proposal is not required and the amendment is being issued as a final rule.

Because no notice of proposed rulemaking is required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. et seq.). Further, the rule will not directly affect any small entities; only VA beneficiaries could be directly affected.

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866 of September 30, 1993, entitled Regulatory Planning and Review.

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved June 27, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.309 [Amended]

2. In § 3.309(c), add a note at the end of the paragraph preceding the authority citation to read as follows:

Note: For purposes of this section, the term *beriberi heart disease* includes ischemic heart disease in a former prisoner of war who had experienced localized edema during captivity.

[FR Doc. 94-16624 Filed 7-11-94; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS-117; Amdt. 195-53]

RIN 2137-AB86

Transportation of Hazardous Liquids at 20 Percent or Less of Specified Minimum Yield Strength

AGENCY: Research and Special Programs Administration, (RSPA), DOT.

ACTION: Final Rule.

SUMMARY: RSPA's hazardous liquid pipeline safety regulations do not apply to steel pipelines that operate at 20 percent or less of specified minimum yield strength (SMYS). This final rule extends the regulations to three groups of these pipelines: pipelines that transport highly volatile liquids, pipelines or pipeline segments in populated areas, and pipelines or pipeline segments in navigable waterways. Accidents have shown that regulating these pipelines or pipeline segments would be in the interest of public safety. Moreover, the Pipeline Safety Act of 1992 provides that DOT may not exclude hazardous liquid pipelines from regulation based solely on operation at low internal stress. The final rule responds to this statutory prohibition and will reduce the risk that hazardous liquid pipelines present to public safety and the environment.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow, (202) 366-2392, regarding the subject matter of this final rule. Contact the Dockets Unit, (202) 366-4453, for copies of the final rule or other docket material. Contact the Transportation Safety Institute, Pipeline Safety Division, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125, (405) 680-4643, for a copy of 49 CFR part 195.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA's hazardous liquid pipeline safety regulations do not apply to pipelines operating at a stress level of 20 percent or less of SMYS (hereafter "low-stress pipelines") (see 49 CFR 195.1(b)(3)). DOT excluded these pipelines from part 195 when it first issued the regulations (34 FR 15473; October 4, 1969). However, serious accidents have occurred on low-stress pipelines, suggesting that this blanket exclusion is no longer in the interest of public safety. Moreover, Section 206 of the Pipeline Safety Act of 1992 (PSA) (Pub. L. 102-508; October 24, 1992), amended § 203(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 App. U.S.C. 2002(b)) to provide that "[i]n exercising any discretion under this Act, the Secretary shall not provide an exception to regulation under this Act for any pipeline facility solely on the basis of the fact that such pipeline facility operates at low internal stress."

On October 31, 1990, RSPA published an advance notice of proposed rulemaking on low-stress pipelines (55 FR 45822). The notice described accidents and rulemaking recommendations.

We analyzed data received in response to that notice to learn the benefits and costs of regulating low-stress pipelines. The analysis showed that many operators could face costs disproportionate to benefits if RSPA regulated all low-stress pipelines subject to the HLPSA. So we focused on those low-stress pipelines that pose a higher risk to people and the environment. We identified the commodity in transportation and the location of the pipeline as significant risk factors.

RSPA then published a notice of proposed rulemaking (NPRM) (58 FR 12213; March 3, 1993) that addressed these risk factors. The NPRM proposed to apply the safety standards in part 195 and the drug testing rules in 49 CFR part

199 to low-stress pipelines that transport highly volatile liquids (HVL), traverse populated areas, or traverse navigable waterways. These pipelines were targeted because failures of HVL pipelines usually result in more deaths and injuries than other pipeline failures, and failures in populated areas and navigable waterways generally result in more damages to people and the environment. Furthermore, the risk of outside force damage, a major cause of pipeline accidents, is greater in populated areas and navigable waterways, making failures there somewhat more likely.

The proposed rules would address the statutory restriction (quoted above) on administrative discretion in regulating hazardous liquid pipelines. The proposed rules also would respond to the Oil Pollution Act of 1990 (Pub. L. 101–380), which requires DOT to regulate oil pipelines to prevent pollution of navigable waters.

The NPRM proposed regulating four kinds of pipelines operating at 20 percent or less of SMYS: gathering lines, trunk lines, inter-facility lines, and delivery lines. Unaffected were pipelines that part 195 does not cover for a reason besides low operating stress. For example, the NPRM did not propose regulating low-stress rural gathering lines. Part 195 does not apply to petroleum gathering lines in rural areas, regardless of the pipeline's operating stress level (see § 195.1(b)(4)). Also, with regard to low-stress pipelines that do not transport HVL, the proposed rules did not affect pipelines or pipeline segments that lie outside populated areas or navigable waterways. However, controls or equipment on excepted segments that are necessary for the safe operation of pipeline segments inside populated areas or navigable waterways (e.g., pressure controls) would have to meet part 195 requirements.

II. Response to Comments

A. Introduction

This section of the preamble summarizes and discusses the major written comments RSPA received on the proposed rules. Comments related to the draft economic evaluation of costs and benefits are discussed in the Final Regulatory Evaluation, which is in the docket.

B. Extent and Nature of Comments

The NPRM requested comments by May 3, 1993. RSPA received 13 written comments. The comments came from seven pipeline operators, one pipeline trade association (the American Petroleum Institute (API)), three state pipeline safety agencies, one federal agency (the National Transportation Safety Board (NTSB)), and one public interest organization (the Natural Resources Defense Council (NRDC)).

NTSB, two state agencies, and one operator voiced general support for the NPRM. The rest of the commenters directed their remarks to specific issues. Those issues are discussed below.

C. Rural Pipelines

NRDC and a state agency suggested that RSPA should not continue to except non-HVL low-stress pipelines in rural areas from part 195. These commenters argued that people and the environment in rural areas deserve the same protection as people and the environment in populated areas. They also said that serious accidents have occurred in rural areas, and that low stress is not necessarily an indicator of low risk.

Although RSPA appreciates these commenters' concerns, we have decided not to expand the present rulemaking to include the regulation of additional low-stress pipelines in rural areas. However, the need to regulate rural low-stress pipelines not covered by the present rulemaking will be considered in upcoming proceedings.

Apart from production lines (which are not subject to the HLPSA), most low-stress pipelines in rural areas probably are gathering lines. Until passage of the PSA, rural gathering lines were not subject to regulation under the HLPSA. However, the PSA enlarged RSPA's regulatory authority under the HLPSA to include, with certain exceptions, those rural gathering lines that warrant regulation based on location and other risk factors. As required by Section 208 of the PSA, RSPA will consider regulation of those lines in a future notice of proposed rulemaking.

In addition, we will consider the need to regulate rural low-stress pipelines that are not gathering lines principally on the basis of the risk the low-stress lines pose to the environment. Through response planning in cooperation with other federal and state agencies under the Oil Pollution Act, we are developing a better concept of what constitutes an environmentally-sensitive area for purposes of pipeline environmental regulation. This planning should provide the groundwork both for the future notice of proposed rulemaking on rural gathering lines and for a rulemaking on other rural low-stress pipelines.

D. Adequacy of NPRM

API commented on the impact of the proposed rules on inter-facility lines and delivery lines. It said the proposed rules would significantly affect non-pipeline companies, such as refineries, petrochemical plants, and terminals. But, according to API, these companies may not have been aware of the NPRM. API advised RSPA to publish a separate NPRM directed at inter-facility and delivery lines, with at least a 6-month comment period.

RSPA does not agree that another rulemaking notice is needed.

The published NPRM clearly discussed the proposed applicability of part 195 to inter-facility lines and delivery lines. The NPRM gave all interested persons, including non-pipeline companies, an adequate opportunity to comment on the proposed extension of part 195 to cover these low-stress pipelines. In addition, some non-pipeline companies were aware of the NPRM, because representatives of refineries submitted comments. Other non-pipeline companies should have been aware that RSPA was considering the need to regulate low-stress pipelines. As stated above, RSPA published an advance notice of proposed rulemaking on low-stress pipelines. Also, we specifically invited representatives of the chemical, refining, and terminal industries to attend a meeting on low-stress pipelines (56 FR 23538; May 22, 1991). At that meeting, RSPA staff described all low-stress pipelines excluded from part 195.

E. Economically Marginal Gathering Lines

The NPRM requested comment on whether economically marginal gathering lines (i.e., lines which have little profit) in populated areas should receive separate treatment under the final rules. One operator wanted to exclude from regulation petroleum gathering lines that operate at less than 5 percent of SMYS and transport mostly sediment and water. The operator said these lines present little or no risk, but the cost of regulation would be high because of the large number of lines.

API and an operator said many low-stress pipelines in populated areas are associated with mature wells of diminishing production. These commenters argued regulation would accelerate the marginal economic status of the lines. They also suggested that more truck transportation would follow, with greater risk to the public. The operator particularly asked RSPA not to regulate low-stress pipelines transporting crude oil that has a high flash point. These lines, the commenter said, do not present a high enough risk to public safety to make regulation cost/effective.

API commented that RSPA should apply just a few regulations to pipelines made economically marginal by depleted oil fields and low oil prices. It suggested that regulations applicable to leak detection would be enough. The remaining regulations could be waived, API said, based on evidence of negative economic impact and low risk to the area. An operator also suggested RSPA consider granting waivers for marginal systems based on evidence of a satisfactory safety program.

NTSB said regulation of a class of pipelines should be based solely on the threat to public safety and the environment.

An operator of economically marginal lines said that if safety is the goal of regulation, then profitable and marginal lines should be treated alike.

To resolve the issue of economically marginal gathering lines, we looked at the number of lines involved, the burden of the final rule, and alternative transportation. The record shows that gathering lines in populated areas comprise less than 10 percent of low-stress pipelines subject to the final rule. Based on the comments, we believe only a small fraction of this number is economically marginal, transporting small volumes of oil from older, declining wells. These pipelines would be subject to the part 195 regulations, which, on the whole, parallel the industry standards in the American Society of Mechanical Engineers' B31.4 code, *Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols.* The compliance burden, therefore, would be similar to the burden of meeting the minimum standards the pipeline industry has set for itself. Alternative rail or truck transportation, although perhaps more expensive, is generally available to replace any gathering line transportation that might be shut down. Thus, we do not believe regulation of economically marginal low-stress gathering lines will cause a significant hardship to much of the industry. Also, the potential safety and environmental risks of economically marginal gathering lines is probably higher than that of more profitable lines because of the increased incentive to save costs. Consequently, we decided not to include special provisions in part 195 for economically marginal low-stress gathering lines.

Nevertheless, consistent with API's comment and RSPA's statutory authority, we will consider requests for waiver of particular requirements. Any request should be based on evidence of significantly adverse economic impact, low risk, and adequate operation and maintenance practices.

F. Compliance Time

1. Amount of Time

Proposed § 195.1(d) would have allowed operators of existing low-stress pipelines 1 year after publication of the final rule to comply with parts 195 and 199. However, the NPRM requested comment on whether 1 year would be enough time to prepare existing pipelines for compliance.

An operator said 1 year would not be enough unless RSPA excludes certain economically marginal gathering lines and accepts previous hydrostatic testing. Otherwise the operator said 2 years would be needed to establish an adequate compliance program. One operator said 1 year would be all right for HVL and trunk lines, but 3 years would be needed for other lines. Another operator recommended 3 to 5 years for low-stress pipelines that present a low risk because they carry crude oil with a high flash point. Still another operator said that because many distinct pipelines would be brought under the regulations (possibly 3,000), the minimum compliance period should be 5 years. API and an operator argued that 3, 4, or 5 years would be needed to carry out all the requirements.

NTSB argued that 1 year would be sufficient because many operators of low-stress pipelines have other pipelines that are subject to parts 195 and 199. Also, NTSB said compliance would mostly involve procedural changes. It further said written procedures and documentation are readily available for operators not already involved with parts 195 and 199. A state agency also said 1 year would be sufficient for operators to prepare for compliance.

In view of the diversity of conditions and importance of plans, procedures, and testing, RSPA agrees that many operators will need more than 1 year to complete the steps necessary for existing pipelines to meet parts 195 and 199. Of particular concern is the time needed to craft plans and procedures that address the individual conditions of the many distinct pipelines to which the final rule applies. However, operators should not need more than 90 days to learn about the new requirements and begin reporting accidents that might occur on low-stress pipelines. Also, within 90 days operators should be able to meet part 195 design, construction, and hydrostatic testing requirements on portions of existing pipelines that they replace, relocate, or otherwise change after the effective date of the final rule. Therefore, final § 195.1(c) allows existing low-stress pipelines 2 years from today to comply with parts 195 and 199. However, accident reporting under subpart B of part 195 begins 90 days from today. Also, replacements, relocations, and other changes made to existing pipelines on or after 90 days from today must meet the design, construction, and hydrostatic testing requirements of part 195 before operation.

Note that the allowable compliance time for existing low-stress pipelines is stated in final § 195.1(c), instead of § 195.1(d) as proposed. We made this change because under existing § 195.1(c), the deadline has passed for carbon dioxide pipelines to comply with part 195 (July 12, 1992). Accordingly, the compliance time for carbon dioxide pipelines is being removed from § 195.1(c). This change makes § 195.1(c) available to state the compliance time for low-stress pipelines.

G. Populated Area

RSPA proposed to define "populated area" as "any onshore area other than a rural area." Section 195.2 defines "rural area" as "outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development." So a populated area would be an onshore area inside such political, residential, or commercial area.

One operator suggested we exclude industrial areas from the definition of populated area. Because of the lack of residential housing and associated small businesses and shopping centers in these areas, the operator said regulation would not increase safety. RSPA strongly disagrees, however, because the rules in parts 195 and 199 protect people at large, not just people in residential communities. Plant personnel and the environment in industrial areas are at risk from low-stress pipelines.

An operator asked if part 195 would apply to an entire line section between block valves if only part of the line section crosses a populated area. As previously explained, the pipeline segment inside the populated area and any equipment and controls located elsewhere that are necessary for operation of the segment would have to meet part 195.

Part 195 currently uses the term "populated area" in §§ 195.234(e)(5), 195.260(c), and 195.306 (b)(1) and (c)(1). We did not intend that the definition of

"populated area" proposed in the NPRM affect these rules. We proposed the definition merely to clarify the proposed applicability of part 195 to low-stress pipelines. Therefore, the final rule does not contain a definition of populated area. Instead, final § 195.1(b)(3), which defines the applicability of part 195 to low-stress pipelines, incorporates the substance of the proposed definition.

For similar reasons, we revised § 195.1(b)(3) to include the substance of the proposed definition of "navigable waterway." Section 195.412(b) uses this term, but we intended the proposed definition to clarify only the proposed applicability of part 195 to low-stress pipelines.

H. Definition of Highly Volatile Liquid

Section 195.2 defines a "highly volatile liquid" as a hazardous liquid that will form a vapor cloud when released to the atmosphere and that has a vapor pressure exceeding 276 kPa (40 psia) at 37.8°C (100°F). A "hazardous liquid" is defined as petroleum, petroleum products, or anhydrous ammonia.

One commenter thought RSPA should amend the current definition of "highly volatile liquid" to exclude gas saturated petroleum/water mixtures if the liquid remaining after release of the gas has a vapor pressure of 40 psia or less at 100°F. However, the definition does not cover such mixtures. The deciding factors in the definition are (1) the vapor pressure of the hazardous liquid in transportation; and (2) whether that liquid will evaporate into a vapor cloud upon release to the atmosphere. In the commenter's example, the gas in the mixture is not relevant in determining the vapor pressure of the hazardous liquid in transportation. Since the mixture without the gas has a vapor pressure of 40 psia or less, it is not a highly volatile liquid.

I. Hydrostatic Testing

The NPRM proposed to require that operators hydrostatically test new low-stress pipelines and existing low-stress pipelines that are replaced, relocated, or otherwise changed. In addition, the NPRM proposed that within 1 year after publication of the final rule, existing low-stress pipelines transporting HVL must have been hydrostatically tested under subpart E of part 195 or not operate above 80 percent of a previous qualified test or operating pressure (proposed § 195.302(c)).

API suggested that RSPA allow 2 years instead of 1 year to complete the testing of existing HVL low-stress pipelines. Considering the total effort companies will need to meet parts 195 and 199, RSPA agrees that 2 years is more reasonable than 1 year to prepare for compliance. As stated above, final § 195.1(c) provides a 2-year compliance time for existing low-stress pipelines. This compliance time applies to testing existing HVL low-stress pipelines under subpart E of part 195. Therefore, a compliance time is not separately stated in final § 195.302(c).

Except for low-stress pipelines that are replaced, relocated, or otherwise changed, the NPRM did not propose to require operators to hydrostatically test existing non-HVL low-stress pipelines. Furthermore, the NPRM explained that non-HVL low-stress pipelines were not subject to the hydrostatic testing proposal in Docket PS–121 (56 FR 23538), which affected many older existing hazardous liquid pipelines.

However, under proposed § 195.406(a)(6), any non-HVL low-stress pipeline not tested to subpart E standards could not be operated at more than "80 percent of the test pressure or 100 percent of the highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted." One operator suggested that proposed § 195.406(a)(6) would have the effect of requiring hydrostatic testing of existing non-HVL low-stress pipelines. Testing could be necessary if the requisite documentation were not available, or planned operations were not consistent with prior documented test or operating pressures. RSPA did not intend this result. In fact, we proposed § 195.406(a)(6) to assure that non-HVL low-stress pipelines could continue to operate without hydrostatic testing under subpart E. Upon further consideration, RSPA believes proposed § 195.406(a)(6) is unnecessary for that purpose, since § 195.302 clearly states which pipelines are subject to testing. So we have not adopted proposed § 195.406(a)(6) in the final rule.

Also, § 195.406(a)(5) covers the substance of proposed § 195.406(a)(7), concerning the operating pressure of HVL low-stress pipelines not tested to subpart E. Therefore, we have not adopted proposed § 195.406(a)(7) in the final rule.

One operator thought the proposed rules did not clearly state the proposed exclusion of existing non-HVL low-stress pipelines from hydrostatic testing requirements. RSPA agrees that subpart E should clearly state the applicability of testing requirements to low-stress pipelines. Thus, we revised existing § 195.302, General requirements, to clarify the exception of non-HVL low-stress pipelines from testing under subpart E.

J. Pneumatic Testing

The NPRM requested comment on whether pneumatic testing should be allowed as an alternative to hydrostatic testing. API and a state agency favored pneumatic testing as an alternative.

Three operators and a state agency encouraged RSPA to allow pneumatic testing as an alternative to hydrostatic testing. They pointed out that pneumatic testing is permissible for low-stress pipelines in petroleum service under the ASME B31.4 Code (section 437.4.3; 1989 edition). Two of these operators also favored pneumatic testing because it would eliminate the need to collect and treat test water.

One operator saw little advantage in pneumatically testing new low-stress pipelines, because the cost of waste water disposal is not high for new lines. Two operators thought pneumatic testing would be hazardous for existing low-stress pipelines because of the potential to mix hydrocarbons and air inside the pipeline.

Part 195 now permits pneumatic testing as an alternative to hydrostatic testing (§ 195.306(c)) for carbon dioxide pipelines. Also, RSPA's gas pipeline safety standards allow pneumatic testing as an alternative to hydrostatic testing (49 CFR 192.503). In view of these standards, the environmental advantages of pneumatic testing, and the acceptability of pneumatic testing under the ASME B31.4 code, we believe subpart E of part 195 should allow operators the option of pneumatically testing low-stress pipelines. Therefore, the final rule amends § 195.306 to allow pneumatic testing as an alternative to hydrostatic testing on low-stress pipelines.

RSPA recognizes that a mixture of air and residual hydrocarbons could create a potential hazard if operators pneumatically test an existing low-stress pipeline with air instead of inert gas. However, this risk has not been a significant safety problem for gas pipelines under 49 CFR part 192. It is common practice for operators to use proper precautions if air is the test medium.

K. Environmentally Sensitive Areas

As stated in the NPRM, we have deferred proposing to regulate non-HVL low-stress pipelines in rural "environmentally sensitive areas" because we have not yet developed a suitable definition of "environmentally sensitive area." We also need time to learn the extent to which pipeline spills

affect such areas. Although the definition of "environmentally sensitive area" in the oil spill response plan regulations (49 CFR part 194) has been used for planning purposes, we believe that definition is too broad to use under part 195. A definition of "environmentally sensitive area" under part 195 must be specific enough to distinguish pipelines and segments of pipeline that are subject to the regulations.

As required by § 202 of the PSA, RSPA has scheduled publication of a notice of proposed rulemaking to define environmentally sensitive areas, high density population areas, and navigable waterways. (See the "Semiannual Regulatory Agenda" at 59 FR 20662; April 25, 1994). We also intend to propose, as required by the PSA, to require all operators of hazardous liquid pipelines (including low-stress pipelines) to identify and inventory their pipelines located in those areas and waterways.

NRDC commented that there is ample evidence of pipeline damage in rural environmentally sensitive areas outside navigable waterways, so RSPA should not postpone regulation of low-stress pipelines in those areas. NRDC suggested that RSPA use a broad definition of environmentally sensitive area for purposes of regulating low-stress pipelines, pending adoption of a definition required by the PSA. RSPA has not expanded the final rule to cover low-stress pipelines in environmentally sensitive areas outside the proposed areas of regulation, because the NPRM did not propose regulation of those pipelines at this time. However, we agree with NRDC's concerns about environmental risks, and we will consider those concerns in future rulemaking proceedings on rural low-stress pipelines. As mentioned above, our increased understanding of environmentally sensitive area in the pipeline context should provide a basis for future notices of proposed rulemaking on rural gathering lines and other rural low-stress pipelines.

One operator thought RSPA should postpone the regulation of low-stress pipelines entirely until it proposes regulations for non-HVL low-stress pipelines in rural environmentally sensitive areas. This operator said additional work and effort could be avoided if it could identify pipelines in environmentally sensitive areas before establishing a compliance program for part 195. The commenter, however, did not address the potential loss of benefits that would result if regulation of low-stress pipelines were deferred pending decisions on environmentally sensitive areas. Nevertheless, RSPA believes that once compliance programs are in place, extending the programs to cover additional pipeline segments, if required, should not be too difficult. Furthermore, there is nothing to prevent an operator from bringing all segments of a pipeline into compliance with part 195 and immediately achieving the benefits.

L. Single Public Thoroughfare

In the NPRM (at 12215), RSPA mentioned that "intra-facility piping connecting adjacent facilities separated by navigable waterways or separated by third party property other than single public thoroughfares in populated areas would be subject to the regulations." A state agency and an operator asked us to clarify this single-public-thoroughfare exception.

The intra-facility piping mentioned in the NPRM is functionally equivalent to in-plant piping, which is excluded from regulation under § 195.1(b)(6). Essentially, intra-facility piping is transfer piping used for plant processes. However, plants may be divided by a single public thoroughfare, and transfer piping crosses the thoroughfare. A public thoroughfare includes any road, from a country lane to an interstate highway, but not a railroad or navigable waterway. Because the operating conditions of transfer piping that crosses such thoroughfares are comparable in most respects to those of other in-plant piping, RSPA considers thoroughfare crossings to be in-plant piping. This interpretation of § 195.1(b)(6) is in effect now. We will apply it to low-stress pipelines under this final rule. The thoroughfare exception does not apply to inter-facility lines or delivery lines, because these lines are different from in-plant piping.

One commenter, representing a refining department, suggested that plant transfer piping that crosses property other than a thoroughfare right-of-way, such as industrial property, should also qualify as in-plant piping under § 195.1(b)(6). This commenter also suggested that RSPA exclude inter-facility lines in industrial areas from regulation. Neither comment was adopted. We addressed the need to regulate low-stress pipelines in industrial areas under the subheading "G. Populated Areas" supra.

M. Offshore Pipelines

One operator commented that the NPRM lacked justification for the proposed regulation of offshore low-stress pipelines. RSPA disagrees because the accident consequences discussed in the NPRM and the advance notice of proposed rulemaking could occur offshore. Also, the NPRM discussed the need to prevent pollution of navigable waterways, which includes offshore areas. In the final rule, § 195.1(b)(3) clarifies the coverage of offshore low-stress pipelines.

N. Drug Testing

One refinery operator suggested that RSPA except non-pipeline companies from part 199, if they have a comparable drug program and few low-stress pipelines. This commenter's primary concern was the cost of administering two separate anti-drug programs, the company's own program and another to satisfy part 199. RSPA believes this commenter may have overestimated the burden of compliance with part 199. Operators with comparable programs need not begin a separate part 199 program. They could modify their present programs as necessary to meet part 199 standards. Separate plans would not be required, although the parts of a single plan intended to meet part 199 would have to be clear and distinct from separate company requirements. Separate tests and analyses would be required only if the company's program required testing for drugs not covered by part 199. Considering the savings in compliance costs for operators with comparable programs and the continuing concern that illegal drug use may adversely affect the safe operation of pipelines, we did not adopt the refinery operator's comment.

O. Marine Terminal Piping

One operator pointed out that the US Coast Guard already regulates certain low-stress pipelines at marine terminals. This commenter recommended that RSPA continue to except these pipelines from part 195. Alternatively, the operator suggested RSPA establish a jurisdictional boundary with the Coast Guard to avoid duplication of agency efforts. A boundary, said the operator, also would eliminate the confusion over which DOT regulations apply to low-stress pipelines at marine terminals.

In port areas, RSPA and the US Coast Guard have independent regulatory missions, as assigned by federal statutes. So, hazardous liquid pipelines in port areas come under a combination of RSPA and Coast Guard regulations. At present, we know of no conflicts or undue burdens created by these separate regulatory programs. If such difficulties surface with respect to low-stress pipelines, we will work with the Coast Guard to minimize their impact.

P. Miscellaneous Clarifications

1. Pipelines Subject to Regulations

Commenting on low-stress pipelines that cross navigable waterways in rural areas, API and an operator suggested that the final rule clarify how much of the entire pipeline the regulations cover. The operator thought only that part of the pipeline that actually crosses the waterway should be covered.

As stated above, for non-HVL low-stress pipelines, we intended to apply the regulations only to that part of the pipeline in the populated area or navigable waterway. Final § 195.1(b)(3) clarifies this intended application by including "or pipeline segments" immediately after "pipelines."

One operator thought the wording of the proposed compliance period (proposed § 195.1(d)) was inconsistent with the proposed revision of § 195.1(b)(3). The operator thought proposed § 195.1(d) implied that operators of non-HVL low-stress pipelines located outside populated areas and navigable waterways would have to comply with the regulations within 1 year. To avoid this misconception, we changed proposed § 195.1(d) (now § 195.1(c)) to show that the compliance period applies only to existing low-stress pipelines covered by part 195. We also clarified the wording of proposed § 195.1(b)(3) to better identify low-stress pipelines that part 195 does not cover.

2. Definition of Low-Stress Pipeline

Another operator suggested the final rule define the various kinds of low-stress pipelines covered. As stated above, the proposed rules affected several kinds of distinct pipelines that operate over their full length at 20 percent or less of SMYS, such as trunk lines and inter-facility lines. Nevertheless, since the final rules do not refer to low-stress pipelines by kind, there is no need to define each kind of low-stress pipeline the rules cover.

We have, however, added a definition of the term "low-stress pipeline" to § 195.2, based on the present wording of § 195.1(b)(3). The definition enabled us to clarify that a pipeline (in the sense of a continuing run of pipe and components used for transportation) must operate from beginning to end at 20 percent or less of SMYS to qualify as a low-stress pipeline. In drafting the final rules, the definition also allowed us to simplify the wording of several proposed rules.

3. Applicability of Design and Construction Standards

One proposed rule simplified by using the term "low-stress pipeline" was § 195.401(c)(5). The purpose of this proposed rule was to state that the design and construction requirements of part 195 would not apply to low-stress pipelines on which construction begins before the effective date of the final rule. Several commenters thought proposed § 195.401(c)(5) lacked clarity. So we revised it in the style of similar provisions of § 195.401(c).

In addition, one commenter pointed out that proposed § 195.401(c)(5) would not except existing low-stress pipelines from design and construction rules applicable to certain interstate and intrastate pipelines under §§ 195.401(c)(1)-(3). The final rule resolves this drafting problem by excluding low-stress pipelines from the interstate and intrastate designations under §§ 195.401(c)(1)-(3).

4. Cathodic Protection

Section 195.414, Cathodic protection, is amended in paragraphs (b) and (c). We separated requirements applicable to low-stress pipelines from existing requirements applicable to interstate and intrastate pipelines.

III. Advisory Committee

The Technical Hazardous Liquid Pipeline Safety Standards Committee is a federal advisory committee established under Section 204 of the HLPSA (49 App. U.S.C. 2003). The committee advises DOT on the feasibility, reasonableness, and practicability of standards proposed under the HLPSA.

On August 4, 1993, the Committee met in Washington, D.C. and discussed the NPRM. After due deliberation, the committee voted unanimously in favor of the proposed rules. The Committee's report and a transcript of the meeting are available for inspection in the docket.

IV. Regulatory Analyses and Notices

A. Paperwork Reduction Act

This final rule will increase current information collection burdens under parts 195 and 199. The Office of Management and Budget (OMB) has approved this increased burden under the Paperwork Reduction Act of 1980, as amended (44 U.S.C. Chap. 35). The OMB approval numbers are 2137–0047, 2137–0578, 2137–0579, and 2137–0587.

B. Executive Order 12866 and DOT Policies and Procedures

OMB considers this final rule a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993). Therefore, OMB has reviewed this final rule. DOT considers this final rule significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979).

The comments RSPA received on the draft regulatory evaluation of costs and benefits are summarized and discussed in the final regulatory evaluation. The final evaluation, which shows that this final rule will result in net benefits to society, is available for review in the docket.

C. Regulatory Flexibility Act

Based on the facts available about the anticipated impact of this rulemaking action, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that the action will not have a significant economic impact on a substantial number of small entities. Few small entities operate low-stress pipelines subject to this final rule.

D. Executive Order 12612

RSPA has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 (52 FR 41685). RSPA has determined that the action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 195 is amended as follows:

1. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2001 *et seq.*; 49 CFR 1.53.

2. In § 195.1, the introductory text of paragraph (b) is republished, paragraphs (b)(3) and (c) are revised to read as follows:

§ 195.1 Applicability.

* * * * *

(b) This part does not apply to—

* * * * *

(3) Transportation of non-HVL through low-stress pipelines, except for any pipeline or pipeline segment that is located—

(i) In an onshore area other than a rural area;

(ii) Offshore; or

(iii) In a waterway that is navigable in fact and currently used for commercial navigation;

* * * * *

(c) A low-stress pipeline to which this part applies that exists on July 12, 1994 need not comply with this part or part 199 of this chapter until July 12, 1996, except as follows:

(1) Subpart B of this part applies beginning on October 10, 1994; and

(2) Any replacement, relocation, or other change made to existing pipelines after October 9, 1994 must comply with Subparts A and C through E of this part.

3. In § 195.2, the following definition is added:

§ 195.2 Definitions.

* * * * *

Low-stress pipeline means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

* * * * *

4. In § 195.302, paragraph (b) and the introductory text of paragraph (c) are revised to read as follows:

§ 195.302 General requirements.

* * * * *

(b) Except for pipelines converted under § 195.5, the following pipelines may be operated without pressure testing under this subpart:

(1) Any hazardous liquid pipeline whose maximum operating pressure is established under § 195.406(a)(5) that is—

(i) An interstate pipeline constructed before January 8, 1971;

(ii) An interstate offshore gathering line constructed before August 1, 1977;

(iii) An intrastate pipeline constructed before October 21, 1985; or

(iv) A low-stress pipeline constructed before August 11, 1994 that transports HVL.

(2) Any carbon dioxide pipeline constructed before July 12, 1991, that—

(i) Has its maximum operating pressure established under § 195.406(a)(5); or

(ii) Is located in a rural area as part of a production field distribution system.

(3) Any low-stress pipeline constructed before August 11, 1994 that does not transport HVL.

(c) Except for pipelines that transport HVL onshore and low-stress pipelines, the following compliance deadlines apply to pipelines under paragraphs (b)(1) and (b)(2)(i) of this section that have not been pressure tested under this subpart:

* * * * *

5. In § 195.306, paragraph (a) is revised and paragraph (d) is added, to read as follows:

§ 195.306 Test medium.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, water must be used as the test medium.

* * * * *

(d) Air or inert gas may be used as the test medium in low-stress pipelines.

6. Section 195.401(c) is revised to read as follows:

§ 195.401 General requirements.

* * * * *

(c) Except as provided in § 195.5, no operator may operate any part of any of the following pipelines unless it was designed and constructed as required by this part:

(1) An interstate pipeline, other than a low-stress pipeline, on which construction was begun after March 31, 1970, that transports hazardous liquid.

(2) An interstate offshore gathering line, other than a low-stress pipeline, on which construction was begun after July 31, 1977, that transports hazardous liquid.

(3) An intrastate pipeline, other than a low-stress pipeline, on which construction was begun after October 20, 1985, that transports hazardous liquid.

(4) A pipeline on which construction was begun after July 11, 1991, that transports carbon dioxide.

(5) A low-stress pipeline on which construction was begun after August 10, 1994.

8. Sections 195.414(b) and (c) are revised to read as follows:

§ 195.414 Cathodic protection.

* * * * *

(b) Each operator shall electrically inspect each bare hazardous liquid interstate pipeline, other than a low-stress pipeline, before April 1, 1975; each bare hazardous liquid intrastate pipeline, other than a low-stress pipeline, before October 20, 1990; each bare carbon dioxide pipeline before July 12, 1994; and each bare low-stress pipeline before July 12, 1996 to determine any areas in which active corrosion is taking place. The operator may not increase its established operating pressure on a section of bare pipeline until the section has been so electrically inspected. In any areas where active corrosion is found, the operator shall provide cathodic protection. Section 195.416(f) and (g) apply to all corroded pipe that is found.

(c) Each operator shall electrically inspect all breakout tank areas and buried pumping station piping on hazardous liquid interstate pipelines, other than low-stress pipelines, before April 1, 1973; on hazardous liquid intrastate pipelines, other than low-stress pipelines, before October 20, 1988; on carbon dioxide pipelines before July 12, 1994; and on low-stress pipelines before July 12, 1996 as to the need for cathodic protection, and cathodic protection shall be provided where necessary.

Issued in Washington, DC, on July 5, 1994.

Ana Sol Gutiérrez,

Acting Administrator.

[FR Doc. 94–16720 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 940414–4191; I.D. 032494B]

Marine Mammals; Subsistence Taking of Northern Fur Seals

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

ACTION: Final rule; fur seal subsistence harvest estimates on the Pribilof Islands.

SUMMARY: Pursuant to the regulations governing the subsistence taking of northern fur seals, NMFS is required to publish an estimate of the number of seals expected to be harvested in the current year to meet the subsistence needs of the Aleut residents of the Pribilof Islands, AK. Additionally, this document amends existing fur seal regulations, making the subsistence harvest take estimates applicable for 3 years instead of 1 year. The intended effect of this rule is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof residents while minimizing negative effects on the seal population.

EFFECTIVE DATE: This final notice of subsistence need estimates is effective July 12, 1994, and applies to the harvest beginning June 23, 1994. The final rule that amends existing fur seal regulations, making the harvest estimates applicable for 3 years instead of 1 year, is effective August 11, 1994.

ADDRESSES: Dr. William W. Fox, Jr., Director, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steve Zimmerman, (907) 586–7235,

Margot Bohan or Michael Payne, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

The northern fur seal (*Callorhinus ursinus*) population is considered depleted under the Marine Mammal Protection Act (MMPA) (50 CFR 216.15(c)). The subsistence harvest of northern fur seals on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 215, Subpart D—Taking for Subsistence Purposes, and has been regulated to minimize negative effects on the population. These regulations were published under the authority of the Fur Seal Act, 15 U.S.C. 1151 *et seq.*, and the MMPA, 16 U.S.C. 1361 *et seq.* (see 51 FR 24828, July 9, 1986).

The purpose of these regulations is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof Aleuts while using humane harvesting methods, and to restrict taking by sex, age, and season for herd management purposes.

The St. Paul and St. George Islands' harvest estimates are given as a range, the lower end of which can be exceeded if NMFS is given notification and the Assistant Administrator for Fisheries, NOAA (AA), determines that the subsistence needs of the Aleut residents from either of the islands have not been satisfied. Conversely, the harvest can be terminated before the lower range of the estimate is reached if it is determined that the subsistence needs of the Pribilof Aleuts have been met or the harvest has been conducted in a wasteful manner.

NMFS published a summary notice of the 1993 fur seal harvest on November 1, 1993 (58 FR 58297). The proposed estimates for the 1994 fur seal subsistence harvest and the proposed rule to make the harvest take estimates applicable for 3 years instead of 1 year were published on May 13, 1994 (59 FR 25024). Following acceptance and consideration of public comments on this proposal, NMFS is publishing this final notice of the expected harvest levels for 1994, as follows: St. Paul Island: 1,645–2,000; St. George Island: 281–500. In addition, this document amends existing fur seal regulations, making these take estimates applicable for 3 years instead of 1 year.

Comments

NMFS received four sets of comments on the proposed harvest estimates and the proposed rule.

Comment: One commenter opposed the proposed amendment to the existing fur seal regulations. The commenter stated that NMFS continues to allow the wasteful taking of fur seals on the Pribilof Islands, and that the proposed rule change would place NMFS in the position of endorsing and authorizing wasteful take for an extended period. The commenter asserted that rather than addressing the wasteful seal killing that has persisted on those islands for years, NMFS, to the contrary, now proposes to institutionalize this improper conduct for 3 years without further question.

Another commenter voiced support for the regulatory amendment. The commenter reasoned that the take has been relatively stable and the upper and lower limits of the estimate range were wide enough to allow change, and, therefore, as the populations of animals and people vary, so can the target goals for future harvests.

Response: Regulations on subsistence taking of northern fur seals have been devised to limit take to a level providing for legitimate subsistence needs of the Pribilof Natives while minimizing negative effects on the seal population. These regulations are intended, thus, as preventative measures against wasteful taking and improper conduct within each harvest season. (Wasteful taking is discussed in greater detail at 58 FR 42027, August 6, 1993.) The rationale behind the 3 year estimate of subsistence need versus an annual estimate was explained in the proposed estimates of subsistence need (59 FR 25024, May 13, 1994). NMFS has recognized the need to reevaluate the regulatory issues regarding subsistence (57 FR 34081, August 3, 1992). As a first step towards addressing this need, NMFS proposed that § 215.32(b) of the fur seal regulations be applicable for a 3-year period, beginning in 1994. The regulatory amendment is based on the fact that the actual number of fur seals harvested each year since 1989 has been relatively consistent, and the fur seal take has never exceeded the upper limit of the estimated range for subsistence need within any year of the harvest. NMFS anticipates that the subsistence needs of the Pribilof Island residents may increase during the next 3 years. However, based on historical evidence to date, the year-to-year subsistence needs are not expected to increase to levels exceeding the range established in this final estimate.

Comment: One commenter supported the implementation of a cooperative management plan as a means of protecting the fur seal. The cooperative plan would expand governmental conservation efforts, and involve local people on the islands to a larger extent in fur seal management issues. The commenter requested that particular effort be made to establish a structure that will enable the residents of the Pribilof Islands to more actively participate in the monitoring and regulating of the harvest.

Response: NMFS agrees with the commenter's suggestions. Section 119 of the recently reauthorized MMPA allows for NMFS to enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and to provide for a co-management of subsistence use by Alaska Natives. NMFS intends to pursue the development of such a program that would further the goal of cooperative management and monitoring with the Alaskan native organizations.

Comment: One commenter stated that the 1994 subsistence estimates are too high because they are based on historically wasteful seal killing practices carried over from the period of commercial harvest when only the choicest cuts of meat were taken for human consumption. The commenter continued by stating that through the adoption of these estimates, NMFS further institutionalizes waste and sanctions a level of seal killing known to reflect wasteful practices.

Response: This comment is similar to the one presented and discussed in the final subsistence estimates for 1993 (58 FR 42027, August 6, 1993). In that final notice, a commenter maintained that the present harvest level did not reflect the true subsistence need on the Pribilof Islands. However, available information indicates that the present number of fur seals taken for subsistence on the Pribilof Islands is not higher than necessary to provide for subsistence needs. During one of the last periods when fur seals were taken solely for subsistence purposes on St. Paul Island, 1912–16, the number of fur seals taken each year (range 1,764–3,483) was significantly higher than it is at present, even though the human population on St. Paul Island at that time was less than one-half of the present population. Therefore, the commenter has inaccurately assumed that practices carried over from the commercial harvest have resulted in a level of subsistence use greater than that used historically on the Pribilof Islands.

Comment: A commenter stated that there is no basis for setting the lower end of the estimated subsistence range based on the greatest number of seals killed during any year over the past 6 years.

Response: NMFS believes that the present range of fur seal subsistence estimates used on St. Paul and St. George Islands are justified. During the past 3 years the number of seals taken

in the subsistence harvest has stabilized, ranging from 1,482 to 1,645 takes each year on St. Paul Island and from 194 to 319 each year on St. George Island. Generally, the lower limits of the estimate ranges for the islands have been approached during each of the past 3 years, but a difference of 1 or 2 actual days of harvest between years can result in the difference observed between the estimated number and actual number of seals taken within any one season. The apparent trend toward stability in the harvest totals on St. Paul and St. George Islands indicates to NMFS that the proposed estimates of annual need accurately reflect the actual subsistence requirements on the islands.

Comment: One commenter stated that the estimate of need should not be based on numbers of seals. Rather, it should be based on the quantity of meat that is required for subsistence needs. The commenter provided data indicating that, by its calculations, approximately 450–570 fewer seals could have been harvested on St. Paul Island in 1993 had the harvest estimates been based on the amount of meat required by residents of St. Paul, rather than based on a number of seals required.

Response: The commenter's estimate of the number of seals that need not have been killed in 1993 (450–570) was based on an average maximum percent-use value of 60 percent. This value was a result of a 1987 study in which 83 seals were weighed before and after virtually all consumable parts (including many parts that are only marginally edible, such as connective tissues, etc.) had been removed (i.e., everything was taken except for the pelt, blubber, skull, neck, inedible internal organs, and body fluids). This butchering technique is referred to as a whole cut, and a mean 53.3 percent of each animal (maximum approximately 60 percent) was dressed out under these circumstances (53 FR 17773, May 18, 1988).

During the 1987 harvest, 101 carcasses were also weighed before and after butchering had removed only the front flippers, shoulders, breasts, hearts and livers (referred to as the butterfly cut), the parts historically eaten. A mean 29.1 percent of each animal was dressed out under these circumstances (53 FR 17773, May 18, 1988). Thus, it was determined that the range of percent-use values between animals that have been butchered to remove only selected parts, and animals that have been butchered to remove virtually all consumable parts (including many parts only marginally edible), lies between 29.1 and 53.3 percent of the initial carcass weight. Whether the harvest is being conducted in a wasteful versus non-wasteful manner focuses on whether or not the butterfly cut method of butchering is interpreted as a wasteful manner as defined in the regulations. NMFS determined, based on a 1992 study, that the butterfly cut does not represent a wasteful manner of taking (discussed in greater detail at 58 FR 42027, August 6, 1993).

During the 1992 harvest, NMFS weighed the whole carcass, as well as the weight of each major body part (breast, shoulder, arm, ribs, backbone, and hindquarter as well as heart, liver, front flippers, rear flippers, head, guts and pelt), to determine the proportion of edible meat that was available from the different parts of the body for each of six fur seals. In summary, the mean weight of the parts taken in a whole cut totaled 54.9 percent of the beginning weight of the seals, and the mean weight for the parts constituting a butterfly cut was 32.5 percent, indicating a mean percent-use difference of approximately 22 percent. However, using mean values from the 1992 study, the total amount of edible meat (excluding bone, minimally edible connective tissue, and inedible tissue) available from a whole cut seal was 29.6 percent (range 26.8–31.6) of the beginning weight of the animal compared to 21.1 percent (range 18.9–23.4) taken from a butterfly cut seal. Therefore, the average difference in the amount of edible meat between the two butchering techniques is approximately 8–9 percent of the original body weight of the animal, not the 22 percent difference that has been widely used to characterize the two different techniques, and that was used in the commenters calculations. As NMFS explained in the 1993 document of final subsistence estimates, while a whole cut does result in more meat being made available for subsistence use than does the butterfly cut, both cuts result in a substantial portion of the edible parts of the seal being used for subsistence, and the real difference in edible meat being made available to the user has been greatly exaggerated.

Comment: One commenter cautioned that NMFS must guard against economic incentives that might lead to higher harvest levels. The commenter continued to state that NMFS should retrieve all seal penis bones or bacula to assure that potential trade in these items will not result in excessive seal killing. The commenter did not feel that this was either unreasonable or burdensome on the part of NMFS. Moreover, some Pribilof residents have suggested this approach as a means to reassure concerned parties that the commercial value of seal bacula is not an incentive for harvesting fur seals.

Response: NMFS' position is that the subsistence harvest and the estimates of subsistence needs must not be based upon commercial interests. There is no indication that the harvest is being driven by commercial interests; however, NMFS will continue to monitor the disposal of carcasses, and the removal of bacula from animals taken in the harvest, to ensure that commercial interests are not factors in the subsistence harvest.

Comment: One commenter stated that the subsistence harvest methods used by the Aleut sealers do not need to be monitored or regulated to ensure compliance with NMFS' standards for substantial use of seal carcasses.

Response: The regulations governing the subsistence harvest of fur seals require that NMFS' representatives monitor the harvest and collect information on the number of seals taken and the extent of utilization of the fur seals taken (51 FR 24832, July 9, 1986). NMFS believes that alternatives to the present fur seal management regime should be considered and discussed during the development of a cooperation management program under section 119 of the MMPA. The commenters' concerns will be considered further in these discussions and in any future rulemaking to revise these regulations.

Subsistence Harvest Estimates for 1994 Through 1996

NMFS published a document proposing a range of subsistence need estimates for 1994–96 based on the results of the 1992–93 harvests (59 FR 25024, May 13, 1994). NMFS proposed that the lower bound of the harvest estimate for northern fur seals on St. Paul Island for each year, 1994–96, remain at 1,645 (the same as that in 1992 and 1993). If the Aleut residents of St. Paul Island reach the lower limit of the estimated range of animals during the harvest, and still have unmet subsistence needs, they may request an additional number of seals, up to a harvest total of 2,000 fur seals. For St. George Island, NMFS also proposed that the lower bound of the estimate of subsistence need for each year, 1994–96, remain at the 1992 and 1993 level of 281 fur seals. If the Aleut residents of St. George Island reach the lower level of estimated need during the 1994 harvest, and still have unmet subsistence needs, they may request an additional number of seals up to a harvest total of 500 (the upper bound estimated for the 1991–93 harvests).

The Aleut residents of St. Paul and St. George Islands may harvest up to the lower bound of the applicable estimate between June 23 and August 8 of each year, 1994–96. If, at any time during the harvest, the lower estimate of subsistence need for an island is reached, the harvest must be suspended for no longer than 48 hours, pursuant to 50 CFR 215.32(e)(1)(iii), pending a review of the harvest data to determine if the subsistence needs of the island residents have been met. At such time, the Pribilof Aleuts may submit information indicating that subsistence needs (for either island) have not been met. This information should be submitted as quickly as possible, optimally just prior to the time that notification is given that the lower end of the harvest estimate has been reached in order to assure that the required harvest suspension lasts no longer than 48 hours. If the Pribilof Aleuts substantiate an additional need for seals, and there has been no indication of waste, the AA must provide a revised estimate of the number of seals required for subsistence purposes. If additional information is not submitted by the Pribilof Aleuts, the AA will consider only the information in the record at the time of the suspension. It is likely, under such circumstances, that the revised subsistence estimate would remain the same as the original estimate. If that is the case, no additional takings would be authorized.

Classification

NMFS has determined that the approval and implementation of this document and amendment to the current regulation will not significantly affect the human environment, and that preparation of an Environmental Impact Statement on this is not required by section 102(2) of the National Environmental Policy Act or its implementing regulations. This rule makes only minor changes to the regulations governing the taking of fur seals for subsistence purposes; this action does not entail significant substantive revision. Because this rule does not alter the conclusions of previous environmental impact analyses and environmental assessments (EA), it is categorically excluded by NOAA Administrative Order 216–6 from the requirement to prepare an EA.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The General Counsel, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published with the proposed rule and harvest estimates (see 59 FR 25024, May 13, 1994). Therefore, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

Dated: July 6, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 215, subpart D, is to be amended as follows:

PART 215—PRIBILOF ISLANDS

1. The authority citation for part 215 continues to read as follows:

Authority: 16 U.S.C. 1151–1175, 16 U.S.C. 1361–1384.

2. Section 215.32 is amended by revising paragraph (b) to read as follows:

§ 215.32 Restrictions on taking.

* * * * *

(b) By April 1 of every third year, beginning April 1994, the Assistant Administrator will publish in the **Federal Register** a summary of the preceding 3 years of harvesting and a discussion of the number of seals expected to be taken annually over the next 3 years to satisfy the subsistence requirements of each island. This discussion will include an assessment of factors and conditions on St. Paul and St. George Islands that influence the need by Pribilof Aleuts to take seals for subsistence uses and an assessment of any changes to those conditions indicating that the number of seals that may be taken for subsistence each year should be made higher or lower. Following a 30-day public comment period, a final notification of the expected annual harvest levels for the next 3 years will be published.

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[FR Doc. 94–16849 Filed 7–7–94; 3:02 pm]
BILLING CODE 3510–22–W

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50 CFR Part 301

[Docket No. 931235–4107; I.D. 062994D]

Pacific Halibut Fisheries

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

ACTION: Notice of inseason action.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes notice of this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of Pacific halibut stocks in order to help sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: June 22, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, 907-586-7221; Gary Smith, 206-526-6140; or Donald McCaughran, 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State (59 FR 22522, May 2, 1994). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1994 Halibut Landing Report No. 7

North Washington Coast Sport Fishery Closes

A 3-day extension of the north Washington coast (waters west of the Bonilla-Tatoosh line and south to the Queets River) sport halibut fishery during June 9 through June 11 resulted in a harvest of 10,649 lb (4.83 mt). This brings the season harvest to 65,298 lb (29.62 mt), 2,741 lb (1.24 mt) shy of the 68,039 lb (30.86 mt) catch limit. The remaining catch limit is too small to allow for a full day of fishing without exceeding the catch limit. Therefore, the sport halibut fishery in this area will remain closed for the remainder of 1994.

Anglers landing in Neah Bay have caught an estimated 13,000 lb (5.90 mt) of Pacific halibut from Canadian waters. Fishing remains open in Canadian waters with a two-fish daily bag limit and no size restriction. Anglers desiring to fish in Canadian waters are strongly urged to contact Canada Department of Fisheries and Oceans at (604) 666-0383/0583 for sport fishing information

concerning licensing and the nautical description of closed areas.

South Washington Coast Sport Fishery Closes

Higher than expected effort in the south Washington coast (Queets River to Cape Falcon) sport halibut fishery led to 14,149 lb (6.42 mt) of halibut harvested in the June 2 and June 9 openings. This far exceeds the 5,670-lb (2.57 mt) catch limit; therefore sport fishing for halibut in this area will remainclosed for the remainder of 1994.

Strait of Juan de Fuca and Puget Sound Sport Fishery Remains Open

Sport fishing for halibut remains open in the Strait of Juan de Fuca and Puget Sound (waters east of a line from Bonilla Point, lat. 48°35'44" N., long. 124°43'00" W., to the buoy adjacent to Duntz Rock, lat. 48°24'55" N., long. 124°44'50" W., to Tatoosh Island lighthouse, lat. 48°23'30" N., long. 124°44'00" W., to Cape Flattery, lat. 48°22'55" N., long. 124°43'42" W.). The daily bag limit is one halibut of any size per person and is open 6 days a week (closed Wednesdays). This fishery will close, as scheduled, at 11:59 p.m. on July 5, 1994.

Dated: July 6, 1994.

David S. Crestin,

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

[FR Doc. 94-16853 Filed 7-11-94; 8:45 am]

BILLING CODE 3510-22-F

50 CFR Part 301

[Docket No. 931235-4107; I.D. 062994C]

Pacific Halibut Fisheries

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

ACTION: Notice of inseason action.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes notice of this inseason action pursuant to IPHC regulations approved by the United States Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of Pacific halibut stocks in order to help sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: June 21, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, 907-586-7221; Gary Smith, 206-526-6140; or Donald McCaughran, 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State (59 FR 22522, May 2, 1994). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1994 Halibut Landing Report No. 6

June Alaska Commercial Fishery

The IPHC estimates the following catches for the June 6 through 7 fishing period in Alaskan waters. The Area 2C catch includes the catch, to date, from the Annette Islands Reserve halibut fishery. If fishing period limits are needed in any of Areas 2C, 3A, or 3B, they will be announced at a later date.

Area	Catch (millions of lb/mt)	Catch limit (millions of lb/mt)	Remaining catch limit (millions of lb/mt)
2C	5.0/2,270	11.0/4,990	6.0/2,720
3A	17.8/8,070	26.0/11,790	8.2/3,720
3B	1.9/860	4.0/1,810	2.1/950
4A	0.13/60	1.8/820	1.67/760
Total	24.83/11,260	42.8/19,410	17.97/8,150

Canadian Commercial Fishery

Canadian halibut landings from Area 2B total 5.8 million lb (2,630 mt) through June 20, leaving 4.2 million lb (1910 mt) of the catch limit to be caught. The fishery will continue until all individual vessel quotas have been filled, or November 15, whichever is earlier.

August Fishing Periods in Areas 4A, 4B, and 4D

The IPHC has determined that fishing period limits will not be needed during the August 15 opening in Areas 4A, 4B, and 4D. The duration of the fishing period in each area is as follows:

	Area 4A	Area 4B	Area 4D
Fishing period	8/15	8/15-8/19	8/15-8/16.
Duration	12 hours	96 hours	30 hours.
Opening (ADT*)	8:00 a.m.	12 Noon	9:00 a.m.
Closing (ADT*)	8:00 p.m.	12 Noon	3:00 p.m.

*Alaska Daylight Time

The fishing periods are designed to provide maximum fishing time without exceeding the catch limit in each area. In the event that the catch limit in one or more of the three areas is not attained, and sufficient poundage remains to permit further fishing, the next scheduled fishing period is August 30.

Dated: July 6, 1994.

David S. Crestin,

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

[FR Doc. 94–16852 Filed 7–11–94; 8:45 am]

BILLING CODE 3510–22–P

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50 CFR Part 675

[Docket No. 940687–4187; I.D. 062194A]

RIN 0648–AG72

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: NMFS has determined that an emergency exists in the groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI). An unusually large number of salmon other than chinook ("other" salmon) were caught incidentally by trawl catcher vessels operating in the catcher vessel operational area (CVOA) during the 1993 pollock non-roe season. In 1993, the number of "other" salmon caught incidentally in the BSAI groundfish fisheries was 245,000 fish—approximately six times the bycatch level estimated for each of the previous 2 years and triple the previous highest bycatch amount. Approximately 95 percent of this catch is chum salmon. If not controlled, a large number of chum salmon could be incidentally caught again during the 1994 pollock non-roe season, potentially causing serious conservation and management problems. NMFS is implementing by emergency rule, certain management measures necessary to address this problem. These measures are intended to accomplish the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to fisheries management in the BSAI.

DATES: Effective August 15, 1994 through November 12, 1994. Comments must be received by July 27, 1994.

ADDRESSES: Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel. Copies of the Environmental Assessment (EA) prepared for the emergency rule may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI. The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR part 675. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

At times, amendments to an FMP or its implementing regulations are necessary to respond to fishery conservation and management problems that cannot be addressed within the time frame of the normal procedures provided for by the Magnuson Act. Section 305(c) of the Magnuson Act authorizes the Secretary to implement emergency regulations necessary to address these situations. These emergency regulations may remain in effect for not more than 90 days after date of publication in the **Federal Register**, with a possible 90-day extension.

In 1993, the number of "other" salmon caught incidentally in the BSAI groundfish fisheries increased significantly over the 1991 and 1992 amounts of 36,000 and 39,000 fish, respectively. The 1993 total "other" salmon bycatch amount was 245,000 fish—approximately six times the bycatch level estimated for each of the previous 2 years and triple the previous highest bycatch amount of 72,000 "other" salmon estimated in the 1984 foreign trawl fishery. "Other" salmon bycatch was estimated to be below 10,000 fish, both prior to 1983 and between 1987 and 1990. "Other" salmon is defined as salmon other than chinook salmon. Historical data indicate that approximately 95 percent of the "other" salmon bycatch in the Bering Sea is chum salmon.

Poor returns of chum salmon to western Alaska river systems during 1993 caused the Alaska Department of Fish and Game (ADF&G) to close commercial, sport, and subsistence fisheries in several western Alaska districts. Projections for 1994 are for below average returns in many districts. The salmon caught as bycatch in the 1993 pollock non-roe season were primarily in the size range of 3-year-old fish, which would have matured in 1994. Little information exists about the potential effect the 1993 chum salmon bycatch will have on the 1994 returns in western Alaska because stock composition of the chum salmon bycatch during the pollock non-roe season is unknown. However, the magnitude of the 1993 chum salmon bycatch in the pollock non-roe season is of concern, regardless of the origin of these fish.

To respond to this concern, NMFS, in consultation with the Council, implements the following three measures under emergency rulemaking, to address the chum salmon bycatch problem in the 1994 BSAI pollock non-roe season:

1. Establishment of a 42,000 "other" salmon bycatch limit in the CVOA which, when reached, closes a portion of the CVOA to vessels using trawl gear;

2. Requirement for two observers on mothership processor vessels that receive groundfish caught in the CVOA during the 1994 pollock non-roe season; and

3. Requirement for electronic communication capabilities for each mothership processor vessel required to carry two observers under this emergency rule and for each shoreside facility that receives pollock harvested from the CVOA during the 1994 pollock non-roe season that is required to have 100 percent observer coverage under 50 CFR 672.27 or 675.25.

These measures are described in detail and justified below.

Salmon Savings Area

At its April 1994 meeting, the Council requested that NMFS prepare emergency rulemaking that would provide the authority to close an area within the CVOA to all vessels using trawl gear if the "other" salmon bycatch in the CVOA during 1994 reaches 42,000 fish. This measure is intended to prevent 1994 chum salmon bycatch numbers from approaching the level experienced in the 1993 fishery. Establishing the bycatch limit at 42,000 "other" salmon accommodates pre-1993 levels while preventing excessive bycatch.

This closure area (the salmon savings area) is defined by straight lines

connecting the following coordinates in the order listed:

56°00′ N., 167°00′ W.;
56°00′ N., 165°00′ W.;
55°30′ N., 165°00′ W.;
55°30′ N., 164°00′ W.;
55°00′ N., 164°00′ W.;
55°00′ N., 167°00′ W.;
56°00′ N., 167°00′ W.

If the "other" salmon bycatch limit established for the CVOA is taken, NMFS will close the salmon savings area to all vessels using trawl gear through November 12, 1994—the expiration date of this emergency rule. The salmon savings area historically has accounted for a large proportion of "other" salmon bycatch and a relatively small proportion of groundfish harvest. The recommended 42,000 "other" salmon bycatch limit represents 50 percent of the 1991, 1992, and 1993 average of "other" salmon bycatch in the CVOA. The 42,000 "other" salmon limit approximates the 1991 and 1992 bycatch, while providing some buffer to accommodate slight increases in bycatch.

This action is intended to prevent a recurrence of the high 1993 chum salmon bycatch experienced during the BSAI pollock non-roe season. The bycatch of "other" salmon appears to be a function of the time of year, distribution of fishing effort, and spatial distribution of salmon. Historical data indicate that "other" salmon bycatch is reduced generally during the winter months and elevated during the months of July through October. Approximately 67 percent of all "other" salmon bycatch in observed hauls during 1991 was taken during August, and 40 percent and 62 percent of the 1992 and 1993 "other" salmon bycatch, respectively, was taken during the month of September. Starting in 1993, the opening of the pollock non-roe season was delayed from June 1 until August 15 (58 FR 30997, May 28, 1993). This delay was implemented to achieve increased revenues from the harvest of BSAI pollock during the non-roe season and to provide participants in the pollock non-roe fishery increased opportunities to fish in other groundfish fisheries. Although the delay of the pollock non-roe season until August 15 was expected to increase chum salmon bycatch, the magnitude of the 1993 bycatch amount was not anticipated. Spatially, the number of "other" salmon appears to be highest south of 57° N. lat. and east of 168° W. long. Consistent with historical data, about 80 percent of the 1993 BSAI "other" salmon bycatch was taken in the CVOA.

Analysis of historical observer data relative to the 1993 pollock non-roe season chum salmon bycatch was not available prior to the Council's April 1994 meeting. Therefore, the recently discovered circumstances surrounding the 1993 chum salmon bycatch problem provided little opportunity for the Council to respond through normal rulemaking before the opening of the 1994 pollock non-roe season on August 15.

The Council considered seven different alternatives for time/area closures to limit chum salmon bycatch during the 1994 pollock non-roe season. The recommended area was chosen as a minimum closure area that would provide the most consistent protection to "other" salmon during the pollock non-roe season, but would still allow access to productive pollock fishing grounds. During the period July through October, the recommended salmon savings area accounted for 1.0, 0.8, and 7.0 percent of the total annual observed groundfish catch in the BSAI pollock and Pacific cod trawl fisheries during 1991, 1992, and 1993, respectively. During the period July through October of 1991, 1992, and 1993, this area accounted for 38, 40, and 54 percent, respectively, of the total annual "other" salmon bycatch. During the period July through October 1993, the salmon savings area had the highest "other" salmon bycatch rate of the areas analyzed—approximately 1.2 "other" salmon per metric ton of groundfish.

Increased Observer Coverage and Electronic Transmission of Observer Data

NMFS must rely on data collected by NMFS-certified observers to manage the 1994 "other" salmon bycatch limit of 42,000 fish. Currently, one observer is required on each mothership processor vessel participating in either the inshore or offshore component of the pollock fishery. Under a regulatory amendment effective May 20, 1994 (59 FR 18757, April 20, 1994), all salmon taken in BSAI trawl operations must be retained until the number of salmon is determined by a NMFS-certified observer. NMFS intends to use these observed counts to monitor the "other" salmon bycatch limit, unless other information indicates that these numbers do not provide the best information available on salmon bycatch. To monitor the chum salmon bycatch limit effectively and to prevent the 42,000 fish bycatch limit from being exceeded, NMFS must receive daily reports of salmon bycatch numbers. NMFS typically receives weekly reports on groundfish catch and on prohibited species bycatch to monitor the fisheries. The time required to process these reports results in a delay between the receipt of reports and determination of overall catch statistics that provide the basis for determining whether a closure is required. If the "other" salmon bycatch in 1994 were to proceed at the 1993 rate (i.e., approximately 39,000 fish in week 1; 26,000 fish in week 2; and 47,000 fish in week 3), weekly reporting would not be sufficient to prevent the 42,000 "other" salmon limit from being exceeded.

Effective monitoring of the bycatch limit requires a second observer on each mothership processor vessel that receives fish from catcher boats fishing in the CVOA during the pollock non-roe season. This is necessary to ensure accurate and timely counts of salmon bycatch, without compromising the other groundfish sampling duties of the observer. Observers onboard mothership processor vessels currently sample approximately two out of every ten hauls. The time required to count salmon bycatch under the May 20, 1994, regulatory amendment, and to transmit these data on a daily basis, places an extra burden on observers stationed on mothership processor vessels. According to 1993 records, the salmon bycatch rate was greater for mothership processor vessels (0.813 "other" salmon/mt groundfish) than for shoreside plants (0.343 "other" salmon/mt groundfish). NMFS will require the additional observers to remain onboard the mothership processor vessels until either (1) the salmon savings area is closed, or (2) the salmon bycatch rates are sufficiently low such that daily observer reports are no longer needed to monitor the "other" salmon bycatch limit established for the CVOA.

The observer requirements and the requirements for electronic communication capabilities are necessary for NMFS to monitor the "other" salmon bycatch limit effectively. The affected mothership processing vessels and processors must obtain for observers' use the data entry software program provided by the Regional Director. To enable the observers to report haul-by-haul statistics and salmon bycatch numbers on a daily basis, the operator of each mothership processor vessel that receives fish harvested in the CVOA must provide INMARSAT Standard A satellite communication capabilities and associated software (cc:Mail remote and a data entry program provided by the Regional Director) for observers' use. Each mothership processor vessel must also have the following equipment or equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: a

personal computer (PC) with a 386 or better processing chip, a DOS version 3.0 operating system, and 5 megabytes of free hard disk storage available for the observers' use. Each shoreside facility that receives pollock harvested in the CVOA during the 1994 pollock non-roe season and that is required to have 100-percent observer coverage under 50 CFR 672.27 and 675.25, must have the capability to transmit data over telephone lines using a computer modem. These processors will make available to observers the following equipment or equipment compatible therewith: a PC with a 386 or better processing chip, with at least a 9600 baud modem, and a phone line. The PC must be equipped with a mouse, Windows version 3.1 or a program having the ability to operate the NMFS-supplied data entry software program, and have at least 5 megabytes of free hard disk storage.

Economic Considerations

Pollock harvests during the non-roe season are apportioned between the "inshore" and the "offshore" components. During the 1993 non-roe season, the inshore component was comprised of seven shoreside processing plants, one mothership processor vessel, and five trawl catcher/processors. These processors processed approximately 235,000 mt of pollock. The offshore component was comprised of three mothership processors and 52 trawl catcher/processors. Sixteen of these trawl catcher/processors also received pollock deliveries from catcher vessels. The offshore component harvested about 414,000 mt of pollock during the directed non-roe season fishery.

Sixty-five trawl catcher vessels delivered pollock to shoreside processing plants and 25 trawl catcher vessels delivered pollock to mothership processors. These 90 catcher vessels delivered about 233,000 mt of pollock to shoreside processing plants and 121,000 mt to mothership processor vessels, for a total of about 354,000 mt of pollock. Therefore, trawl catcher vessels harvested about 55 percent of the pollock during the 1993 non-roe season and trawl catcher/processors harvested about 45 percent.

The salmon savings area is completely within the CVOA. Closure of this area would affect only the pollock harvest areas available to trawl catcher vessels delivering to shoreside processing plants and mothership processor vessels. Most of the harvest by these catcher vessels during the 1993 non-roe season occurred within the CVOA. Preliminary examination of 1993 ADF&G fish tickets indicates that at least five out of seven shoreside processing plants received some pollock harvested within the salmon savings area during the 1993 pollock non-roe season. Harvests within the salmon savings area represented about 10 percent of the total 1993 non-roe season pollock harvests by trawl catcher vessels delivering to shoreside processing plants.

Closure of the salmon savings area would only occur if the salmon bycatch limit was reached and would not affect significantly the opportunity available to catcher vessels to harvest available pollock TAC. Most of the area within the CVOA that is currently available to the catcher vessels would remain open to pollock fishing. Based on 1993 non-roe season fishing patterns, closure of the salmon savings area would have resulted in relocation of catcher vessels within the Bering Sea for less than 10 percent of their pollock harvests.

The observer and equipment requirements of this action apply only to mothership processing vessels or shoreside processing plants receiving fish caught by catcher vessels from the CVOA. Direct costs are limited to those participants, estimated to be four mothership processing vessels and seven shoreside processing plants.

Direct costs for observer coverage are estimated to be about $200 per day per observer. The cost of a second observer on the four mothership processor vessels would depend on the number of days the additional observer was required. The number of observer days for each mothership processor vessel during the 1993 non-roe season ranged from 39 to 58 days. Based on the observer coverage requirements for 1993, a second observer during the 1994 non-roe season could cost from $7,800 (39 days x $200/day) to $11,600 (58 days x $200/day) per mothership processor vessel. Based on the actual number of fishing days, the total cost for all four mothership processor vessels would be $37,400 (187 days x $200/day), if the second observer were required for the same amount of observer coverage days as during the 1993 non-roe season. If the second observer is required for only a portion of the 1994 non-roe season, additional observer costs would be $200 per day per mothership processor.

Costs could also be incurred for the acquisition of electronic mail software and a personal computer that satisfies the hardware requirements detailed above. The cost for these items could range from $200–1200. Mothership processing vessels have the INMARSAT A satellite communication capabilities and necessary computer hardware, and most shoreside facilities have the necessary computer hardware for electronic transmission of data. NMFS will supply the necessary data entry software and will provide installation free of charge.

Closure of the salmon savings area to vessels using trawl gear will also affect any trawl vessels that may have otherwise fished in this area in non-pollock target fisheries. However, examination of 1993 catch information indicates that no significant amounts of other groundfish fishing or pollock Community Development Quota fishing occurred in the salmon savings area subsequent to closure of the directed inshore and offshore component pollock fisheries.

Management measures responding to the information recently presented to the Council are necessary to mitigate potentially adverse impacts of chum salmon bycatch on western Alaska salmon resources and to reduce chum salmon bycatch in 1994. NMFS is implementing this emergency action for the 1994 pollock non-roe season because the high chum salmon bycatch occurred primarily in the pollock non-roe season in 1993 and a large proportion of this bycatch occurred in the salmon savings area.

NMFS concurs that the above regulatory measures must be implemented by emergency rulemaking to prevent high bycatch of chum salmon by catcher vessels fishing for groundfish in the CVOA during the 1994 pollock non-roe season.

Classification

This rule is exempt from the requirements of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis, because it is issued without opportunity for prior public comment, and none has been prepared.

This rule has been determined to be not significant for purposes of E.O. 12866.

NMFS finds that the immediate need to protect and conserve the "other" salmon population in the CVOA, as explained in the preamble to this rule, constitutes good cause to waive the requirement to provide prior notice and an opportunity for public comment, pursuant to authority set forth at 5 U.S.C. § 553(b)(B), as such procedures would be contrary to the public interest.

List of Subjects in 50 CFR Part 675

Fisheries, Recordkeeping and reporting requirements.

Dated: July 5, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 675 is amended effective August 15, 1994 through November 12, 1994, as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

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

2. In section 675.22, paragraph (h) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(h) *Salmon savings area.* When the Regional Director determines that 42,000 non-chinook salmon have been caught by vessels using trawl gear during 1994 in the catcher vessel operational area, defined in paragraph (g) of this section, NMFS will prohibit fishing with trawl gear, through November 12, 1994, in the area defined by straight lines connecting the following coordinates in the order listed:

56°00′ N., 167°00′ W.;
56°00′ N., 165°00′ W.;
55°30′ N., 165°00′ W.;
55°30′ N., 164°00′ W.;
55°00′ N., 164°00′ W.;
55°00′ N., 167°00′ W.;
56°00′ N., 167°00′ W.

3. In § 675.25, the existing text is suspended and new paragraphs (a) through (d) are added to read as follows:

§ 675.25 Observers.

(a) Observer requirements authorized under the observer plan are set out at § 672.27 of this chapter and paragraphs (b) through (d) of this section.

(b) Each mothership processor vessel that receives groundfish harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the 1994 second pollock season that starts on August 15 under § 675.23(e), is required to have a second NMFS-certified observer onboard, in addition to the observer required under § 672.27(c)(1)(iii) (A) and (B) of this chapter. Two observers must be onboard for each day of the 1994 second pollock season until either the salmon savings area is closed under § 675.22(h) or the Regional Director determines that the bycatch rates of non-chinook salmon are sufficiently low such that daily observer reports are no longer needed to monitor the 1994 non-chinook salmon bycatch amounts.

(c) Each mothership processor vessel must be equipped with INMARSAT Standard A satellite communication capabilities, cc:Mail remote, and the data entry software provided by the Regional Director, for use by the observers. The operator of each mothership processing vessel shall also make available for the observers' use the following equipment or equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: a personal computer with a 386 or better processing chip, a DOS 3.0 operating system, and 5 megabytes of free hard disk storage.

(d) Each shoreside processing facility that is required to have 100 percent observer coverage under § 672.27(c)(2) of this chapter and that receives groundfish harvested in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15, under § 675.23(e), must make available to the observer the following equipment or equipment compatible therewith: a personal computer with a minimum of a 386 processing chip with at least a 9600-baud modem and a telephone line. The personal computer must be equipped with a mouse, Windows version 3.1 or a program having the ability to operate the NMFS-supplied data entry software program, 5 megabytes of free hard disk storage, and the data entry software provided by the Regional Director for use by the observers.

[FR Doc. 94–16745 Filed 7–11–94; 8:45 am]

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Proposed Rules

Federal Register
Vol. 59, No. 132
Tuesday, July 12, 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 DEPOSIT INSURANCE CORPORATION

5 CFR Part 3201

12 CFR Part 336

RIN: 3064–AA08

Supplemental Standards of Ethical Conduct for Employees of the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for the employees of the Corporation which would supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Executive Branch-wide Standards) issued by OGE. The proposed rule is a necessary supplement to the Executive Branch-wide Standards and has been designed to address the specialized functions and operations of the Corporation. The proposed rule would establish: prohibitions on borrowing and extensions of credit; prohibitions on the ownership of certain financial interests; prohibitions on the purchase of property controlled by the Corporation or the Resolution Trust Corporation (RTC); limitations on official dealings with former employers and clients; disqualification requirements relating to employment of family members outside the Corporation; and limitations on outside employment activities.

DATES: Comments must be received on or before September 12, 1994.

ADDRESSES: Send comments to Robert E. Feldman, Acting Executive Secretary, FDIC, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to room 400, 1776 F Street, NW, Washington, DC 20429 on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898–3838].

FOR FURTHER INFORMATION CONTACT: Katherine A. Corigliano, Assistant Executive Secretary (Ethics), (202) 898–7272; Richard M. Handy, Ethics Program Manager, (202) 898–7271; or Paul A. Jeddeloh, Senior Program Attorney, (202) 898–7161, all at the FDIC.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct For Employees of the Executive Branch. See 57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583, with an additional grace period extension at 59 FR 4779–4780. The Executive Branch-wide Standards, now codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct for executive branch employees.

With the concurrence of the OGE, 5 CFR 2635.105 and the Resolution Trust Corporation Completion Act (P.L. 103–204) authorize the Corporation to publish agency-specific supplemental regulations necessary to implement its ethics programs. The Corporation and OGE have determined that the following supplemental regulations contained in the proposed rule are necessary to successfully continue the Corporation's ethics program in light of the Corporation's unique programs and operations. The proposed supplemental rule addresses issues relevant to the Corporation's specialized roles as the insurer, conservator, receiver, liquidator, organizer of bridge banks, and regulator or back-up enforcement agency for FDIC-insured depository institutions. Upon finalization of the supplemental regulation, the Corporation will, as proposed, delete those portions of 12 CFR part 336 that are superseded by the Executive Branch-wide Standards and the supplemental regulations.

II. Analysis of Regulation

The following regulations are proposed to appear in new part 3201 of 5 CFR chapter XXII.

Section 3201.101 General

(a) *Purpose.* Proposed § 3201.101(a) explains that the regulations would apply to all Corporation employees and would supplement the Executive Branch-wide Standards. Because they are covered under rules applicable to the Department of the Treasury, two members of the Board of Directors, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, would be covered only by those provisions of the supplemental regulation specifically made applicable to them in connection with their activities as members of the Corporation's Board of Directors.

(b) *Corporation ethics officials.* Proposed § 3201.101(b) explains that the Designated Agency Ethics Official would be the Executive Secretary and that the Alternate Agency Ethics Official would be the Assistant Executive Secretary (Ethics) of the FDIC. This provision would delegate authority to the Executive Secretary and the Assistant Executive Secretary (Ethics) to act in such capacities as contemplated under 5 CFR part 2638. The provision would continue the designations currently found at 12 CFR part 336, as updated to accommodate organizational changes.

(c) *Agency designees.* Proposed § 3201.101(c) specifies those employees who would hold the authority to act as agency designees under the Executive Branch-wide Standards and the supplemental regulation. It also explains that only the Ethics Counselor or Alternate Ethics Counselor would be able to delegate authority to act as agency designees and that such delegation would have to be in writing and could not be re-delegated.

(d) *Definitions.* Proposed § 3201.101(d) would include as an *affiliate* those companies which control, are controlled by, or are under common control with, an FDIC-insured depository institution. The definition for *affiliate* was taken from the Bank Holding Company Act of 1956 and is intended to be broadly interpreted and include any holding companies, subsidiaries, or other affiliated companies of an FDIC-insured depository institution.

The term *appropriate director* would include the heads of offices and divisions in the Washington office, the highest ranking officials in each division in the regional offices, and the Ethics Counselor.

The term *covered employee* would include all employees of the Corporation required to file confidential

or public financial disclosure reports under 5 CFR part 2634 or 5 CFR part 3202.

Under the proposed regulation, the term *employee* would include all persons, other than special Government employees, employed by the Corporation. Pursuant to the Resolution Trust Corporation Completion Act (P.L. 103–204), the Corporation is also required to consider the employees of contractors as employees of the Corporation for certain purposes. Therefore, the term *employee* would include, for purposes of 5 CFR part 2635 and §§ 3201.103 and 3201.104 of this part, any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation. The term *employee* would not include independent contractors who are not deemed to be employees under 12 U.S.C. 1822(f)(1)(B). In the case of members of the Board of Directors, it would include only the three members appointed by the President under 12 U.S.C. 1812(a)(1)(C).

The proposed regulation provides a broad definition of the term *security* which includes an interest in debt or equity instruments such as, for example, stocks, bonds, and commercial paper. However, the term *security* would not include a deposit account.

The term *State nonmember bank* is a statutory term taken from 12 U.S.C. 1813 and would include all State banks that are not members of the Federal Reserve System.

The definition of *subsidiary* was taken from section 3(w) of the Federal Deposit Insurance Act, codified to 12 U.S.C. 1813(w), and would include all companies owned or controlled directly or indirectly by another company.

Section 3201.102 Extensions of Credit From FDIC-Insured Depository Institutions

The proposed rules on extensions of credit from FDIC-insured depository institutions provide the conditions under which certain specified categories of Corporation employees can obtain credit from depository institutions insured by the Corporation. Restrictions on the availability of credit to Corporation employees are necessary for several reasons. First, 5 CFR 2635.403(a) permits the Corporation to prohibit or restrict the acquisition or holding of a financial interest or class of financial interests by Corporation employees, and the spouses and minor children of those employees, when the Corporation has made the determination that the acquisition or holding of such financial interests would cause a reasonable person to question the impartiality and objectivity with which Corporation programs are administered, and 5 CFR 2635.403(c) specifically provides that the term *financial interest* may include an indebtedness relationship. For purposes of the extensions of credit covered by § 3201.102 (a) through (d), the Corporation has made such a determination. These prohibitions and restrictions on employees entering into financial arrangements with institutions over which the Corporation has regulatory and resolution authority are necessary to prevent loss of public confidence in the integrity of the Corporation. In addition, the borrowing prohibition would incorporate the substance of the statutory prohibition at 18 U.S.C. 213 on bank examiners accepting certain loans. Finally, limitations on borrowing from FDIC-insured depository institutions would avoid a high number of employee disqualifications that would have a detrimental effect on the Corporation's administration of its multifaceted responsibilities.

Under proposed § 3201.102(a), a current or contingent financial obligation of an employee is considered a financial obligation for purposes of the prohibition, disqualification, and retention provisions of proposed § 3201.102. A current or contingent financial obligation of a spouse or minor child is attributed to the employee for purposes of this section since the Corporation has determined, pursuant to 5 CFR 2635.403(a), that there is a direct and appropriate nexus between the efficiency of the service and the prohibitions and restrictions in § 3201.102 as applied to the spouses and minor children of Corporation employees.

Under proposed § 3201.102(b), members of the Board of Directors and other Corporation officials who are in top management positions would be prohibited from incurring financial obligations with an institution over which the Corporation has primary Federal supervisory authority or a subsidiary of such an institution. A deputy or an assistant to the Board of Directors or to an individual board member, a covered employee who is an assistant to such deputy or assistant, the director of a Washington office or division (other than the Division of Supervision), and a covered employee immediately subordinate to such a director would be included in the restricted class. The prohibition would not apply to credit extended through an ordinary credit card relationship due to the standardized handling and low credit amounts customary in such relationship.

Under § 3201.102(c), depository institutions examination staff, including all covered employees assigned to the Division of Supervision, would be prohibited from obtaining credit from an FDIC-insured State nonmember bank, the class of FDIC-insured depository institutions for which the FDIC has primary supervisory responsibility, any subsidiary of such bank, or any person employed by such bank. An exception would be carved out for an ordinary credit card relationship but, for those employees assigned to regional or field offices, the exception would be limited to credit cards offered by FDIC-insured State nonmember banks located outside the employee's region of assignment. The rule, which is substantially the same as 12 CFR 336.16(a), is consistent with 18 U.S.C. 213 which prohibits examiners from accepting credit from institutions which they have examined. Under the proposed rule, an employee would be required to file a report upon obtaining a credit card from a State nonmember bank located outside the employee's region of assignment.

Proposed § 3201.102(d) would impose a two-year prohibition on an employee in the Division of Finance, the Division of Depositor and Asset Services, the Division of Resolutions, or the Legal Division, or who is a member of a standing committee of the Board of Directors obtaining credit from an FDIC-insured depository institution or its subsidiary when the employee has participated personally and substantially in certain matters affecting the institution, its predecessor or successor, or an affiliate of such institution. This prohibition would be applicable to the universe of FDIC-insured depository institutions and would be limited to those Corporation employees who perform functions associated with the audit, resolution, liquidation, supervision, or agency deliberation affecting a specific FDIC-insured depository institution. The two-year prohibition has been designed to eliminate concerns over potential benefits that an employee holding a sensitive non-examiner position could derive through a financial relationship with an institution that has close business ties to the Corporation. An exception has been made for an ordinary credit card relationship. The definition of *personally and substantially* can be found at 5 CFR 2635.402(b)(4) of the Executive Branch-wide Standards.

Proposed § 3201.102(e)(1) would prohibit a member of the depository

institution's examination staff, including senior level staff, from participating in the supervisory review of any institution with which they hold an extension of credit. No exceptions to this rule have been provided due to the sensitive nature of the duties involved.

Under proposed § 3201.102(e)(2)–(4), a covered employee and the Comptroller of the Currency and the Director of the Office of Thrift Supervision would be prohibited from participating in matters affecting persons with whom the employee has an outstanding extension of credit. Exceptions have been provided for ordinary credit card relationships or when the agency designee, with the concurrence of the appropriate director, determines that participation by the employee would be appropriate under the standard outlined under 5 CFR 2635.502(d).

Proposed § 3201.102(f) would clarify that an employee may retain certain extensions of credit that he or she would be prohibited from obtaining anew. For example, an employee who had obtained an extension of credit prior to employment with the Corporation would not be required to refinance the credit. Any extension of credit retained under this section would be required to be reported to an agency designee. An employee would not be allowed to renew or renegotiate the credit without the consent of the agency designee and appropriate director or, in the case of certain higher-level officials, without the consent of the Ethics Counselor. This provision is substantially the same as current 12 CFR 336.16(d), and extensions of credit which were permissibly held under such provision could be retained under the new provision.

Section 3201.103 Prohibitions on Ownership of Securities of FDIC-Insured Depository Institutions

The Corporation has determined that, in light of its sensitive and diverse mission involving the institutions that it insures, restrictions on employee ownership of securities in such institutions are necessary in order to maintain public confidence in the impartiality and objectivity with which the Corporation executes its various functions; eliminate concerns by private entities that sensitive information provided to the Corporation might be used for private gain; and avoid the widespread disqualification of employees from their duties which could result in the Corporation having difficulty in performing its mission. Under proposed § 3201.103(a), an employee would be prohibited from having a direct or indirect ownership interest in a security of an FDIC-insured depository institution or an affiliate of such institution.

As proposed, the exceptions in § 3201.103(b) would allow an employee to acquire, own or control certain direct and indirect ownership interests in an FDIC-insured depository institution. For example, an employee would be permitted to retain an interest which had been acquired prior to employment with the Corporation or involuntarily acquired by the employee such as by gift, stock split, or through a merger of a company. An employee could also acquire, own or control an interest in an FDIC-insured depository institution through the investment vehicle of a publicly traded or available diversified investment fund when the fund does not have an objective or practice of concentrating its investments in securities of the financial services sector. An employee who owned securities of an FDIC-insured depository institution under one of the exceptions in proposed § 3201.103(b) would be disqualified under 5 CFR 2635.402 from participating in any particular matter that, by reason of his or her ownership of those securities, affects his or her financial interests or those of his or her spouse or minor child.

Under proposed § 3201.103(c), the Ethics Counselor could require an employee, or the spouse or minor child of an employee, to divest an ownership interest that would otherwise be allowed to be retained under § 3201.103(b) using the standard set forth in 5 CFR 2635.403(b).

Section 3201.104 Restrictions Concerning the Purchase of Property Held by the Corporation or the RTC as Conservator, Receiver, or Liquidator of the Assets of an Insured Depository Institution, or by a Bridge Bank Organized by the Corporation

In order to avoid any self-dealing, appearance of self-dealing, adversarial relationship with the Corporation, or diminution of public confidence in the Corporation's ability to accomplish its mission, an employee, or the spouse or minor child of an employee, would be prohibited under § 3201.104(a) from purchasing assets held by the Corporation or the Resolution Trust Corporation (RTC) as conservator, receiver, or liquidator or held by a bridge bank organized by the Corporation. In such roles, the Corporation and the RTC generally act as a fiduciary to the creditors of failed depository institutions. Property held by the RTC has been included in the proposed prohibition because of the RTC's significant ties with the Corporation.

As proposed, § 3201.104(b) would disqualify an employee involved in the disposition of the assets of a failed insured depository institution from participation in the disposition of such assets when the employee knows that a person with whom he or she holds a covered relationship intends to purchase such assets. Written notification of the disqualification would be required to be made by the employee to his or her immediate supervisor and the agency designee.

Section 3201.105 Prohibition on Dealings With Former Employers, Associates, and Clients

In order to avoid the appearance of favoritism and maintain the integrity of the Corporation's regulatory oversight, insurance assessments, and resolution and liquidation transactions, proposed § 3201.105(a) would prohibit an employee, for a period of one year after entering on duty with the Corporation, from participating in official Corporation matters involving an employer with whom the employee worked during the year preceding the employee's entry on duty with the Corporation. Proposed § 3201.105(b) would include within the definition of the term employer a broad range of persons, as defined in 5 CFR 2635.502, with whom the employee has a covered relationship. In an individual case, § 3201.105(c) would give the agency designee discretion to extend the prohibition beyond the one year period that would automatically apply to all new Corporation employees.

Section 3201.106 Employment of Family Members Outside the Corporation

As proposed, § 3201.106 would continue the Corporation's requirement at 12 CFR 336.21 that an employee be disqualified from participation in particular matters involving employers of family members or members of the employee's household. It would also require the employee to report the employment of family members or members of the employee's household by FDIC-insured depository institutions or companies that have business, or are seeking to do business, with the Corporation. This requirement eliminates the potential for any appearance of preferential treatment in those instances where employment of a family member or a member of the employee's household would be likely to raise questions regarding the appropriateness of actions taken by the employee or the Corporation.

Section 3201.107 Outside Employment and Other Activities

Proposed § 3201.107(a) would prohibit an employee from providing services, for compensation, to an FDIC-insured depository institution or to a person employed by such institution. The prohibition is based, in part, on 18 U.S.C. 1909, which prohibits an examiner from performing any service for compensation for any FDIC-insured depository institution or for any person connected therewith.

Similarly, proposed § 3201.107(b) would restrict an employee from using certain professional licenses in compensated outside activities when the employee's duties to the Corporation involve those activities. The areas involved in the prohibition have been limited to areas identified as especially sensitive and critical to corporate operations.

Proposed § 3201.107(c) would make it the responsibility of the employee to consult with an agency designee concerning outside employment or activities that could result in disqualification of the employee from his or her official duties.

Section 3201.108 Related Statutory and Regulatory Authorities

This section sets forth additional statutory and regulatory authorities with which an employee should be familiar.

Section 3201.109 Provisions of 5 CFR Part 2635 Not Applicable to Corporation Employees

Certain provisions of the Standards of Ethical Conduct have been determined by the Corporation to be inapplicable to its employees based on the Corporation's status as a mixed-ownership Corporation. To avoid confusion, the authorities which are not applicable to the Corporation and its employees would be listed in § 3201.109 (b) through (e). Proposed § 3201.109(a) would caution examiners that they may not use the gift exceptions in 5 CFR 2635.204 to accept a gift that would violate the criminal prohibitions in 18 U.S.C. 213 against examiners accepting gifts or gratuities from the institutions they examine.

III. Removal of FDIC Employees Responsibilities and Conduct Regulations and Related Modifications

On the effective date of the final rule, the Employee Responsibilities and Conduct regulation, 12 CFR part 336, will be amended to remove and reserve subparts A, B, C, E, and F, §§ 336.1–336.23 and 336.29–336.37, and remove the appendix to part 336. As proposed, a new § 336.1 will be added to provide a cross-reference to the Corporation's supplemental ethical conduct regulation, to be codified at 5 CFR part 3201, the Corporation's supplemental financial disclosure regulation at 5 CFR part 3202, and to the Executive Branch-wide financial disclosure and standards of ethical conduct regulations at 5 CFR parts 2634 and 2635. 12 CFR part 336, subpart D, §§ 336.24 through 336.28, was removed and reserved by action of the Board of Directors of the Corporation dated November 24, 1992, 57 FR 39628.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

This proposed rulemaking is in compliance with the Administrative Procedure Act (5 U.S.C. 553) and allows for a 60-day comment period.

Regulatory Flexibility Act

The Board of Directors has concluded that the proposed rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the proposed rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The Board of Directors has determined that this proposed regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects

5 CFR Part 3201

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

12 CFR Part 336

Conflict of interests, Government employees.

Dated at Washington, D.C. this 14th day of June, 1994.

By Order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

Concurred in this 1st day of July, 1994.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics, is proposing to amend title 5, Chapter XXII, of the Code of Federal Regulations and title 12, Chapter III, of the Code of Federal Regulations as follows:

5 CFR CHAPTER XXII—FEDERAL DEPOSIT INSURANCE CORPORATION

1. A new part 3201 is added to 5 CFR Chapter XXII to read as follows:

PART 3201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

Sec.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 1819(a), 1822; 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502, and 2635.803.

§ 3201.101 General.

(a) *Purpose.* The regulations in this part apply to employees of the Federal Deposit Insurance Corporation (Corporation) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. Where specified, these regulations also apply to the Comptroller of the Currency and the Director of the Office of Thrift Supervision in connection with their activities as members of the Corporation's Board of Directors.

(b) *Corporation ethics officials.* The Executive Secretary of the Corporation shall act as the Corporation's Ethics Counselor and as its Designated Agency Ethics Official under 5 CFR part 2638. The Assistant Executive Secretary (Ethics) shall act as the Corporation's Alternate Ethics Counselor and as the Alternate Agency Ethics Official.

(1) The Ethics Counselor or Alternate Ethics Counselor may delegate authority to one or more employees to serve as Deputy Ethics Counselors.

(2) The delegation to a Deputy Ethics Counselor shall be in writing and cannot be redelegated.

(c) *Agency designees.* The Ethics Counselor and Alternate Ethics Counselor shall serve as the agency designee for purposes of making the determinations, granting the approvals, and taking other actions required by an agency designee under part 2635 and this part. The Ethics Counselor or Alternate Ethics Counselor may delegate authority to Deputy Ethics Counselors or to other employees to serve as agency designees for specified purposes. The delegation to any agency designee shall be in writing and cannot be redelegated.

(d) *Definitions.* For purposes of this part:

(1) *Affiliate,* as defined in 12 U.S.C. 1841(k), means any company that controls, is controlled by, or is under common control with another company.

(2) *Appropriate director* means the head of a Washington office or division or the highest ranking official assigned to a regional office in each division or the Ethics Counselor.

(3) *Covered employee* means an employee of the Corporation required to file a public or confidential financial disclosure report under 5 CFR part 2634 or 5 CFR part 3202.

(4) *Employee* means an officer or employee, other than a special Government employee, of the Corporation including a member of the Board of Directors appointed under the authority of 12 U.S.C. 1812(a)(1)(C), and a liquidation graded employee. For purposes of 5 CFR part 2635 and §§ 3201.103 and 3201.104, *employee* includes any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation.

(5) *Security* includes an interest in debt or equity instruments. The term includes, without limitation, a secured or unsecured bond, debenture, note, securitized assets, commercial paper, and all types of preferred and common stock. The term includes an interest or right in a security, whether current or contingent, a beneficial or legal interest derived from a trust, the right to acquire or dispose of any long or short position, an interest convertible into a security, and an option, right, warrant, put, or call with respect to a security. The term *security* does not include a deposit account.

(6) *State nonmember bank* means any State bank as defined in 12 U.S.C. 1813(e) which is not a member of the Federal Reserve System.

(7) *Subsidiary,* as defined in 12 U.S.C. 1813(w), means any company which is owned or controlled directly or indirectly by another company.

§ 3201.102 Extensions of credit from FDIC-insured depository institutions.

(a) *Credit subject to this section.* The prohibition, disqualification, and retention provisions of this section apply to a current or contingent financial obligation of the employee. For purposes of this section, a current or contingent financial obligation of an employee's spouse or minor child is considered to be an obligation of the employee.

(b) *Prohibition on acceptance of credit from FDIC-insured State nonmember banks applicable to certain high-level officials.* (1) An employee described in paragraph (b)(2) of this section shall not, directly or indirectly, accept or become obligated on an extension of credit from an FDIC-insured State nonmember bank or its subsidiary, except credit extended through the use of a credit card under the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (b)(1) of this section applies to:

(i) An employee who is a member of the Board of Directors, an assistant or deputy to the Board of Directors or to an appointed Board member, and a covered employee who is an assistant to such person; and

(ii) The director of a Washington office or of a division, other than the Division of Supervision, and a covered employee who holds a position immediately subordinate to such director.

(c) *Prohibition on acceptance of credit from FDIC-insured State nonmember banks for employees assigned to the Division of Supervision.* (1) An employee described in paragraph (c)(2) of this section shall not, directly or indirectly, accept or become obligated on an extension of credit from an FDIC-insured State nonmember bank or from an officer, director, employee, or subsidiary of such bank, except:

(i) For an employee assigned to the Washington office, credit extended through the use of a credit card on the same terms and conditions as are offered to the general public; and

(ii) For an employee assigned to other than the Washington office, credit extended by an FDIC-insured State nonmember bank headquartered outside the employee's region of official assignment through the use of a credit card on the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (c)(1) of this section applies to the Executive Director for Supervision and Resolutions, the Director of the Division of Supervision, a covered employee immediately subordinate to the Director of the Division of Supervision and the following employees assigned to the Division of Supervision: an Assistant Director, Regional Director, Deputy Regional Director, Assistant Regional Director, examiner, assistant examiner, review examiner, compliance examiner, assistant compliance examiner, and a covered employee.

(3) Upon accepting credit extended by a credit card in accordance with paragraphs (c)(1)(i) or (c)(1)(ii) of this section, the employee shall be disqualified in accordance with paragraph (e)(1) of this section, and, within 30 days of accepting such credit, shall file with the appropriate director a Statement of Credit Card Obligation in Insured State Nonmember Bank and Acknowledgement of Conditions for Retention—Notice of Disqualification.

(d) *Two-year prohibition on acceptance of credit from FDIC-insured depository institutions.* (1) An employee described in paragraph (d)(2) of this section shall not, directly or indirectly, accept or become obligated on an extension of credit from an FDIC-insured depository institution or its subsidiary for a period of two years from the date of the employee's last personal and substantial participation in an audit, resolution, liquidation, supervisory proceeding, or internal agency deliberation affecting that particular institution, its predecessor or successor, or any subsidiary of such institution. This prohibition does not apply to credit obtained through the use of a credit card under the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (d)(1) of this section applies to an employee in the Division of Finance, Division of Depositor and Asset Services, Division of Resolutions, Legal Division, or who is a member of a standing committee of the Board of Directors whose official duties include:

(i) Audit of insured depository institutions for deposit insurance assessment purposes;

(ii) Resolution or liquidation of failed or failing insured depository institutions;

(iii) Participation in the supervision of insured depository institutions or enforcement proceedings under the Federal Deposit Insurance Act; or

(iv) Internal agency deliberations affecting a particular insured depository institution, its predecessor or successor, or a subsidiary of such institution.

(e) *Employee disqualification.* (1) An employee described in paragraph (c)(2) of this section shall not participate in an examination, audit, visitation, review, or investigation, or other particular matter involving an FDIC-insured depository institution or other person with whom the employee has an outstanding extension of credit.

(2) A covered employee, other than an employee who is described in paragraph (c)(2) of this section, shall not participate in any particular matter involving an FDIC-insured depository institution or other person with whom the employee has an outstanding extension of credit.

(3) Disqualification is not required under paragraph (e)(2) of this section:

(i) If the credit was extended through the use of a credit card on the same terms and conditions as are offered to the general public; or

(ii) When the agency designee, with the concurrence of the appropriate director, has authorized the employee to participate in the matter using the standard set forth in 5 CFR 2635.502(d).

(4) The Comptroller of the Currency and the Director of the Office of Thrift Supervision shall be disqualified from matters pending before the Board of Directors to the same extent as a covered employee subject to paragraph (e)(2) of this section.

(f) *Retention and renegotiation of pre-existing extensions of credit.* (1) Nothing in this section prohibits the retention of a pre-existing extension of credit that an employee would be prohibited from accepting by § 3201.102 (b) or (c) if the extension of credit was permitted to be retained under 12 CFR part 336 prior to the adoption of this regulation or if the employee's acceptance of the extension of credit was proper at the time the obligation was incurred, as in the case of an extension of credit incurred prior to commencement of employment or reassignment to another division or location. Subsequent action affecting the status of the creditor, such as merger, acquisition, or transaction under 12 U.S.C. 1823, does not change the character of an extension of credit that was proper when incurred. An employee who retains a pre-existing extension that he or she would be prohibited from accepting by § 3201.102 (b) or (c) shall report the pre-existing extension of credit to the appropriate director or agency designee within 30 days from the following event, as appropriate:

(i) Adoption of this part;

(ii) Commencement of employment;

(iii) Assignment to another division or location; or

(iv) Action affecting the status of the creditor.

(2) Any renegotiation of a pre-existing extension of credit shall be treated as a new extension of credit that is subject to the prohibitions contained in § 3201.102 (b) through (d). An employee may request that an exception be made to the prohibitions to permit renegotiation of a pre-existing extension of credit. Any such request shall be made in writing to the appropriate director and agency designee, or in the case of an employee described in paragraph (b)(2) (i) and (ii) of this section, to the Ethics Counselor, stating:

(i) The purpose of the renegotiation;

(ii) The terms and conditions of the original extension of credit;

(iii) The terms and conditions now available to the general public;

(iv) The terms and conditions now offered to the employee;

(v) The action the employee has taken to move the loan to an institution from which an employee would not be prohibited from accepting an extension of credit; and

(vi) The financial hardship, if any, denial of the request will cause.

(3) After submission of the request, the appropriate director and agency designee, or the Ethics Counselor, may grant the employee's request based upon a written determination that the request is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of the misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered.

§ 3201.103 Prohibitions on ownership of securities of FDIC-insured depository institutions.

(a) *Prohibition on ownership.* Except as permitted by this section, an employee or the spouse or minor child of an employee, shall not acquire, own, or control, directly or indirectly, a security of an FDIC-insured depository institution, or an affiliate of an FDIC-insured depository institution.

(b) *Exception to prohibition for certain interests.* Nothing in this section prohibits an employee, or the spouse or minor child of an employee, from:

(1) Acquiring, owning or controlling the securities of certain publicly traded bank holding companies or their nonbank subsidiaries where the bank holding company is not primarily engaged in banking and either the bank holding company or the bank it holds is exempt under the provisions of the Bank Holding Company Act of 1956 and which are identified as such by the Board of Governors of the Federal Reserve System (a list of exempt institutions can be obtained from the Corporation's Ethics Section);

(2) Acquiring, owning, or controlling the securities of certain nonfinancial savings association holding companies whose principal business is unrelated to the financial services industry and which are identified as such by the Office of Thrift Supervision pursuant to 5 CFR 3101.109(b)(3)(ii) (a list of such institutions can be obtained from the Corporation's Ethics Section);

(3) Retaining a security of an FDIC-insured depository institution or an affiliate of an FDIC-insured depository institution if the security was permitted to be retained by the employee under 12 CFR part 336 prior to the adoption of this regulation, was obtained prior to commencement of employment with the Corporation, or was acquired by a spouse prior to marriage to the employee;

(4) Acquiring, owning, or controlling a security of an FDIC-insured depository institution or the affiliate of an FDIC-insured depository institution where the security was acquired by inheritance, gift, stock split, involuntary stock dividend, merger, acquisition, or other change in corporate ownership, exercise of preemptive right, or otherwise without specific intent to acquire the security. This provision permits the retention of any such interest only where:

(i) The employee makes full, written disclosure on FDIC form 2410/07 to the Ethics Counselor within 30 days of commencing employment or acquiring the interest; and

(ii) The employee is disqualified in accordance with 5 CFR part 2635, subpart D, from participating in any particular matter that affects his or her financial interests, or that of his or her spouse or minor child;

(5) Acquiring, owning, or controlling an interest in a publicly traded or publicly available investment fund which, in its prospectus, does not indicate the objective or practice of concentrating its investments in the financial services sector and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund; or

(6) Using an FDIC-insured depository institution or an affiliate of an FDIC-insured depository institution as custodian or trustee of accounts

containing tax-deferred retirement funds.

(c) *Divestiture.* Based upon a determination of substantial conflict under 5 CFR 2635.403(b), the Ethics Counselor may require an employee, or the spouse or minor child of an employee, to divest a security he or she is otherwise authorized to retain under paragraph (b) of this section.

§ 3201.104 Restrictions concerning the purchase of property held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation.

(a) *Prohibition on purchase of property.* An employee, and an employee's spouse or minor child shall not, directly or indirectly, purchase or acquire any property held or managed by the Corporation or the Resolution Trust Corporation (RTC) as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation, regardless of the method of disposition of the property.

(b) *Disqualification.* An employee who is involved in the disposition of assets held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation shall not participate in the disposition of assets held in such capacities when the employee knows that any party with whom the employee has a covered relationship, as defined in 5 CFR 2635.502(b)(1), is or will be attempting to acquire such assets. The employee shall provide written notification of the disqualification to his or her immediate supervisor and the agency designee.

§ 3201.105 Prohibition on dealings with former employers, associates, and clients.

(a) An employee is prohibited for one year from the date of entry on duty with the Corporation from participating in a particular matter when an employer, or the successor to the employer, for whom the employee worked at any time during the one year preceding the employee's entrance on duty is a party or represents a party to the matter.

(b) For purposes of this section, the term *employer* means a person with whom the employee served as officer, director, trustee, general partner, agent, attorney, accountant, consultant, contractor, or employee.

(c) The one-year period of disqualification imposed by paragraph (a) of this section may be extended in an individual case based on a written determination by the agency designee that, under the particular circumstances, the employee's participation in the particular matter would cause a reasonable person with knowledge of the facts to question his or her impartiality.

§ 3201.106 Employment of family members outside the Corporation.

(a) *Disqualification of employees.* An employee shall not participate in an examination, audit, investigation, application, contract, or other particular matter if the employer of the employee's spouse, child, parent, brother, sister, or a member of the employee's household is a party or represents a party to the matter, unless an agency designee authorizes the employee to participate using the standard in 5 CFR 2635.502(d).

(b) *Reporting certain relationships.* A covered employee shall make a written report to an agency designee within 30 days of the employment of the employee's spouse, child, parent, brother, sister, or a member of the employee's household by:

(1) An FDIC-insured depository institution or its affiliate;

(2) A firm or business with which, to the employee's knowledge, the Corporation has a contractual or other business or financial relationship; or

(3) A firm or business which, to the employee's knowledge, is seeking a business or contractual relationship with the Corporation.

§ 3201.107 Outside employment and other activities.

(a) *Prohibition on employment with FDIC-insured depository institutions.* An employee shall not provide service for compensation, in any capacity, to an FDIC-insured depository institution or an employee or person employed by or connected with such institution.

(b) *Use of professional licenses.* A covered employee who holds a license related to real estate, appraisals, securities, or insurance and whose official duties with the Corporation require personal and substantial involvement in matters related to, respectively, real estate, appraisal, securities, or insurance is prohibited from using such license, other than in the performance of his or her official duties, for the production of income. The appropriate director, in consultation with an agency designee, may grant exceptions to this prohibition based on a finding that the specific transactions which require use of the license will not create an appearance of loss of impartiality or use of public office for private gain.

(c) *Responsibility to consult with agency designee.* An employee who engages in, or intends to engage in, any outside employment or other activity that may require disqualification from the employee's official duties shall consult with an agency designee prior to engaging in or continuing to engage in the activity.

§ 3201.108 Related statutory and regulatory authorities.

(a) 18 U.S.C. 213, which prohibits an examiner from accepting a loan or gratuity from an FDIC-insured depository institution examined by him or her or from any person connected with such institution.

(b) 18 U.S.C. 1906, which prohibits disclosure of information from a bank examination report except as authorized by law.

(c) 17 CFR 240.10b-5 which prohibits the use of manipulative or deceptive devices in connection with the purchase or sale of any security.

(d) 18 U.S.C. 1909, which prohibits examiners from providing any service for compensation for any bank or person connected therewith.

§ 3201.109 Provisions of 5 CFR part 2635 not applicable to Corporation employees.

The following provisions of 5 CFR part 2635 are not applicable to employees of the Corporation:

(a) Because of the restrictions imposed by 18 U.S.C. 213 on examiners accepting loans or gratuities, an examiner in the Division of Supervision may not use any of the gift exceptions at 5 CFR 2635.204 to accept a gift from an FDIC-insured depository institution examined by him or her or from any person connected with such institution.

(b) Provisions of 41 U.S.C. 423 (Procurement integrity) and the implementing regulations at 48 CFR 3.104 (of the Federal Acquisition Regulation) applicable to procurement officials referred to in:

(1) 5 CFR 2635.202(c)(4)(iii);

(2) The note following 5 CFR 2635.203(b)(7);

(3) Example 5 following 5 CFR 2635.204(a);

(4) Examples 2 and 3 following 5 CFR 2635.703(b)(3);

(5) 5 CFR 2635.902(f), (h), (l), and (bb);

(c) Provisions of 31 U.S.C. 1353 (Acceptance of travel and related expenses from non-Federal sources) and the implementing regulations at 41 CFR part 304–1 (Acceptance of payment from a non-Federal source for travel expenses) referred to in 5 CFR 2635.203(b)(8)(i).

(d) Provisions of 41 CFR Chapter 101 (Federal Property Management Regulations) referred to in 5 CFR 2635.205(a)(4).

(e) Provisions of 41 CFR Chapter 201 (Federal Information Resources Management Regulation) referred to in Example 1 following 5 CFR 2635.704(b)(2).

12 CFR CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 336—EMPLOYEE RESPONSIBILITIES AND CONDUCT

2. The authority citation for part 336 is revised to read as follows:

Authority: 5 U.S.C. 7301; 12 U.S.C. 1819(a).

3. Section 336.1 is revised to read as follows:

§ 336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Deposit Insurance Corporation (Corporation) are subject to the Executive Branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Corporation regulation at 5 CFR part 3201 which supplements the Executive Branch-wide Standards, the Executive Branch-wide financial disclosure regulations at 5 CFR part 2634, and the Corporation regulation at 5 CFR part 3202 which supplements the Executive Branch-wide financial disclosure regulations.

§§ 336.2–336.23, 336.29–336.37 [Removed]

Appendix to Part 336—[Removed]

4. Sections 336.2 through 336.23 and 336.29 through 336.37 and all subpart headings are removed and the appendix to part 336 is removed.

[FR Doc. 94–16557 Filed 7–11–94; 8:45 am]
BILLING CODE 5714–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

RIN 0581–AB28

[Docket No. FV93–353]

Regulations (Other Than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930 (PACA)

AGENCY: Agricultural Marketing Service (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would invite comments extending PACA coverage to include fresh and frozen fruits and vegetables that are oil-blanched, including frozen french fried potato products. Under previous regulations, suppliers of these commodities suffered considerable financial losses because oil-blanched products were excluded from the PACA. This proposed rule would grant dealers in frozen oil-blanched products the same rights afforded dealers whose frozen product is water blanched.

DATES: Comments must be received on or before August 11, 1994.

ADDRESSES: All comments concerning this proposed rule should be addressed to USDA, AMS, F&V DIVISION, PACA BRANCH, Room 2095–S. Building, P.O. Box 96456, 14th & Independence Avenue, S.W., Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: J.R. Frazier, Assistant Chief, PACA Branch, at 202–720–4180.

SUPPLEMENTARY INFORMATION: The Department of Agriculture is issuing this rule in conformance with Executive Order 12866.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 1650 of the Act, a person subject to the Plan may file a petition with the Secretary stating that the Plan or any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with law and requesting a modification of the Plan or an exemption from the Plan. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

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

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

The proposed rule would extend PACA coverage to include frozen fruits and vegetables that are oil-blanched, especially frozen french fried potato products. Under previous regulations, suppliers of these commodities suffered considerable financial losses because oil-blanched products were excluded from the PACA. This proposed rule would grant dealers in frozen oil-blanched products the same rights afforded dealers whose frozen product is water blanched.

The PACA establishes a code of fair trading by prohibiting certain unfair practices in the marketing of fresh or frozen fruits and vegetables. The law requires that parties fulfill their contractual obligations, and provides a forum wherein persons who suffer damages can recover their losses.

The PACA also impresses a statutory trust, for the benefit of unpaid sellers or suppliers, on all perishable agricultural commodities received by a commission merchant, dealer or broker and all inventories of food or other products derived from the sale of such commodities or products. Sellers who preserve their eligibility are entitled to payment ahead of other creditors, from trust assets of money owed on past due accounts.

As indicated in documents submitted to this Agency by the Frozen Potato Products Institute, frozen potato products represent the largest single frozen commodity shipped in the United States. These documents further state that potatoes cannot be economically frozen and shipped long distances unless they first undergo oil blanching. To exclude such a substantial portion of the frozen food industry is inconsistent with the intent of the PACA to protect dealers in fresh or frozen fruits and vegetables.

List of Subjects in 7 CFR Part 46

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 46 of the Code of Federal Regulations is proposed to be amended as follows:

PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

1. The authority citation for Part 46 continues to read as follows:

Authority: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

2. Section 46.2, paragraph (u) is revised to read as follows:

§ 46.2 Definitions.

* * * * *

(u) *Fresh fruits and fresh vegetables* include all produce in fresh form generally considered as perishable fruits and vegetables, whether or not packed in ice or held in common or cold storage, but do not include those perishable fruits and vegetables which have been manufactured into articles of food of a different kind or character. The effects of the following operations shall not be considered as changing a commodity into a food of a different kind or character: Water, steam, or oil blanching, chopping, color adding, curing, cutting, dicing, drying for the removal of surface moisture; fumigating, gassing, heating for insect control, ripening and coloring; removal of seeds, pits, stems, calyx, husk, pods, rind, skin, peel, et cetera; polishing, precooling, refrigerating, shredding, slicing, trimming, washing with or without chemicals; waxing, adding of sugar or other sweetening agents; adding ascorbic acid or other agents used to retard oxidation; mixing of several kinds of sliced, chopped, or diced fruits or vegetables for packaging in any type of containers; or comparable methods of preparation.

* * * * *

Dated: July 6, 1994.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 94–16758 Filed 7–11–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–56–AD]

Airworthiness Directives; Airbus Industrie Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A300–600 series airplanes. This proposal would require inspections to detect cracks in certain bolt holes where certain parts of the main landing gear (MLG) are attached to the rear spar, and repair, if necessary. This proposal is prompted by a report that cracks emanating from certain bolt holes in the rear spar were found during full scale fatigue testing. The actions specified by the proposed AD are intended to prevent unnecessary degradation of the structural integrity of the airframe due to cracks in the rear spar.

DATES: Comments must be received by August 22, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113; FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–56–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A300–600 series airplanes. The DGAC advised that, during full-scale fatigue testing, cracks were discovered in the rear spar emanating from certain bolt holes where the main landing gear (MLG) forward pick-up fitting and the MLG rib 5 aft are attached to the rear spar on Model A300–600 series airplanes. This condition, if not corrected, could result in degradation of the structural integrity of the airframe.

Airbus Industrie has issued Service Bulletin A300–57–6017, dated November 22, 1993, that describes procedures for repetitive high frequency eddy current (HFEC) rototest inspections to detect cracks in certain bolt holes where the MLG forward pick-up fitting and the MLG rib 5 aft are attached to the rear spar. This service bulletin also references Airbus Industrie Service Bulletin A300–57–6020, dated November 22, 1993, as an additional source of service information for accomplishment of certain repair and inspection procedures. The DGAC has classified Airbus Service Bulletin A300–57–6017 as mandatory and has issued French airworthiness directive 94–031–155(B), dated February 2, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive HFEC rototest inspections to detect cracks in certain bolt holes where the MLG forward pick-up fitting and the MLG rib 5 aft are attached to the rear spar, and repair, if necessary. The inspections would be required to be accomplished in accordance with Airbus Industrie Service Bulletin A300–57–6017.

The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 240 work hours per airplane to accomplish the proposed actions (including time to gain access and close up), and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $330,000, or $13,200 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The FAA recognizes that the proposed inspections and repair would require a large number of work hours to accomplish. However, the compliance times in this proposed AD should allow ample time for the inspection and repair to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 94–NM–56–AD.

Applicability: Model A300–600 series airplanes on which Airbus Industrie Production Modification No. 07801 has not been accomplished prior to delivery; manufacturer's serial numbers (MSN) 252 through 553 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural integrity of the airframe due to cracks in the rear spar, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) rototest inspection to detect cracks in certain bolt holes where the main landing gear (MLG) forward pick-up fitting and MLG rib 5 aft are attached to the rear spar, in accordance with Airbus Industrie Service Bulletin A300–57–6017, dated November 22, 1993.

Note 1: This service bulletin also references Airbus Industrie Service Bulletin A300–57–6020, dated November 22, 1993, as an additional source of service information.

(1) For airplanes that have accumulated 17,300 total landings or less as of the effective date of this AD: Inspect prior to the accumulation of 17,300 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 17,301 or more total landings, but less than 19,300 total landings as of the effective date of this AD: Inspect within 1,500 landings after the effective date of this AD.

(3) For airplanes that have accumulated 19,300 or more total landings as of the effective date of this AD: Inspect within 750 landings after the effective date of this AD.

(b) If no crack is found during the inspection required by paragraph (a) of this AD, repeat that inspection thereafter at the time specified in paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes on which Airbus Industrie Modification 07716 (as described in Airbus Industrie Service Bulletin A300–57–6020) has not been accomplished, inspect at the time specified in paragraph (b)(1)(i) or (b)(1)(ii) of this AD, as applicable.

(i) For airplanes having MSN 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 13,000 landings.

(ii) For airplanes having MSN 252 through 464 inclusive: Repeat the inspection at intervals not to exceed 8,400 landings.

(2) For airplanes on which Airbus Industrie Modification 07716 has been accomplished, inspect at the time specified in paragraph (b)(2)(i) or (b)(2)(ii) of this AD, as applicable.

(i) For airplanes having MSN 465 through 553 inclusive: Repeat the inspection at intervals not to exceed 11,800 landings.

(ii) For airplanes having MSN 252 through 464 inclusive: Repeat the inspection within 10,700 landings following the initial inspection required by paragraph (a) of this AD, and thereafter at intervals not to exceed 7,500 landings.

(c) If any crack is found during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish the requirements of paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For airplanes on which Airbus Industrie Modification 07716 has not been accomplished: Accomplish the applicable repair requirements of paragraph (c)(1)(i) or (c)(1)(ii) of this AD. After repair, repeat the inspections as required by paragraph (b) of this AD at the applicable schedule specified in that paragraph.

(i) If the crack measures 1mm or less, repair in accordance with Airbus Industrie Service Bulletin A300–57–6020, dated November 22, 1993.

(ii) If the crack measures more than 1mm, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) For airplanes on which Airbus Industrie Modification 07716 has been accomplished: Repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. After repair, repeat the inspections as required by paragraph (b) of this AD at the applicable schedule specified in that paragraph.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–112. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 6, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–16813 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–CE–02–AD]

Airworthiness Directives: British Aerospace, Regional Aircraft Limited, HP 137 Mk1, Jetstream Models 200, 3101, and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede two existing AD's that require repetitively inspecting the universal joints and universal rivets on British Aerospace (BAe), Regional Aircraft Limited, HP 137 Mk1, Jetstream Models 200, 3101, and 3201 airplanes, and replacing any damaged part, and limiting the in-service life of the torque tube shaft assembly. Jetstream Aircraft Limited has introduced an improved flap torque shaft assembly that includes universal joints that are not life limited. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would require installing this improved flap torque shaft assembly in place of the repetitive inspection and life limit requirements of the two existing AD's. The actions specified by the proposed AD are intended to prevent failure of the flap torque shaft assembly, which could result in asymmetric flap deployment and loss of control of the airplane.

DATES: Comments must be received on or before September 26, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–02–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.3830; facsimile (322) 230.6899; or Mr. John P. Dow, Sr., Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–02–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–02–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could eliminate, or, in certain instances, reduce the number of critical repetitive inspections.

In 1991, the FAA issued a notice of proposed rulemaking (NPRM) to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an airworthiness directive (AD) that would apply to BAe, Regional Aircraft Limited, HP 137 Mk1, Jetstream Models 200, 3101, and 3201 airplanes. This NPRM (56 FR 11976, March 21, 1991) proposed inspecting the flap torque shaft to identify all Type "F" universal joints, and replacing these universal joints with Type "M" or part number A16123 universal joints.

Since issuance of the notice of proposed rulemaking (NPRM), Jetstream Aircraft Limited has introduced an improved flap torque shaft assembly that includes universal joints that are not life limited, and that incorporates the actions proposed in the referenced NPRM and required by the following AD's:

- AD 87–04–04, Amendment 39–5529, which requires limiting the in-service life of the torque tube shaft assembly on BAe HP 137 Mk1, Jetstream Models 200, 3101, and 3201 airplanes; and
- AD 89–16–02, Amendment 39–6273, which requires repetitively inspecting the universal joints and universal joint rivets on BAe HP 137 Mk1, Jetstream Models 200, 3101, and 3201 airplanes, and replacing any damaged part.

Jetstream Aircraft Limited has issued Service Bulletin (SB) No. 27–JA 920340, which incorporates the following pages:

Pages	Revision level	Date
1 through 6 and 9 through 16.	2	Dec. 21, 1993.
7, 8, and 17 through 28.	Original issue.	Sept. 2, 1992.

This service information specifies procedures for installing the improved flap torque shaft assembly.

Based on its aging commuter-class aircraft policy and after reviewing all available information, the FAA has determined that (1) installing the new improved flap torque shaft assemblies incorporates the actions proposed in the previously referenced NPRM and AD 87–04–04 and AD 89–16–02, and replaces critical repetitive inspections with a design modification; and (2) AD action should be taken to prevent failure of the flap torque shaft assembly, which could result in asymmetric flap deployment and loss of control of the airplane. With this in mind, the FAA issued a document, withdrawing the previously referenced NPRM, on February 14, 1994 (59 FR 8878, February 24, 1994).

Since an unsafe condition has been identified that is likely to exist or develop in other BAe, Regional Aircraft Limited, HP 137 Mk1, Jetstream Models 200, 3101, and 3201 airplanes of the same type design, the proposed AD would supersede both AD 87–04–04 and AD 89–16–02 with a new AD that would require installing this improved flap torque shaft assembly in place of the repetitive inspection and life limit requirements of the two existing AD's. The proposed actions would be accomplished in accordance with Jetstream Aircraft Limited SB No. 27–JA 920340.

The subsequent final rule action (if promulgated) would have an effective date of 12 months after publication in the **Federal Register** and a compliance time of 50 hours time-in-service after the effective date. This would allow operators time to schedule the flap torque shaft assembly replacement. The requirements of AD 87–04–04 and AD 89–16–02 would remain in effect until this date.

The FAA estimates that 245 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 31 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $1010 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $665,175. This figure is based on the assumption that none of the affected airplane operators have accomplished the proposed actions. In addition, this action would eliminate the repetitive inspections required by AD 87–04–04 and AD 89–16–02. The FAA has no way of determining the operation levels of each individual operator of the affected airplanes, and subsequently cannot determine the repetitive inspections costs that would be eliminated by the proposed action. The FAA estimates these costs to be substantial over the long-term.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing both AD 87–04–04, Amendment 39–5529, and AD 89–16–02, Amendment 39–6273, and by adding a new airworthiness directive to read as follows:

British Aerospace, Regional Aircraft Limited: Docket No. 94–CE–02–AD; Supersedes AD 87–04–04, Amendment 39–5529, and AD 89–16–02, Amendment 39–6273.

Applicability: HP 137 Mk1, Jetstream Models 200, 3101, and 3201 airplanes (all serial numbers), certificated in any category

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent failure of the flap torque shaft assembly, which could result in asymmetric flap deployment and loss of control of the airplane, accomplish the following:

(a) Install an improved torque shaft assembly in accordance with Part 1 of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Aircraft Limited Service Bulletin (SB) No. 27–JA 920340; or modify the existing torque shaft assembly in accordance with Part 2 of the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Aircraft Limited SB No. 27–JA 920340, which incorporates the following pages:

Pages	Revision level	Date
1 through 6 and 9 through 16.	2	Dec. 21, 1993.
7, 8, and 17 through 28.	Original issue.	Sept. 2, 1992.

(b) The life limit requirements of the torque tube shaft assembly required by AD 87–04–04, and the repetitive inspections of the universal joints and universal joint rivets required by AD 89–16–02 remain mandatory until the effective date of this AD or upon accomplishing the installation or modification referenced by paragraph (a) of this AD, whichever occurs first.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

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

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

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment supersedes both AD 87–04–04, Amendment 39–5529, and AD 89–16–02, Amendment 39–6273.

Issued in Kansas City, Missouri, on July 6, 1994.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–16814 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 94–AGL–21]

Proposed Establishment of Class E Airspace; Muskegon, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish a Class E airspace area at Muskegon County Airport, Muskegon, MI. Presently, this area is designated as Class D airspace when the associated control tower is operational. However, controlled airspace to the surface is needed when the control tower located at this area is closed. The intended affect of this proposal is to provide adequate Class E airspace for instrument flight rule (IFR) operations when this control tower is closed.

DATES: Comments must be received on or before August 30, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 94–AGL–21, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Angeline Perri, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7571.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AGL–21." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Muskegon County Airport, Muskegon, MI. Currently, this airspace is designated as Class D when the associated control tower is in operation. Nevertheless, controlled airspace to the surface is needed for IFR operations at Muskegon County Airport, Muskegon, MI, when the control tower is closed.

The intended affect of this action is to provide adequate Class E airspace for IFR operations at this airport when the control tower is closed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as surface areas for airports are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MI E2 Muskegon, MI [New]

Muskegon County Airport, MI
(lat. 43°10'10" N., long. 86°14'18" W.)

Within a 4.2-mile radius of Muskegon County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter, be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plains, Illinois on June 29, 1994.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–16829 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Part 637

[FHWA Docket No. 94–13]

RIN 2125–AD35

Quality Assurance Procedures for Construction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is requesting comments on proposed revisions to its regulation which establishes general requirements for quality assurance procedures for construction on Federal-aid highway projects. The proposed revisions will clarify existing policy and procedures and provide additional guidance on the use of contractor-supplied test results in acceptance plans and qualifications of laboratories and testing personnel.

DATES: Comments must be received on or before September 12, 1994.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 94–13, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rafalowski, Office of Engineering, HNG–23, 202–366–1571; or Mr. Wilbert Baccus, Office of the Chief Counsel, HCC–32, 202–366–0780; Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The current regulations on sampling and testing of materials and construction appear in 23 CFR Part 637 (1993), Construction Inspection and Approval. These regulations were last revised in January of 1987. The regulations were written around the traditional approach of the State performing all the sampling and testing. The regulations do not address the use of contractor testing. As a result, a number of questions arose in those States and Federal Highway Administration (FHWA) Federal Lands Highway offices which were using contractor testing in their quality control/quality assurance (QC/QA) programs.

Since the existing regulations do not recognize the use of contractor testing results in the acceptance program, which is the process of accepting materials and construction, an internal committee was established in 1992 to study the ramifications of using contractor-performed sampling and testing results. The committee released the results of its study in a report, "Limits of Use of Contractor Performed Sampling and Testing," dated July 1, 1993. (A copy of the report is available in the docket for inspection and copying.) One of the report's recommendations indicates that contractor sampling and testing can be used in acceptance programs provided that adequate checks and balances are in place to protect the public investment. The revisions that are proposed in this NPRM would implement the committee's recommendations.

The NPRM, if promulgated, would replace the existing acceptance and independent assurance sampling and testing programs with a comprehensive system of checks and balances. Acceptance of materials and construction would not be based solely on any one set of data and would specifically require the State to monitor and inspect the contractors' quality control program. The State's verification sampling and testing would be used to ensure the quality of the product. In addition, the system would provide for using results from the contractors' quality control sampling and testing program in the acceptance program if those results are validated by the State's verification sampling and testing system. The verification sampling and testing would be performed on independent samples obtained by the State to verify the contractors' quality control data. If the results from the contractors' quality control program and the State's verification sampling and testing program do not agree a dispute resolution system will be used to determine payment to the contractor.

The requirement for an independent assurance (IA) program would remain in place. The IA program would use witnessing, split samples, proficiency samples and equipment calibration as an independent check of the field sampling and testing procedures and equipment to assure the testing is being performed properly by both the State and the contractor personnel.

The major changes in the regulation would be as follows:

1. The use of contractor testing results in the overall acceptance program would be allowed, provided certain checks and balances are in place.

2. The traditional type of acceptance program with the State performing all of the testing would be allowed.

3. The IA program could be performed either on a system basis or on a project by project basis. In a system approach, all equipment and testing personnel would be assessed on a time frequency, regardless of the specific project on which the testing occurs. The system approach would allow the State to assess testing equipment and testing personnel regardless of project location. This approach would ensure that the testing on small projects is assessed and would also ensure that all testing personnel are reviewed.

4. If the system approach to the IA program is used, an annual report on the IA program would be required instead of a statement in the project materials certificate concerning the IA program.

5. Qualified, designated agents of the State would be permitted to perform the IA testing.

6. All testing personnel and laboratories would be required to be qualified using State procedures. It is anticipated this provision will have an effective date two years after the publication of the final rule.

7. The State Highway Agency's (SHA) central laboratory would be required to become accredited by the American Association of State Highway and Transportation Officials (AASHTO) Accreditation Program. It is also anticipated this provision will have an effective date two years after the publication of the final rule.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The FHWA, at 23 CFR 637, currently has regulations covering sampling and testing. The proposed revisions would merely update these regulations to accommodate contractor-performed sampling and testing and reinforce existing policy. Therefore, it is anticipated that the economic impact of this rulemaking will be minimal and a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (U.S.C. 601–612), the FHWA has evaluated the effects of this proposal on small entities. The FHWA concluded that this action would in fact provide some small testing firms with an opportunity to perform more work than was allowed by the previous regulations. Although the regulation would have a positive impact on these testing firms, the number of firms affected would be small and the amount of additional work would be insignificant. Therefore, the FHWA hereby certifies that this rulemaking would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

National Environmental Policy Act

This rulemaking does not have any effect on the environment. It does not constitute a major action having a significant effect on the environment, and therefore does not require the preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*)

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 637

Grant programs—transportation, Highways and roads, Quality assurance, Materials sampling and testing.

Issued on: June 30, 1994.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 637 by revising subpart B to read as follows:

Subchapter G—Engineering and Traffic Operations

PART 637—CONSTRUCTION INSPECTION AND APPROVAL

Subpart B—Quality Assurance Procedures for Construction

Sec.

Authority: 23 U.S.C. 109, 114, and 315; 49 CFR 1.48(b).

§ 637.201 Purpose.

To prescribe policies, procedures, and guidelines to assure the quality of materials and construction in all Federal-aid highway projects on the National Highway System.

§ 637.203 Definitions.

Acceptance program. All factors that comprise the SHA's determination of the quality of the product as specified in the contract requirements. These factors include verification sampling, testing and inspection and may include validated results of quality control sampling and testing.

Independent assurance program. Activities that are an unbiased and independent evaluation of all the sampling and testing procedures used in the acceptance program which are performed outside the SHA's central laboratory.

Proficiency samples. Homogeneous samples that are distributed and tested by two or more laboratories. The test results are compared to assure that the laboratories are obtaining the same results.

Qualified laboratories. Laboratories that are accredited through appropriate programs as determined by each SHA. As a minimum, the qualifications shall be consistent with the equipment calibration and verification requirements stipulated in sections 5.4 and 5.8 of AASHTO R–18, Establishing and Implementing a Quality System for Construction Materials Testing Laboratories.

Qualified sampling and testing personnel. Personnel who are certified

through appropriate programs defined by each State Highway Agency (SHA).

Quality assurance. All those planned and systematic actions necessary to provide confidence that a product or service will satisfy given requirements for quality.

Quality control. All contractor/vendor operational techniques and activities that are performed or conducted to fulfill the contract requirements.

Verification sampling and testing. Sampling and testing performed to validate the quality of the product. If quality control sampling and testing is used in the acceptance program, verification sampling and testing will also be used to validate the quality control sampling and testing.

§ 637.205 Policy.

(a) *Quality assurance program.* Each SHA shall develop a quality assurance program which will assure that the materials and workmanship incorporated in each Federal-aid highway construction project are in reasonably close conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in § 637.207 and be approved by the FHWA.

(1) Independent assurance program. The results of independent assurance (IA) tests are not to be used as a basis for material acceptance. Independent samples and tests or other procedures shall be performed by qualified sampling and testing personnel who do not have direct responsibility for quality control and verification sampling and testing.

(2) Verification sampling and testing. The verification sampling and testing are to be performed by the SHA or its designated agent excluding the contractor and/or vendor.

(b) *Laboratory accreditation program.* Each SHA shall be accredited by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

§ 637.207 Quality assurance program.

(a) Each SHA's quality assurance program shall provide for an acceptance program and an independent assurance program consisting of the following:

(1) Acceptance program. Each SHA's acceptance program shall consist of the following:

(i) Frequency guide schedules for verification sampling and testing which will give general guidance to personnel responsible for the program and allow adaptation to specific project conditions and needs.

(ii) Identification of the specific location in the construction or production operation at which verification sampling and testing is to be accomplished.

(iii) The SHA shall inspect the product or construction or both for attributes that are detrimental to the performance of the finished product.

(iv) Quality control sampling and testing results may be used as part of the acceptance decision provided that:

(A) The quality control program is approved and monitored by the SHA;

(B) The sampling and testing has been performed by qualified laboratories and qualified sampling and testing personnel;

(C) The results have been validated by the verification sampling and testing. The validation of the quality control sampling and testing shall be performed by using standard statistical tests. Both the means and variances of the results from the quality control tests and verification tests shall be compared to ensure that both sets of data are testing the same population. The comparison procedures shall provide equivalent or better reliability than those obtained with the F-test for variances and the t-test for the means; and

(D) The quality control sampling and testing is evaluated by an IA program.

(v) If the results from the quality control sampling and testing are used in the acceptance program the SHA shall establish a dispute resolution system. The dispute resolution system shall address the resolution of discrepancies occurring between the verification sampling and testing and the quality control sampling and testing. The dispute resolution system may be administered entirely within the SHA.

(2) The IA program shall evaluate the qualified sampling and testing personnel and the testing equipment. The program shall cover sampling procedures, testing procedures, and testing equipment. The program shall be performed by the SHA or its designated agent. Each IA program shall include the following:

(i) A schedule of frequency for IA evaluation. The schedule may be established based on either a project basis or a system basis. The frequency can be based on either a unit of production or on a unit of time.

(ii) The testing equipment can be evaluated by using frequent calibration checks, split samples, or proficiency samples.

(iii) Split samples or proficiency samples shall be used to evaluate testing personnel. A reasonable amount of the evaluations shall include observation of the sampling and testing procedures.

(iv) A prompt comparison and documentation shall be made of test results obtained by the tester being evaluated and the IA tester. The SHA shall develop guidelines for the comparison of test results.

(v) If the SHA uses the system approach to the IA program the SHA shall provide an annual report to the FHWA summarizing the results of the IA program.

(3) The preparation and submission of a materials certification, conforming in substance to Appendix A of this regulation, to the FHWA Division Administrator for each construction project which is subject to FHWA construction oversight activities.

(b) [Reserved]

§ 637.209 Laboratory and sampling and testing personnel qualifications.

(a) *Laboratories.* After (*2 years after the date of publication of the final rule in the* Federal Register),

(1) All contractor, vendor, and SHA testing shall be performed by qualified laboratories.

(2) Each SHA shall have its central laboratory accredited by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(3) Any non-SHA designated laboratory which performs IA sampling and testing shall be accredited in the testing to be performed by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(4) Any laboratory that is used in dispute resolution sampling and testing shall be accredited in the testing to be performed by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(b) *Sampling and testing personnel.* After (*2 years after the date of publication of the final rule in the* Federal Register), all sampling and testing performed for the contractor/vendor and the SHA shall be executed by qualified sampling and testing personnel.

(c) *Conflict of interest.* In order to avoid an appearance of a conflict of interest, any non-SHA qualified laboratory shall perform only one of the following types of testing on the same project: verification testing, quality control testing, IA testing, or dispute resolution testing.

Appendix A to Subpart B—Guide Letter of Certification by SHA Engineer

Date _____

Project No. _____

This is to certify that:

The results of the tests used in the acceptance program indicate that the

materials incorporated in the construction work, and the construction operations controlled by sampling and testing, were in conformity with the approved plans and specifications. (The following sentence should be added if the IA testing frequencies are based on project quantities. All independent assurance samples and tests compare favorably to the samples and tests that are used in the acceptance program.)

Exceptions to the plans and specifications are explained on the back hereof (or on attached sheet).

Director of SHA Laboratory or other appropriate SHA Official.

[FR Doc. 94–16718 Filed 7–11–94; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Finding on a Petition to Emergency List the Rocky Mountain Capshell as an Endangered Species Throughout Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-Month Petition Finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The Service finds that listing the Rocky Mountain capshell (*Acroloxus coloradensis*) as endangered is not warranted.

DATES: The finding announced in this document was approved on July 5, 1994.

ADDRESSES: Questions or comments concerning this finding should be sent to U.S. Fish and Wildlife Service, 730 Simms Street, Suite 290, Golden, Colorado 80401. The petition, finding, and supporting data are available for public inspection by appointment during normal business hours at the above office.

FOR FURTHER INFORMATION CONTACT: LeRoy W. Carlson, Field Supervisor, at the above address or telephone (303) 231–5280.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information a finding be made within 12 months of the date of receipt of the petition on whether the petitioned action is (i) not warranted, (ii) warranted, or (iii) warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species. Notice of the finding is to be published promptly in the **Federal Register**. This notice meets the latter requirement for the 12-month finding made earlier for the petition discussed below. Information contained in this notice is a summary of the information in the 12-month finding, which is the Service's decision document.

A petition dated September 30, 1992, was received from the Biodiversity Legal Foundation and Dr. Shi-Kuei Wu of the University of Colorado on October 5, 1992. The petitioners requested the Service to emergency list the Rocky Mountain capshell (*Acroloxus coloradensis*) as endangered and to designate critical habitat concurrently with the listing. The petitioners submitted biological, distributional, historical, and other information and scientific references in support of the petition. The notice of a 90-day finding was published in the **Federal Register** on May 14, 1993 (58 FR 28543), indicating that the petitioners provided substantial information to warrant the requested action. Concurrent with publishing the notice, the Service initiated a status review.

When the 90-day finding was completed, the Rocky Mountain capshell was thought to be restricted to only two populations in the United States and five in Canada. In the United States, one population existed at Peterson Lake, Boulder County, Colorado, and the other at Glacier National Park in Montana. In Canada, the Rocky Mountain capshell was known to occur in three lakes in Quebec and two ponds in Ontario. The species was presumed extirpated from two lakes in Jasper National Park, Alberta (Clarke 1992a).

During the summer of 1993, an extensive survey effort in Colorado increased the number of known Rocky Mountain capshell populations in Colorado from one to five, with four of these populations apparently in "good health" and occurring on National Park Service or U.S. Forest Service lands (Pioneer Environmental Services 1993, Riebesell and Kovalak 1993). The fifth population is located on privately owned land and appears to be the only Colorado population that is in peril.

A status survey conducted at Lost Lake, Montana in September 1992 found that Rocky Mountain capshell population to be stable. This population is estimated to contain between 20,000 and 40,000 individuals, based on the number of snails found per square meter and the amount of available habitat (A.H. Clark, Ecosearch Inc., *in litt.*, 1992).

New information provided by Jasper National Park personnel in Canada indicates at least one Rocky Mountain capshell population still exists within the Park and there is the likelihood a second population (N. Manners, Jasper National Park, *in litt.*, 1993). A few specimens were also found under a bridge in another area outside the Park in 1991 (Paul and Clifford, 1991). Thus, Alberta appears to harbor at least two, and possibly three, Rocky Mountain capshell populations.

A previously unreported Rocky Mountain capshell population appears to occur at Purden Lake, British Columbia (Clarke 1992b). However, the Service has been unable to obtain any information on its population status. The three populations previously reported to occur in Quebec and the two in Ontario apparently still exist, but the status of each population is not known.

With the discovery of 4 new populations in Colorado, 1 in Alberta, and 1 in British Columbia, and the possibility of 1 or 2 populations still existing in Jasper National Park, the number of reported Rocky Mountain capshell populations has increased from 7 to at least 14 in less than 1 year.

Summary of Factors Affecting the Species

The following information is a summary and discussion of the five factors or listing criteria as set forth in section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act and their applicability to the current status of the Rocky Mountain capshell.

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

The Peterson Lake, Colorado, population may be nearly extirpated and a survey in June found only three live specimens and one empty shell after 12 hours of intensive searching (Clarke 1992a). Subsequent surveys found a few more individuals, some were at deeper depths than found previously (Pioneer Environmental Services 1993; G. Hopkins, Pioneer Environmental Services, *in litt.*, 1993).

Activities which might have caused the decline of the population in

Peterson Lake include road maintenance (salting/sanding and grading), ski resort activities (water depletion and treated waste water discharge into the lake), landscaping, mining, lake drawdowns, and dam raising which resulted in the subsequent flooding of the enlarged lake basin. Since the present management of Eldora Mountain Resort took over operation of the ski area in 1991, the water quality of the lake has improved. Present information indicates that the species may again be increasing due to an improvement in the water quality of the lake. Future surveys will be necessary to verify this.

Aside from the population at Peterson Lake, none of the other 13 remaining populations are thought to be significantly impacted by the present or threatened destruction, modification, or curtailment of habitat.

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

Some of the lakes inhabited by the Rocky Mountain capshell receive fishing, camping, and swimming activities, but this factor is not thought to be a threat to the continued existence of the Rocky Mountain capshell.

C. Disease or Predation

The introduction of trout may have been one of the factors that contributed to the decline of the Rocky Mountain capshell in Peterson Lake. Aside from this population, disease or predation is presently not a threat to any of the other 13 Rocky Mountain capshell populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The Service believes that the four newly discovered populations in Colorado are safe from human impacts since they occur on National Park Service and U.S. Forest Service lands.

The population in Glacier National Park is protected by Park Service regulations. With the exception of the one or two populations within Jasper National Park, the Canadian populations apparently do not have any regulatory protection. The lack of regulatory mechanisms is not known to be a threat at this time, but could change at some point in the future.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

At Peterson Lake, severe drought coupled with the winter water drawdown form the lake by Eldora Ski Resort, has on occasion lowered the water level dramatically. These events have exposed the Rocky Mountain capshell to dehydration and freezing conditions. In 1979, the existing access road adjacent to Peterson Lake was paved. This expedited runoff, thus increased the natural sedimentation process plus adding an influx of possible salt and sand contaminants into the lake.

When the 90-day finding was made, the Service believed that the two populations in Jasper National Park had been extirpated due to the lakes they inhabited being poisoned. However, new information has shown that neither lake was poisoned.

The Rocky Mountain capshell population in Peterson Lake may be threatened by natural or manmade factors, but none of the other 13 known populations are thought to be threatened by any of these factors.

Finding

Emergency listing is allowed under the Act whenever immediate protection is needed to prevent extirpation of a species. For an invertebrate species, endangerment must be considered throughout the range of the species rather than for a single population.

Considering information previously discussed in this notice, only the Peterson Lake population of the 14 known Rocky Mountain capshell populations is thought to be subject to possible endangerment or extinction in the foreseeable future. Also, in less than one year's time, the number of reported populations increased from 7 to 14. Since little is known about the biology, ecology, and distribution of the Rocky Mountain capshell, and since recently discovered populations in Colorado, Alberta, and British Columbia point to a wider geographical distribution than previously thought, the Service believes that additional populations exist in suitable habitat in the United States and in Canada.

After reviewing the petition, accompanying documentation, references cited therein, and research findings, the Service concludes that the petition requesting that the Rocky Mountain capshell be listed as an endangered species on an emergency basis throughout its range is not warranted. The petitioners also requested that critical habitat be designated. In the future, if a warranted finding is made for the species, then designation of critical habitat would be addressed in the subsequent proposed rule. After arriving at the not warranted finding, the Service changed the species' candidate status from category 2 to category 3C.

The Service's 12-month finding contains more detailed information regarding the above decisions. A copy may be obtained from the Service's Golden office (see **ADDRESSES** above).

References Cited

Clark, A.H. 1992a. Third progress report of status survey of selected invertebrates of Utah. U.S. Fish and Wildlife Service Contract 14–16–0006–91. Ecosearch, Inc., Portland, Texas. 6 pp.

Clark, A.H. 1992b. Fourth progress report of status survey of selected invertebrates of Utah. U.S. Fish and Wildlife Service Contract 14–16–0006–91. Ecosearch, Inc., Portland, Texas. 2 pp.

Paul, A.J., and H.F. Clifford. 1991. *Acroloxus coloradensis* (Henderson), a rare North American freshwater limpet. The Nautilus 105(4): 173–174.

Pioneer Environmental Services, Inc. 1993. Results of survey for the Rocky Mountain capshell snail in Colorado alpine lakes. Prepared for Eldora Enterprises Limited Liability Company, Lake Eldora Corporation, and Colorado Division of Wildlife. 12 pp. plus appendix.

Riebesell, J.F., and W.P. Kovalak. 1993. Finch Lake sampling summary. Report to Rocky Mountain National Park, Estes Park, Colorado. 8 pp.

Author

This notice was prepared by Jose Bernardo Garza (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

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

Dated: July 5, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–16847 Filed 7–11–94; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 132
Tuesday, July 12, 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.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Arizona Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has amended its finding of no significant impact (FONSI) dated February 3, 1993, with respect to the potential environmental impact resulting from a proposal by Arizona Electric Power Cooperative, Inc. (AEPCO), to construct and operate a new ash and scrubber waste disposal facility adjacent to its Apache Generating Station.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, room 1246, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The Apache Generating Station is located approximately 11 miles southeast of the Town of Willcox in Cochise County, Arizona. The proposed project consists of constructing a 285-acre disposal facility that will include two ash pond cells, an evaporation pond, and a scrubber sludge disposal pond. Due to site topography, the above ground height of the disposal facility's exterior dikes will range from 5 feet along the western border to 30 feet along the eastern border. The dike side slopes and pond bottoms will be lined with high density synthetic polyethylene flexible membrane liners. Above ground pipelines will be used to sluice the ash and scrubber wastes from the plant to the disposal facility. The facility is designed as a no discharge system.

Alternatives considered to the proposed project included reconstruction of the existing ash and sludge ponds (no action), total conversion of the Station to burn natural gas, sale of the ash and scrubber sludge, dry disposal of ash and scrubber sludge, and construction of new disposal facilities at a different location. REA considered these alternatives and concluded in a FONSI published in the **Federal Register** on February 12, 1993 that constructing new ash and scrubber waste disposal facilities at the AEPCO's proposed site was the preferred alternative to ensure continued operation of the Apache Station's coal-fired units and compliance with recent aquifer protection legislation.

Subsequent to REA's previous action, an earth fissure was identified within the boundaries of AEPCO's preferred site. This issue was considered significant enough for the Arizona Department of Environmental Quality (ADEQ) to require an onsite investigation. REA decided to reevaluate the proposed project based on the results of that investigation. The amended FONSI is based on a review of the following information: (1) Combustion Waste Disposal Facility Fissure Investigation; (2) Public Hearing Transcript on the draft Aquifer Protection Permit (APP); (3) Responsiveness Summary prepared by the ADEQ in response to public comments on the draft APP; (4) Final APP issued on April 22, 1994; and (5) other permits and approvals issued for the proposed facility and referenced in the FONSI. REA independently evaluated the above listed documents and other available information and believes that modified design and additional monitoring requirements included in the APP will ensure that future expansion or movement of the fissure and associated seepage from the ponds is detected. These measures should preclude the potential for adverse impacts to groundwater quality in the vicinity of the proposed facility.

In accordance with REA Environmental Policies and Procedures for Electric and Telephone Borrowers, 7 CFR Part 1794, AEPCO published notices in the *San Pedro Valley News Sun* and the *Willcox Range News* on May 5 and 12, 1994. The notices announced REA's decision to reassess its FONSI determination of February 12, 1993, described the documentation upon which the reassessment would be based, and identified locations within Cochise County at which these materials could be reviewed. The comments received did not identify any issues or concerns relating to the project that: (1) had not been addressed by the appropriate regulatory authority; or (2) had not been previously brought to REA's attention.

A copy of the amended finding of no significant impact is available for review at, or can be obtained from, REA at the address provided herein or from Mr. Mark W. Schwirtz, Arizona Electric Power Cooperative, Inc., 1000 South Highway 80, P.O. Box 670, Benson, Arizona 85602, during normal business hours.

Dated: July 1, 1994.

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 94–16732 Filed 7–11–94; 8:45 am]

BILLING CODE 3410–15–P

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), as amended, the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board (hereafter referred to as the UAB)

Date: August 18–20, 1994

Time: August 18—8 a.m.–4:30 p.m.
August 19—8 a.m.–4:30 p.m.
August 20—8 a.m.–12 noon

Place: August 18 (site visits): Colorado State University, Fort Collins, Colorado
August 19: Colorado Water Resources Institute (8 a.m.–11:30 a.m.), 410 University Services Center, Fort Collins, Colorado
Agricultural Research, Development, Education Center (1 p.m.–2:30 p.m.), 4616 NE Frontage Road, Fort Collins, Colorado
USDA–ARS National Seed Storage Laboratory (3 p.m.–4:30 p.m.), 111 South Mason, Fort Collins, Colorado
August 20: Rocky Mountain Forest and Range, Experiment Station (8 a.m.–12

noon), 240 West Prospect Road, Fort Collins, Colorado

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person named below.

Purpose: Review agricultural, forestry, and range research and extension programs conducted by the Colorado State University College of Agricultural Sciences, USDA Agricultural Research Service National Seed Laboratory, and USDA Forest Service Rocky Mountain Forest and Range Experiment Station.

Contact Person for Agenda and More Information: Ms. Marshall Tarkington, Executive Director, Science and Education Advisory Committees, Room 316A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250–2200; Telephone (202) 720–3684.

Done in Washington, D.C., this 1st day of July 1994.

John Patrick Jordan,

Administrator.

[FR Doc. 94–16845 Filed 7–11–94; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Electronics Technical Advisory Committee; Closed Meeting

A meeting of the Electronics Technical Advisory Committee will be held August 3, 1994, at 9 a.m., in the Herbert C. Hoover Building, Room 1617M–2, 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment or technology.

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

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information, call 202–482–2583.

Dated: July 7, 1994.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–16803 Filed 7–11–94; 8:45 am]

BILLING CODE 3510–DT–M

Regulations and Procedures Technical Advisory Committee; Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held August 2, 1994, at 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis on implementation of the Export Administration Regulations (EARS), and provides for continuing review to update the EARS as needed.

Agenda

General Session

1. Opening remarks by the Chairman
2. Presentation of papers or comments by the public
3. Reports from RPTAC working groups
4. Update on Export Administration Act (EAA) and Bureau of Export Administration (BXA) reorganization
5. Update on Export Administration Regulations (EAR) and other issues
6. Discussion on foreign policy controls (State Department)

Executive Session

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

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Unit/ODAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 18, 1993, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: July 7, 1994.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–16804 Filed 7–11–94; 8:45 am]

BILLING CODE 3510–DT–M

Transportation and Related Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held August 4, 1994, 9 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street and Pennsylvania Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

General Session

1. Opening Remarks by the Chairman
2. Introduction of Members and Visitors
3. Presentation of Papers or Comments by the Public
4. Discussion of recent revisions to the Export Administration Regulations (EAR)
5. Discussion of BXA reorganization

Executive Session

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

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 6, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1), shall be exempt from the provisions relating to public meetings found in sections 10 (a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call (202) 482–2583.

Dated: July 7, 1994.

Lee Ann Carpenter,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 94–16854 Filed 7–11–94; 8:45 am]

BILLING CODE 3510–DT–M

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Office of Technology Commercialization, Physics Building, Room B–256, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 91–001

Title: Improved Oscillating Tube Densimeter

Description: The oscillating tube densimeter provides a unique measurement of fluid density. The invention consists of an electrically conducting tube, through which the fluid is passed, surrounded by a magnet. A current passed through the tube thus generates electromagnetic forces. These forces, in turn, generate a resonant frequency in the tube which can be accurately determined through a measurement of the induced voltage. Since the resonant frequency is dependent on the density of the fluid, it can thus be correlated to this induced voltage.

NIST Docket No. 92–008

Title: Sensing of Gas Metal Arc Welding Process Characteristics for Welding Process Control

Description: A method of monitoring and controlling the gas metal arc welding process. The weld electrical signals contain information on the welding process characteristics. This invention monitors the welding process using a personal computer and develops control responses from the information contained in these signals.

NIST Docket No. 92–036

Title: Oxygen-Containing Organic Compounds As Boundary Lubricants for Silicon Nitride Ceramics

Description: Several oxygen-containing compounds have been identified as having boundary lubricating capability with silicon nitride ceramics. Effective lubrication can be obtained over a range of molecular weight and concentration, with some compounds suitable at concentrations of as little as 1% in a paraffinic oil.

NIST Docket No. 92–038

Title: Optical Technique for Monitoring Electrochemical Interfaces

Description: This invention allows real time measurement of the progress of a chemical reaction at an electrochemical interface. This is done by utilizing a coherent light source, without removing the solid interface from the sample and without stopping the chemical reaction. The light sources used in the invention, which can include a helium neon laser or a solid state laser, monitor the progress of a reaction by detecting changes in reactionary surface roughness and polarizability. A wide range of chemical reactions may be measured, including, for example, metal finishing, electrochemical machining, corrosion protection, metal deposition, electrochemical production, waste water treatment, or electrowining.

NIST Docket No. 92–050

Title: Compton Scattering Tomography

Description: New NIST technology generates tomographic images of solid objects that can only be examined from a single side. Based on Compton scattering of gamma rays of X-rays, the NIST-generated images reveal different densities within a material.

NIST Docket No. 92–051

Title: Methods and Electrolytic Compositions for Electrodepositing Chromium Coatings

Description: A new NIST process deposits chromium plating up to 600 microns thick, without using or generating carcinogenic byproducts. The plating process uses non-toxic trivalent chromium and the plating is three to four times harder, after heating, than depositions using hexavalent chromium.

NIST Docket No. 92–052

Title: Contactless Magnetically Coupled Linewidth System

Description: Linewidth measurements are made on integrated circuit test structures via magnetic coupling, removing the need for electrical contacts. A potential source of contamination is eliminated which reduces the possibility of circuit damage during testing.

Dated: July 6, 1994.

Samuel Kramer,

Associate Director.

[FR Doc. 94–16846 Filed 7–11–94; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

July 6, 1994.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

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).

Inasmuch as no agreement was reached in recent consultations on a mutually satisfactory solution on Categories 340/640, the United States Government has decided to control imports in these categories for the twelve-month period beginning on April 25, 1994 and extending through April 24, 1995.

The United States remains committed to finding a solution concerning Categories 340/640. Should such a solution be reached in consultations with the Government of El Salvador, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 23830, published on May 9, 1994.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 6, 1994.

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

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1993; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 13, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340/640, produced or manufactured in El Salvador and exported during the twelve-month period beginning on April 25, 1994 and extending through April 24, 1995, in excess of 373,803 dozen [1].

Textile products in Categories 340/640 which have been exported to the United States prior to April 25, 1994 shall not be subject to the limit established in this directive.

Textile products in Categories 340/640 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

For the import period April 25, 1994 through May 16, 1994, you are directed to charge 5,258 dozen to Category 340 under the limit established in this directive. There are zero charges for Category 640 for the same period.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–16759 Filed 7–11–94; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after April 24, 1994.

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

State Postsecondary Review Program

AGENCY: Department of Education.

ACTION: Notice of closing date for receipt of State applications for fiscal year 1994.

SUMMARY: The Secretary gives notice of the closing date for receipt of State applications for fiscal year 1994 funds under the State Postsecondary Review Program (SPRP). Under this program, a State enters into an agreement with the Secretary under which a State Postsecondary Review Entity (SPRE) designated by the State conducts or coordinates reviews of certain institutions of higher education that are either referred to the SPRE by the Secretary or selected by the State. To the extent of available appropriations, and a State's allotment from those appropriations, the Secretary reimburses a State for the costs incurred in carrying out its agreement.

A State that desires to receive its allotment under the SPRP for this fiscal year must have an agreement with the Secretary, as provided under 34 CFR 667.3 of the SPRP regulations, and must submit an application to the Secretary.

The Secretary is authorized to accept applications from the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands (Palau), provided it remains a Trust Territory. (The future eligibility of the Republic of Palau will be determined by the provisions of the Compact of Free Association.) Authority for this program is contained in sections 494 through 494C of the Higher Education Act of 1965, as amended (HEA).

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: An application for fiscal year 1994 SPRP funds must be mailed or hand-delivered by September 30, 1994.

APPLICATION FORM: The required application form for receiving SPRP funds will be mailed to officials of the appropriate SPRE in each State at least 30 days before the closing date. Applications must be prepared and submitted in accordance with the HEA and the program regulations cited in this notice. *See*, in particular, 34 CFR 667.12.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to: Mr. Kenneth Waters, Branch Chief, State Liaison Branch,

Department of Education, 400 Maryland Avenue, S.W., Room 3036, ROB 3, Washington, D.C. 20202–5244.

The Secretary will accept the following proof of mailing: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. The Department of Education encourages applicants to use registered or at least first-class mail.

APPLICATIONS DELIVERED BY HAND: An application that is hand-delivered must be taken to Mr. Kenneth Waters, Branch Chief, State Liaison Branch, Office of Postsecondary Education, Department of Education, National Capital Region Building, Room 3036, 7th and D Streets, S.W., Washington, D.C. 20202–5244. Hand-delivered applications will be accepted between 8:00 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: Under 34 CFR 667.12, for each fiscal year for which funds are appropriated to carry out the SPRP, a State must submit an application to the Secretary to receive its allotment. The Secretary approves a State's application under the provisions in § 667.13. In the application, each State must submit a plan to carry out SPRP activities and budget for those activities that does not exceed the State's allotment. A table of allotments is provided to each State in the application package. The Secretary determines a State's allotment according to the funding formula in 34 CFR 667.11.

In fiscal year 1993, 49 States, the District of Columbia, and the Commonwealth of Puerto Rico received funds under the SPRP.

AVAILABLE FUNDS: For fiscal year 1994, the Congress appropriated $21.25 million for the SPRP.

PROJECT PERIOD: The Secretary does not reimburse a State for costs incurred under an approved application unless those costs were incurred by the State (1) After the effective date of the State's agreement with the Secretary, and (2) on or before June 30, 1995.

APPLICABLE REGULATIONS: The following regulations are applicable to the State Postsecondary Review Program:

(1) The State Postsecondary Review Program regulations in 34 CFR part 667, as published in the **Federal Register** on April 29, 1994 (59 FR 22286);

(2) The following provisions in the Education Department General Administrative Regulations (EDGAR), in 34 CFR parts 76 and 80:

(i) 34 CFR 76.2, and 76.50 of subpart A;

(ii) 34 CFR 76.500 through 76.534, 76.560, 76.561, 76.563, and 76.580 through 76.592 of subpart F;

(iii) 34 CFR 76.701, 76.702, 76.703, 76.707, 76.720, 76.730, 76.731, 76.734, 76.760, and 76.761 of subpart G;

(iv) 34 CFR 80.22 of subpart A;

(v) 34 CFR 80.43 and 80.44 of subpart C;

(vi) 34 CFR 80.50 through 80.52 of subpart D;

(3) The Student Financial Assistance General Provisions in 34 CFR part 668, as published in the **Federal Register** on April 29, 1994 (59 FR 22348); and

(4) The Institutional Eligibility Provisions in 34 CFR part 600, as published in the **Federal Register** on April 29, 1994 (59 FR 22324).

Note: For purposes of the SPRP, the term "grantee," as defined and used in 34 CFR parts 76 and 80, refers only to a State Postsecondary Review Entity.

FOR FURTHER INFORMATION CONTACT: John Kolotos, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4318, ROB–3, Washington, D.C. 20202–5346. Telephone: (202) 708–7888. 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.

(20 U.S.C. 1099a–1099a–3)

(Catalog of Federal Domestic Assistance Number 84.267, State Postsecondary Review Program)

Dated: July 6, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–16760 Filed 7–11–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Advisory Committee on Human Radiation Experiments

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Date and Time: July 25, 1994, 9 a.m.–5 p.m.; July 26, 1994, 9 a.m.–3 p.m.

Place: Stouffer Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steve Klaidman, The Advisory Committee on Human Radiation Experiments, 1726 M Street, NW., Suite 600, Washington, DC 20036. Telephone: (202) 254–9795.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Advisory Committee on Human Radiation Experiments was established by the President, Executive Order No. 12891, January 15, 1994, to provide advice and recommendations on the ethical and scientific standards applicable to human radiation experiments carried out or sponsored by the United States Government. The Advisory Committee on Human Radiation Experiments reports to the Human Radiation Interagency Working Group, the members of which include the Secretary of Energy, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Attorney General, the Administrator of the National Aeronautics and Space Administration, the Director of Central Intelligence, and the Director of the Office of Management and Budget.

Tentative Agenda

Monday, July 25, 1994

9 a.m. Call to Order and Opening Remarks
9:10 a.m. Briefing on Background Issues, Advisory Committee Members
10:45 a.m. Break
11 a.m. Briefing on Background Issues, Advisory Committee Members (continued)
12:15 p.m. Lunch
1:30 p.m. Discussion, Status and Strategies of Document Collection and Review
3 p.m. Break
3:15 p.m. Discussion, Status and Strategies of Document Collection and Review (continued)
4 p.m. Public Comment (5 minute rule)
5 p.m. Meeting Adjourned

Tuesday, July 26, 1994

9 a.m. Opening Remarks
9:15 a.m. Discussion, Status of Document Collection and Review
10:45 a.m. Break
11 a.m. Discussion, Status of Document Collection and Review (continued)
12:15 p.m. Lunch
1:30 p.m. Discussion, Status of Document Collection and Review (continued)
3 p.m. Meeting Adjourned

A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. The chairperson is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make a 5 minute oral statement should contact the Advisory Committee at the address or telephone number listed above. Requests must be received at least five business days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript

Available for public review and copying at the office of the Advisory Committee at the address listed above between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on July 7, 1994.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 94–16850 Filed 7–11–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EG94–69–000, et al.]

CMS Generation Cebu Limited Duration Company, et al. Electric Rate and Corporate Regulation Filings

July 5, 1994.

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

1. CMS Generation Cebu Limited Duration Co.

[Docket No. EG94–69–000]

On June 24, 1994, CMS Generation Cebu Limited Duration Company, 330 Town Center Drive, Suite 1000, Dearborn, Michigan 48126, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

According to the application, CMS Generation Cebu Limited Duration Company is a Cayman Islands limited duration company that is an affiliate of CMS Generation Co., a Michigan corporation, which in turn is a wholly-owned subsidiary of CMS Enterprises Company, a Michigan corporation. CMS Enterprises Company is a wholly-owned subsidiary of CMS Energy Corporation, also a Michigan corporation.

The application states that CMS Generation Cebu Limited Duration Company will acquire an interest in Toledo Power Co., a Philippine partnership which will own and operate two power plants with a combined maximum capacity of 140 MW. The plants will be located in Toledo City on the Island of Cebu in the Philippines and the power generated by the plants will be sold to the National Power Corporation and to Cebu Electric Cooperative III. Coal and fuel oil will be burned by the plants.

Comment date: July 19, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Les Developpements Hydroelectrique CHI International, Inc.

[Docket No. EG94–70–000]

On June 28, 1994, Les Developpements Hydroelectrique CHI International, Inc., 4269 St. Catherine St., W, Suite 600, Westmount, Quebec Canada H3Z 1P7, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant, a Quebec corporation, will be operating hydroelectric facilities owned by Abitibi-Price, Inc. located on the Iroquois River in Iroquois Falls, Ontario, and having a total capacity of 80,135 kW.

Comment date: July 25, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Consolidated Hydro, Inc.

[Docket No. EG94–71–000]

On June 28, 1994, Consolidated Hydro, Inc., 4269 St. Catherine St., W, Suite 600, Westmount, Quebec Canada H3Z 1P7, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

The Applicant, a Delaware corporation, will be operating hydroelectric facilities owned by Abitibi-Price, Inc. located on the Iroquois River in Iroquois Falls, Ontario, and having a total capacity of 80,135 kW.

Comment date: July 25, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Hermiston Power Partnership

[Docket No. EG94–72–000]

On June 28, 1994, Hermiston Power Partnership, c/o Hermiston Power Company, P.O. Box 7867, Boise, ID 83707, filed with the Federal Energy Regulatory Commission ("Commission") an application for exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Hermiston Power Partnership intends to own and operate a multi-unit, natural gas-fired combined-cycle cogeneration facility with automatic generation control and related transmission and interconnection equipment and with a maximum net electric power production capacity of 461 megawatts. All of the facility's electric power net of the facility's operating electric power will be sold at wholesale to the Bonneville Power Administration, acting on behalf of the United States Department of Energy.

Comment date: July 25, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Maine Yankee Atomic Power Company

[Docket Nos. EL93–22–005 and ER94–922–002]

Take notice that on May 23, 1994 the Maine Yankee Atomic Power Company (Maine Yankee) tendered a compliance filing pursuant to the Commission's Order Accepting Rates for Filing, Approving Settlement, and Granting Clarification dated March 31, 1994. The compliance filing contains a refund report associated with the reduction in the rate of return on common equity components for June 14, 1993.

Comment date: July 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER94–209–001]

Take notice that on June 14, 1994 Kentucky Utilities Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: July 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Southwestern Public Service Company

[Docket No. ER94–1244–000]

Take notice that on June 23, 1994, Southwestern Public Service Company

tendered for filing supplemental information to its May 11, 1994 filing in this docket.

Comment date: July 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Cenergy, Inc.

[Docket No. ER94-1402-000]

Take notice that on June 28, 1994, Cenergy, Inc. (Cenergy), tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure and § 35.12 of the Commission's regulations, a petition for a disclaimer of jurisdiction under § 201 of the Federal Power Act, for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule FERC No. 1 to be effective as of November 1, 1994. Cenergy is a wholly-owned subsidiary of Northern States Power Company (Minnesota).

Cenergy intends to engage in electric power and energy transactions as a broker and a marketer. Cenergy will function as a broker in transactions where it does not take title to power or energy. Cenergy will act as a marketer in transactions where it purchases power, capacity and related services from producers and resells such power to other purchasers.

Rate Schedule FERC No. 1 provides for the sale of capacity and energy at agreed prices. Rate Schedule FERC No. 1 also provides that (1) no sales may be made to affiliates, (2) no sales of power purchased from an affiliate may be made, and (3) no resales of power to the original seller or its affiliates may be made.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Canal Electric Company

[Docket No. ER94-1405-000]

Take notice that on June 29, 1994, Canal Electric Company (Canal) filed six documents under § 205 of the Federal Power Act: (1) two Capacity Disposition Commitments between itself and Commonwealth, which implement the terms of the Capacity Acquisition and Disposition Agreement (FERC Rate Schedule No. 21, Supplement No. 25) with respect to the assignment by Commonwealth to Canal of a portion of Commonwealth's entitlement in Canal Unit No. 2. Canal will sell a portion of Commonwealth's entitlement to the output of Canal Unit No. 2 to Hudson Light and Power Department (HL&P) and United Illuminating (UI) over the period July 1, 1994 through November 1, 1998. Each buyer's entitlement is referred to herein as the Quota; (2) two Power Contracts between itself and Commonwealth, which provide that Canal will credit all revenues from the sale of the HL&P Quota and/or the UI Quota to Commonwealth; and (3) two Power Sale Agreements between itself and HL&P and itself and UI with respect to the sale of each buyer's Quota.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Appalachian Power Company

[Docket No. ER94-1406-000]

Take notice that on June 29, 1994, Appalachian Power Company (APCo), tendered for filing with the Commission June 2, 1994 Addenda to the existing Electric Service Agreements between APCo and Black Diamond Power Company, Union Power Company and War Light & Power Company, respectively, which increase APCo's maximum capacity commitments from 80 kW to 95 kW at Black Diamond Power Company's single delivery point; from 275 kW to 340 kW at Union Power Company's Pierpont Delivery Point; and from 3,500 kW to 4,000 kW at War Light & Power Company's single delivery point.

APCo proposes an effective date of September 1, 1994, and states that a copy of its filing was served on the affected customer and the Public Service Commission of West Virginia.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Appalachian Power Company

[Docket No. ER94-1407-000]

Take notice that on June 29, 1994, Appalachian Power Company (APCo), tendered for filing with the Commission a May 11, 1994 Addendum to the existing Electric Service Agreement between APCo and Craig-Botetourt Electric Cooperative, Inc. (Craig-Botetourt), which increases APCo's maximum capacity commitment from 5,500 kW to 6,500 kW at Craig-Botetourt's Meadow Creek Delivery Point and from 4,900 to 6,000 kW at its Stone Coal Gap Delivery Point.

APCo proposes an effective date of September 1, 1994, and states that a copy of its filing was served on the affected customer and the Virginia State Corporation Commission.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Appalachian Power Company

[Docket No. ER94-1408-000]

Take notice that on June 29, 1994, Appalachian Power Company (APCo), tendered for filing with the Commission a May 24, 1994 Addendum to the existing Electric Service Agreement between APCo and West Virginia Power, a Division of Utilicorp United, Inc. (West Virginia Power), which increases APCo's maximum capacity commitment to West Virginia Power from 18,900 kW to 24,000 kW at its Hinton Delivery Point.

APCo proposes an effective date of September 1, 1994, and states that a copy of its filing was served on the affected customer and the Public Service Commission of West Virginia.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Oklahoma

[Docket No. ER94-1410-000]

Take notice that on June 29, 1994, Public Service Company of Oklahoma (PSO) tendered for filing a Coordination Sales Tariff. Under the Coordination Sales Tariff, PSO will make Economy Energy, Short-Term Power and Energy, General Purpose Energy and Emergency Energy Service available to customers upon mutual agreement.

PSO seeks an effective date of August 31, 1994. Copies of this filing were served on the Oklahoma Corporation Commission and are available for public inspection at PSO's offices in Tulsa, Oklahoma.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Atlantic City Electric Company

[Docket No. ER94-1411-000]

Take notice that on June 29, 1994, Atlantic City Electric Company (ACE) tendered for filing an Agreement for Short-Term Energy Transactions between ACE and Consolidated Edison Company of New York, Inc. ACE requests that the Agreement be accepted to become effective July 1, 1994.

Copies of the filing were served on the New Jersey Board of Regulatory Commissioners and the New York Public Service Commission.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER94-1412-000]

Take notice that on June 30, 1994, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, the First Amendment to Transmission Service and Operating Agreement between Utah Associated Municipal

Power Systems (UAMPS) and PacifiCorp dated June 28, 1994.

PacifiCorp requests that a waiver of prior notice be granted and that an effective date of July 1, 1994 be assigned to the filing.

Copies of this filing were supplied to UAMPS, the Utah Public Service Commission and the Public Utility Commission of Oregon.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

16. Arizona Public Service Company

[Docket No. ER94–1413–000]

Take notice that on June 30, 1994, Arizona Public Service Company (APS) tendered for filing revised Exhibit I's to the Lease Power Agreement between APS and Electrical District No. 3 (District) (APS–FPC Rate Schedule No. 12).

A copy of this filing has been served on the District and the Arizona Corporation Commission.

Comment date: July 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

17. Arizona Public Service Company

[Docket No. ER94–1414–000]

Take notice that on June 30, 1994, Arizona Public Service Company (APS) tendered for filing a Letter Agreement (Agreement) between APS and Maricopa County Municipal Water Conservation District Number One (MWD). The Agreement provides for transmission and supplemental wholesale power services to MWD's Lake Pleasant Property.

Copies of this filing have been served upon MWD and the Arizona Corporation Commission.

Comment date: July 20, 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, 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 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. 94–16761 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC92–21–000, et al.]

Entergy Services, Inc. and Gulf States Utilities Company, et al.; Electric Rate and Corporate Regulation Filings

July 1, 1994.

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

1. Entergy Services, Inc. and Gulf States Utilities Company

[Docket Nos. EC92–21–000 and ER92–806–004]

Take notice that on June 16, 1994 Entergy Services, Inc. and Gulf States Utilities Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Consumers Power Co.

[Docket No. ER94–566–000]

Take notice that on June 17, 1994 Consumers Power Company (Consumers) acting on behalf of itself and as agent for The Detroit Edison Company (Detroit Edison), tendered for filing various materials amending and supplementing the original December 30, 1993 filing in this docket.

Copies of the filing were served upon the Michigan Public Service Commission, Consumers and Detroit Edison.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Power and Light Company

[Docket No. ER94–1204–000]

Take notice that on June 28, 1994, Wisconsin Power and Light Company (WP&L) tendered for filing an amendment to its Bulk Power Sales Tariff, originally filed on April 29, 1994. WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of May 15, 1994.

WP&L states that copies of this filing have been served on the Public Service Commission of Wisconsin.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. ER94–1398–000]

Take notice that on June 27, 1994, Pennsylvania Power & Light Company (PP&L), tendered for filing an Electrical Output Sales Agreement (Agreement) between PP&L and Public Service Electric & Gas Company (PSE&G) dated June 17, 1994. The Agreement provides for the sale by PP&L to PSE&G of electrical output solely for PSE&G's system use.

PP&L has requested an effective date of August 26, 1994 for the Agreement. PP&L has not requested any notice period waivers.

PP&L states that a copy of its filing was provided to PSE&G and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Southwestern Public Service Company

[Docket No. ER94–1400–000]

Take notice that on June 28, 1994, Southwestern Public Service Company (Southwestern), tendered for filing a proposed amendment to the Agreement for Wholesale Full Requirements Electric Power Service to Lea County Electric Cooperative, Inc.

The amendment reflects an extension in the term of the original agreement to December 31, 2014. No other changes in rates or services is proposed. Southwestern seeks waiver of the 60-day notice so that the agreement may become effective on August 1, 1994. Lea County agrees with the filing and request for waiver as indicated in their certificate of concurrence.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. PSI Energy, Inc.

[Docket No. ER94–1401–000]

Take notice that on June 28, 1994, PSI Energy, Inc. (PSI), tendered for filing an Interchange Agreement, dated June 1, 1994, between PSI and Louis Dreyfus Electric Inc. (Dreyfus).

The Interchange Agreement provides for the following service between PSI and Dreyfus:

1. Exhibit A—Power Sales by Dreyfus
2. Exhibit B—Power Sales by PSI

PSI and Dreyfus have requested an effective date of July 1, 1994.

Copies of the filing were served on Louis Dreyfus Electric Power Inc., Connecticut Department of Public Utility Control and the Indiana Utility Regulatory Commission.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Pool

[Docket No. ER94-1374-000]

Take notice that on June 14, 1994, New England Power Pool (NEPOOL) tendered for filing a letter requesting that the Commission determine that its approval is not required for NEPOOL's resignation as a member of the Interregional Transmission Coordination Forum.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER94-1399-000]

Take notice that on June 27, 1994, Union Electric Company (Union) tendered for filing a Notice of Cancellation of an Electric Service Agreement for Wholesale Electric Service between Union and the City of Kennett, Missouri.

Comment date: July 15, 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. 94-16762 Filed 7-11-94; 8:45 am]

BILLING CODE 6717-01-P

[Docket Nos. CP93-613-000 and -001; CP93-673-000 and -001]

Northwest Pipeline Corp.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Northwest Expansion II Projects

July 6, 1994.

On November 10, 1993 the Federal Energy Regulatory Commission (FERC or Commission) issued a Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Northwest Expansion II Projects in the above dockets and related projects proposed by Paiute Pipeline Company (Paiute) in Docket Nos. CP93-751-000 and CP94-29-000 (Paiute Expansion II Projects). The purpose of the notice was to request comments on environmental issues.

On June 14 and June 15, 1994 Northwest Pipeline Corporation (Northwest) filed amendments to its two original applications that represent a change in the scope of the Northwest Expansion II Projects. Based on the changes in the amended filings, we have determined that an environmental assessment (EA), rather than an EIS is the more appropriate document for analyzing the potential environmental impacts associated with Northwest's projects. The cooperating Federal agencies agree with this strategy. From the standpoint of the environmental analysis the important changes are:

- The deletion of 8 pipeline loops from the projects, which reduces the total miles of pipeline construction from 177.2 miles to 54.9 miles;
- The deletion of 11 compressor station modifications, which reduces the required compression from 88,235 horsepower (hp) to 14,820 hp;
- The addition of 5.8 miles of 20-inch-diameter loop in Marion County, Oregon (the Salem Loop) and 1,070 hp at the existing Pegram Compressor Station in Bear Lake County, Idaho that were not part of the original proposals;
- The deletion of 26 of the 37 originally proposed meter station modifications;
- The change in pipeline routing of both the Gresham Loop and Weyerhaeuser Lateral; and
- The termination of service agreements by all shippers that had proposed to have Northwest deliver gas to Paiute for ultimate delivery to customers in Nevada.

The list of facilities proposed in the amended filings are in appendix 1 and maps showing the location of the Salem Loop, the Pegram Compressor Station, and the amended routing for the Gresham Loop and Weyerhaeuser Lateral are attached as appendix 2.[1]

For the purposes of the environmental analysis Northwest's two applications will be considered together because the construction of the Gresham Loop is common to both applications.[2] The facilities proposed in Docket No. CP93-613-001 include the increase in compression at the Washougal Compressor Station; the construction of the Gresham Loop, 1.3 miles of the Salem Loop (milepost 64.1 to 65.3), and the Johnson Creek Meter Station; and the upgrading of six existing meter stations. The remaining facilities are part of Docket No. CP93-673-000.

The termination of all contracts that called for Northwest to deliver gas to Paiute effectively severs the connection between Northwest's and Paiute's proposals; therefore, only Northwest's proposed facilities will be included in the EA.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from a major Federal action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. Our EA will give the Commission the information it needs to do that. If the EA concludes that the projects would result in significant environmental impacts, we will prepare an environmental impact statement. Otherwise we will prepare a Finding of No Significant Impact.

NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues, and to separate these from issues that are insignificant and do not require detailed study. Local scoping meetings have already been held for the original projects. Additional scoping meetings are not planned. We are asking for comments *only* on those portions of the projects where the routing has been changed or the facilities were *not* part of the original proposal.

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference Branch, Room 3104, 941 North Capitol Street, NE., Washington, DC 20426 or call (202) 208-1371. Copies of the appendices were sent to all those receiving this notice in the mail.

[2] The length and location of the Gresham Loop is the same in both applications; however, in Docket No. CP93-613-001 Northwest proposes using 20-inch-diameter pipeline, while Docket No. CP93-673-00 proposes using 30-inch-diameter pipeline.

The EA will discuss impacts that *could* occur as a result of the construction and operation of the proposed projects under these general subject headings:

- Geology and paleontology
- Endangered and threatened species
- Visual resources
- Water resources
- Vegetation
- Land use
- Air quality and noise
- Wetland and riparian habitat
- Cultural resources
- Fish and wildlife
- Socioeconomics
- Soils

We will also evaluate possible alternatives to the projects, or portions of the projects, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will result in the publication of the EA which will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for these proceedings.

Public Participation

You can make a difference by sending a letter with your specific comments or concerns about the projects. You should focus on the potential environmental effects of the new portions of the proposal. You do not need to re-submit comments if you have already done so. We are particularly interested in alternatives to the proposals (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426.
- Reference Docket Nos. CP93–613–001 and/or CP93–673–001;
- Send a *copy* of your letter to: Ms. Lauren O'Donnell, Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Room 7312, Washington, DC 20426; and
- Mail your comments so they will be received in Washington, DC, on or before August 11, 1994.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceedings or an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) which is attached as appendix 3. You do not need intervenor status to have your scoping comments considered.

Environmental Mailing List

If you don't want to send comments at this time but still want to receive a copy of the EA, please return the Information Request (see appendix 4). If you have previously returned the Information Request you don't need to do so again.

Additional information about the proposed projects is available from Ms. Lauren O'Donnell, EA Project Manager, at (202) 208–0325.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16763 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2009–003 North Carolina]

Virginia Electric and Power Company; Change in Location of Scoping Meeting

July 6, 1994.

By notice dated July 1, 1994, the Commission indicated three scoping meetings related to the application for Non-project Use of Project Lands and Waters at the Gaston and Roanoke Rapids Project (FERC No. 2009), located on the Roanoke River.

The third scoping meeting was originally scheduled at the: OMNI Waterside Mall, 770 Waterside Drive, Norfolk, VA 23510.

The location of the third scoping meeting has been changed to: Sheraton Inn, 3601 Atlantic Avenue, Virginia Beach, VA 23451.

The time and date of the third scoping meeting have not changed.

Any questions concerning the scoping process for the Non-project Use of Project Lands and Waters at the Gaston and Roanoke Rapids Project should be directed to Steve Edmondson at (202) 219–2653.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–16842 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–304–000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets, with an effective date of July 1, 1994:

Original Sheet No. 98D
Tenth Revised Sheet No. 20A

Algonquin states that the purpose of this filing is to flow through a refund related to Texas Eastern Transmission Corporation's stranded Account No. 858 costs. Algonquin requests that the Commission waive § 154.22 of the Commission's regulations to the extent that may be necessary to place these tariff sheets into effect as requested.

Algonquin states that copies of the filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16764 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1409–000]

Cambridge Electric Light Company; Filing

July 6, 1994.

Take notice that on June 29, 1994, Cambridge Electric Light Company (Cambridge) submitted for filing a proposed Transmission Service Agreement (Agreement) between itself and the Town of Belmont, Massachusetts (Belmont), as well as an accompanying Explanatory Statement. The Agreement, upon its effectiveness,

will cancel and supersede the existing transmission service agreement between Cambridge and Belmont pursuant to Cambridge's FERC Electric Tariff for Firm Transmission Service. Cambridge respectfully requests that the Commission accept this proposed Transmission Service Agreement and permit it to take effect without suspension, condition or modification, as of August 28, 1994. In addition, Cambridge requests waiver by the Commission of any requirements of the Commission's rules and regulations, as well as any authorizations as may be necessary or required to permit the Agreement to become effective in the manner proposed in the Agreement and to permit the cancellation and termination of the existing firm transmission service agreement as of the effective date of the Agreement.

Copies of the filing were served upon the Town of Belmont and the Massachusetts Department of Public Utilities.

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 18 CFR 385.214). All such motions or protests should be filed on or before July 20, 1994. 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. 94–16765 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–310–000]

Carnegie Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on July 1, 1994, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of August 1, 1994:

Fifth Revised Sheet No. 7

Carnegie states that it is filing the above tariff sheet pursuant to § 32.2(c) of the General Terms and Conditions of its FERC-approved tariff as a Periodic Transportation Cost Rate (TCR) Filing to reflect a change in the calculated projection of the costs of unassigned upstream pipeline capacity held by Carnegie on Texas Eastern Transmission Corporation (Texas Eastern) in excess of $0.10/Dth. This filing reflects a revision to the projection Carnegie made in its Mid-Cycle TCR Filing, which was filed on March 31, 1994 and accepted by the Commission on April 29, 1994. The filing reflects a change in the Gas Supply Realignment surcharge charged to Carnegie by Texas Eastern, which will be effective July 1, 1994.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16766 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–300–000]

CNG Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, CNG Transmission Corporation (CNG), pursuant to Section 4 of the Natural Gas Act and § 18.1 of the General Terms and Conditions of its tariff (General Terms), tendered for filing as part of its FERC Gas Tariff Second Revised Volume No. 1, Second Revised Sheet No. 58, with a proposed effective date of July 30, 1994.

CNG states that the proposed tariff sheet reflects the second direct bill for collection of Account Nos. 191 and 186 transition costs.

The direct bill mechanism was approved as part of the Stipulation and Agreement filed March 15, 1993, as supplemented on June 15, 1993, and approved by the Commission in CNG's restructuring proceeding in Docket No. RS92–14. CNG states that its filing includes a schedule showing the activity in Account Nos. 191 and 186 since its initial transition cost filing.

Section 18.1 of the General Terms allows CNG to make future fillings to recover additional unamortized Account No. 191 and 186 costs, particularly during the next 18-month adjustment period.

CNG states that copies of the filing were served upon affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16767 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–308–000]

Eastern Shore Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on July 1, 1994 Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective August 1, 1994.

Eastern Shore states that the purpose of the filing is to place tariff sheets into effect establishing a procedure by which Eastern Shore may recover from its jurisdictional customers the monthly Account No. 191 Transition Costs directly billed to Eastern Shore by Columbia Gas Transmission Corporation (Columbia), one of Eastern Shore's upstream pipeline suppliers.

Eastern Shore states that copies of the filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and Rule 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 July 13, 1994. 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. 94–16768 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ94–6–23–000 and TM94–11–23–000]

Eastern Shore Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on July 1, 1994 Eastern Shore Natural Gas Company (ESNG) tendered for filing certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective August 1, 1994.

ESNG states that the above-referenced tariff sheets are being filed pursuant to Section 154.308 of the Commission's regulations and Sections 21, 23 and 24 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional sales rates.

ESNG states that the sales rates set forth thereon reflects an overall decrease of ($0.0016) per dt in the Commodity Charge and an overall decrease of ($0.7287) per dt in the Demand Charge, as measured against ESNG's previous quarterly purchased gas cost adjustment, Docket No. TQ94–5–23–000, *et al.*, filed on March 31, 1994 and proposed to be effective on May 1, 1994.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 and Rule 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 July 13, 1994. 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. 94–16769 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1298–000]

Florida Power & Light Company; Filing

July 6, 1994.

Take notice that on June 17, 1994, Florida Power & Light Company tendered for filing an amendment in the above-referenced docket.

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 18 CFR 385.214). All such motions or protests should be filed on or before July 18, 1994. 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. 94–16770 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–306–000]

Mississippi River Transmission Corporation; Proposed Changes in FERC Tariff

July 6, 1994.

Take notice that on June 30, 1994, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Fourth Revised Sheet No. 5
Fourth Revised Sheet No. 6
Fourth Revised Sheet No. 7
Fourth Revised Sheet No. 10
Third Revised Sheet No. 11
2 Sub. First Revised Sheet No. 195

MRT states that the purpose of this filing is to adjust its rates to reflect additional Gas Supply Realignment Costs (GSRC) of $1,190,048, plus applicable interest, pursuant to Section 16.3 of the General Terms and Conditions of MRT's Tariff. MRT states that its filing includes the "Price Differential" cost of continuing to perform under certain gas supply contracts during the months of January through March 1994 and GSRC Buyout/Buydown costs incurred during the period December, 1993 through April, 1994.

MRT states that it is also proposing a revision to § 16.3(b)(ii) of the General Terms and Conditions of its tariff to specify the index which must be used in the calculation of price differential costs for MRT gas supplies connected to Koch Gateway Pipeline Company.

MRT requests an effective date of July 1, 1994 for these tariff sheets, except for Sheet No. 195 for which MRT requests an effective date of November 1, 1993.

MRT states that copies of its filing have been mailed to all of its affected customers and the State Commissions of Arkansas, Missouri and Illinois.

Any person desiring to be heard or protest the subject 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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions and protests should be filed on or before July 13, 1994. 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 available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16771 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT94–56–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on July 1, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the below listed

tariff sheets to be effective August 1, 1994:

Third Revised Sheet Nos. 602 through 606
Third Revised Sheet No. 611

Natural states that the purpose of the filing is to update the Index of Purchasers contained in Natural's Tariff in accordance with § 154.41(a) of the Commission's Regulations.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective August 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16772 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–305–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Seventh Revised Sheet No. 14 and Sixth Revised Sheet No. 25, to be effective August 1, 1994.

Natural states that the filing is being submitted to commence recovery, effective August 1, 1994, of $2,066,473 net premium paid for coal gasification supplies which is part of its gas supply realignment program.

Natural requested whatever waivers may be necessary to permit the tariff sheets as submitted herein to become effective August 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Natural states that it has reached a tentative settlement with members of the Natural Customer Group (NCG) regarding recovery from them of GSR costs. Natural suggests that members of the NCG may preserve their rights by filing an abbreviated protest which may be supplemented if the settlement is not approved.

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 July 13, 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 to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16773 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–6–28–000]

Panhandle Eastern Pipe Line Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on July 1, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A all of which are proposed to become effective August 1, 1994.

Panhandle states that this filing is being submitted pursuant to the requirements of Section 26 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1 which requires that at least 30 days prior to August 1 of each year Panhandle make a filing with the Commission to reflect the adjustment, if any, required to Panhandle's Base Transportation and Storage Rates to reflect the result of the Interruptible Revenue Credit Adjustment.

Panhandle states that no adjustment is required to Base Transportation Rates for Rate Schedules FT, EFT and SCT and that a (.10¢) reduction is required in the maximum Capacity Charge for storage service under Rate Schedules IOS, WS, PS and FS.

Panhandle states that copies of this filing have been sent to all affected customers and applicable state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16774 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–3–8–000]

South Georgia Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 29, 1994, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, Eighteenth Revised Sheet Nos. 76 and 106, with an effective date of May 1, 1993.

South Georgia states that the proposed revised tariff sheets would flow through to South Georgia's two gas storage customers increased storage transportation charges billed to South Georgia by Southern Natural Gas Company (Southern).

South Georgia states that the Commission's August 22, 1980 order in the captioned proceeding permits South Georgia to flow through to its two storage customers any changes in the amounts which the Commission authorizes Southern to charge South Georgia for storage transportation services. South Georgia further states that the Commission recently accepted for filing to be effective May 1, 1993, subject to refund, revised tariff sheets filed by Southern which increased Southern's storage transportation charges to South Georgia.

South Georgia requests waivers of Section 154.51 of the Commission's

Regulations and any other waivers necessary to make the revised tariff sheets effective as of May 1, 1993, the date of the increase in Southern's charges to South Georgia.

South Georgia states that copies of this filing were served on the two jurisdictional customers affected by the filing, interested state commissions and all parties in the captioned proceeding.

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 the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before July 13, 1994. 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 interview. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16775 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–307–000 and RP94–264–002]

Southern Natural Gas Company; GSR Revised Tariff Sheets

July 6, 1994.

Take notice that on June 30, 1994, Southern Natural Gas Company (Southern) submitted for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to reflect a change in GSR billing units and the FERC interest rate effective July 1, 1994:

Second Substitute Ninth Revised Sheet No. 15
Second Substitute Ninth Revised Sheet No. 17
Second Substitute Seventh Revised Sheet No. 18
Seventh Revised Sheet No. 29
Seventh Revised Sheet No. 30
Seventh Revised Sheet No. 31

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 13, 1994. 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16776 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–301–000]

Stingray Pipeline Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, Stingray Pipeline Company (Stingray) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, to become effective August 1, 1994.

Stingray states that the filing reflects a base period encompassing the twelve months ended February 28, 1994, adjusted for known and measurable changes anticipated to occur during the nine month period ended November 30, 1994. Stingray further states that the filing reflects the utilization of a straight fixed-variable rate design, an equity return allowance of 15%, existing depreciation rate for transmission plant (3.1%), a higher negative salvage rate for transmission plant (from .35% to .60%), increased operation and maintenance expenses when compared to the level established in Stingray's last rate case settlement at Docket No. RP91–212, the elimination of its revenue sharing mechanism and a proposal to implement on a prospective basis after final settlement rates are determined an 80% load factor rate for service under Rate Schedule ITS.

In addition, Stingray states that the filing reflects the continuation of Stingray's market-based interruptible rate program established in its settlement at Docket No. RP91–212.

Stingray states that a copy of this filing was mailed to Stingray's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedures. All such petitions or protests must be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16777 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–5–17–000]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing. The proposed effective date of these revised tariff sheets is August 1, 1994.

Texas Eastern states that these revised tariff sheets are filed pursuant to section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that section 15.1 provides that Texas Eastern shall file to be effective each August 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers.

Texas Eastern states that these revised tariff sheets are being filed to reflect changes in Texas Eastern's projected expenditures for electric power for the twelve month period beginning August 1, 1994 based upon the latest available actual expenditures for the twelve month period ending May 31, 1994, which is the first full twelve month period of experience under Texas Eastern's Order No. 636 tariff.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern and current interruptible shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94-16778 Filed 7-11-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-303-000]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, Texas Eastern Transmission Corporation (Texas Eastern) filed a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. Section 717c (1988), and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder to recover stranded Account No. 858 costs (Stranded Costs) incurred as a consequence of Texas Eastern's implementation of Order No. 636.

Texas Eastern states that it is filing to recover Stranded Costs pursuant to Section 15.2(D) of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume 1.

Original Sheet No. 189
Original Sheet No. 190
Original Sheet No. 191
Original Sheet No. 192
Sheet Nos. 193-199

The proposed effective date of these tariff sheets is August 1, 1994.

Texas Eastern states that by this filing it seeks to recover known and measurable Stranded Costs totalling $1,492,538.37 incurred from March 1, 1994 through May 31, 1994. Interest of $21,891.24 at the current FERC annual rate of 6.00% is included for the carrying charges from the date of payment of the costs to the projected date of payment by the Customers.

Texas Eastern states that Stranded Costs shall be allocated to Texas Eastern's Customers under Rate Schedules CDS, FT-1 and SCT in accordance with the methodology specified in Section 15.2 (D) of the General Terms and Conditions. At each customer's individual option, payment of these Stranded Costs amounts may be amortized over as much as a twelve month period with carrying charges calculated on amounts uncollected pursuant to Section 154.305 of the Commission's Regulations.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. 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 a file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94-16779 Filed 7-11-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-302-000]

Texas Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1994:

First Revised Sheet No. 231
Original Sheet No. 231A
Original Sheet No. 231B
Original Sheet No. 231C
Original Sheet No. 231D

Texas Gas states that the revised tariff sheets are being filed to initiate a Section 4 proceeding to establish provisions for final resolution of Historical Imbalances (pre-Order 636) on the Texas Gas system. Texas Gas further states that the tariff sheets generally define such imbalances and provide methods for reconciliation and final resolution of the historical imbalances.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's affected firm jurisdictional customers, those appearing on the applicable service lists, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94-16780 Filed 7-11-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-14-29-000]

Transcontinental Gas Pipe Line Corporation; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on July 1, 1994 Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Ninth Revised Sheet No. 60, which tariff sheet is proposed to be effective on August 1, 1994.

TGPL states that the instant filing is submitted pursuant to Section 39 of the General Terms and Conditions of TGPL's FERC Gas Tariff which provides that TGPL will file to adjust its Great Plains Volumetric Surcharge (GPS) 30 days prior to each GPS Annual Period beginning August 1. The GPS Surcharge is designed to recover: (i) The cost of gas purchased from Great Plains Gasification Associates (or its successor) which exceeds the Spot Index (as defined in Section 39 of the General Terms), and (ii) the related cost of transporting such gas.

The revised GPS Surcharge included therein consists of two components—the Current GPS Surcharge calculated for the period August 1, 1994 through July 31, 1995 plus the Great Plains Deferred Account Surcharge (Deferred Surcharge). The determination of the Deferred Surcharge is based on the balance in the current GPS subaccount

plus accumulated interest at April 30, 1994.

TGPL states that included in Appendix A attached to the filing are workpapers supporting the calculation of the revised GPS Surcharge of $0.0287 per dt reflected on the tariff sheet included therein.

TGPL states that copies of the filing are being mailed to its customers, State Commissions and other interested parties.

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, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16781 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT94–55–000]

Trunkline Gas Company; Proposed Changes in FERC Gas Tariff

July 6, 1994.

Take notice that on June 30, 1994 Trunkline Gas Company (Trunkline) tendered for filing revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 as listed on Appendix No. 1 attached to the filing. Trunkline proposes that the revised tariff sheets listed on Appendix No. 1 become effective September 1, 1993, November 1, 1993, December 1, 1993, January 1, 1994, February 1, 1994, March 1, 1994, April 1, 1994, May 1, 1994 and June 1, 1994, respectively.

Trunkline states that this filing is being made in compliance with section 154.41(b) of the Commission's Regulations. The revised tariff sheets reflect updates to the Index of Firm Customers in Trunkline's FERC Gas Tariff, First Revised Volume No. 1.

Trunkline states that copies of this filing are being mailed to affected customers and interested state regulatory agencies.

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 §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16782 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–6–49–000]

Williston Basin Interstate Pipeline Company; Fuel Reimbursement Charge Filing

July 6, 1994.

Take notice that on July 1, 1994, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, with a proposed effective date of August 1, 1994:

Second Revised Volume No. 1
Sixth Revised Sheet No. 15
Third Revised Sheet No. 15A
Sixth Revised Sheet No. 16
Third Revised Sheet No. 16A
Sixth Revised Sheet No. 18
Third Revised Sheet No. 18A
Third Revised Sheet No. 19
Third Revised Sheet No. 20
Sixth Revised Sheet No. 21
Original Volume No. 2
Fifty-third Revised Sheet No. 10
Fifty-second Revised Sheet No. 11B.

Williston Basin states that the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant gathering, transportation and storage rates, and the calculation of new fuel reimbursement surcharges to amortize its Unrecovered Fuel Reimbursement Accounts in accordance with Subsection 38 of Williston Basin's FERC Gas Tariff, Second Revised Volume No. 1.

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 July 13, 1994. 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 to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16783 Filed 7–11–94; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Provo River Project—Proposed Rate Methodology of Annual Charges

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Provo River Project Rate Methodology of Annual Charges.

SUMMARY: The Western Area Power Administration (Western) is proposing a methodology to determine annual charges to accompany the independent marketing of Provo River Project (PRP) resources. A previous proposal to integrate this project and its resources with Western's Salt Lake City Area/ Integrated Projects (Integrated Projects) was not supported by customers. To date, PRP's resources have been sold to the Colorado River Storage Project (CRSP) at a rate to cover project costs. Western proposes that capacity and energy produced by the PRP be marketed to those members of two Western customers, Intermountain Consumers Power Association (ICPA) and Utah Municipal Power Agency (UMPA), located in the area of the Provo River drainage, in Utah and Wasatch Counties in Utah. Power will be allocated to these two customers proportional to the electrical sales of their members who meet the criteria for receiving it. These customers will pay all of the annual expenses of the PRP, including an amount to be used to assist the Provo River Water Users Association's (Water Users) timely repayment of the original Federal investment in the PRP. In return, these customers will receive all of the total marketable output of the PRP.

The proposed rate methodology constitutes a minor rate adjustment as defined by the procedures for public participation in general rate adjustments covered in 10 CFR 903.2(f). The PRP annual sales are less than 100 million

kilowatthours and installed capacity is less than 20,000 kilowatts. A 30-day comment period will begin with the publication of this **Federal Register** notice and end 30 days thereafter. After review of public comments, Western will recommend a proposed rate methodology for establishing the annual charge to be approved on an interim basis by the Deputy Secretary of DOE. The proposed rate methodology will be sent to the Federal Energy Regulatory Commission for approval on a final basis. The proposed rate methodology for marketing capacity and energy is expected to become effective November 1, 1994, and it will remain in effect until October 31, 1999, unless superseded by another rate action.

At present there is no existing PRP rate. Energy has been sold to the CRSP at an amount that meets the PRP's annual revenue requirements for expenses and repayment obligations.

The following table shows the investment repayment status:

COST EVALUATION PERIOD

	Total	Estimated paid through FY 1994	Estimated paid from FY 1995–99	Estimated unpaid balance at the end of FY 1999
Project & Additions	$1,070,952	$1,070,952	$0	$0
Replacements through 1994	521,989	85,593	62,340	374,056
Projected Replacements 1995–1999	98,385	N/A	8,918	89,467
Total	1,691,326	1,156,545	71,258	463,523

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end August 11, 1994.

Written comments should be received by Western by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

A related notice appears in today's **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Acting Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, (801) 524–5493.

Background Information

Construction of the PRP was begun in May 1938, with the powerplant completed in 1958. It has a present generating capacity of 5 megawatts of power. The Water Users, a corporation of stockholders owning prorated water entitlements, executed contract No. Ilr–874 in 1936, with the Federal Government to construct and repay project facilities. Contract No. Ilr–1082, dated December 20, 1938, established a contract among several entities to compensate the Utah Power and Light Company with PRP power in exchange for power foregone at its powerplant. Only energy excess to project purposes has been available for Federal marketing. Since 1963, CRSP has needed additional energy and has purchased the available PRP energy at an amount established annually for the PRP to cover its costs, including operation, maintenance, and replacement costs and repayment expenses. These expenses have included $1.623 million of irrigation assistance to the Water Users. PRP's original power investment has been repaid.

In December 1993, Western proposed to change the way it marketed power and energy produced by PRP in response to customer interest in its available resources. The part of the proposal that suggested inclusion of the PRP in the Integrated Projects was not supported by customers for various reasons, thereby requiring Western to modify its original proposal to one which will market PRP's power and energy independent of the Integrated Projects. Two Western customers, ICPA and UMPA, pursued acquiring the available PRP capacity and energy. The members of these customers are located in the PRP drainage area in Utah and Wasatch Counties. Western proposes that these customers receive all of the total marketable output, with the power allocated proportionally to their eligible members' energy sales. ICPA and UMPA would pay all of the annual expenses of the project. An amount to meet the repayment assistance to the Water Users would be recovered under separate agreement.

Proposed Methodology

If Western adopts the proposal, Western will prepare a power repayment study (PRS) annually for PRP to establish the revenue needed to meet annual costs, including operation, maintenance, and replacement repayment costs and interest. Budgeted estimates of these future costs will be used in the PRS. The power assistance to the Water Users will not be included in the PRS but will, instead, be paid under a separate arrangement among the Bureau of Reclamation, Western, ICPA, UMPA, and the Water Users which will provide for equal annual installments of $102,285.71 over 14 years.

If the proposed methodology is adopted and PRP energy is no longer sold to the CRSP, it will be necessary to collect the PRP's share of transmission costs in Utah under contract No. 2436 with PacifiCorp. Assigning proportional shares of Western's Tier 1 and Tier 2 costs will result in an annual transmission expense of approximately $30,348. This amount also will be included as an annual expense of the PRP. The annual revenue requirement of the PRP, as determined by the PRS, will then be prorated between ICPA and UMPA and divided by 12 for monthly billing to the customers. The rate methodology used to determine the annual revenue requirement will be recalculated each year during the 5-year period that the methodology is proposed to be in effect.

SUPPLEMENTARY INFORMATION: The PRP rate methodology is established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) and the Reclamation Act of 1902, 32 U.S.C. § 388 *et seq.*, as amended and supplemented by subsequent enactments, particularly § 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. § 485h(c).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 58716), the Secretary of Energy delegated (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to

disapprove such rates to the Federal Energy Regulatory Commission. Existing DOE procedures for public participation in power rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate methodology for capacity and energy are and will be made available for inspection and copying at the Salt Lake City Area Office located at 257 East 200 South, Salt Lake City, Utah.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the PRP rate proposal is related to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the act. Since the PRP capacity and energy rate methodology is of limited applicability, no flexibility analysis is required.

Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by Office of Management and Budget is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Issued in Golden, Colorado, June 24, 1994.

William H. Clagett,

Administrator.

[FR Doc. 94–16844 Filed 7–11–94; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Members of Senior Executive Service Performance Review Board

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice lists the names of the members of the FEMA Senior Executive Service Performance Review Board.

EFFECTIVE DATE: June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Denise R. Yachnik, Executive Coordinator, Office of Human Resources Management, 500 C Street, SW., Washington, DC 20472, 202–646–3040.

SUPPLEMENTARY INFORMATION: The names of members of the FEMA Senior Executive Service Performance Review Board established under 5 U.S.C. 4314(c)(4) are: G. Clay Hollister, John D. Hwang, Catherine H. Light, Gary D. Johnson, Robert P. Fletcher, Robert R. Boyer, John P. Carey, and Dennis E. Owens.

Dated: July 6, 1994.

John P. Carey,

General Counsel.

[FR Doc. 94–16734 Filed 7–11–94; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL MARITIME COMMISSION

Notice of 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 § 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.: 202–002744–079.
Title: West Coast of South America Agreement.
Parties:
A.P. Moller-Maersk
Compania Chilena de Navigacion Interoceania, S.A.
Compania Sud Americana de Vapores, S.A.
Crowley American Transport, Inc.
Flota Mercante Grancolombiana, S.A.
Lykes Bros. Steamship Co., Inc.
Nedlloyd Lijnen, B.V.
Sea-Land Service, Inc.
South Pacific Shipping Company Ltd.

Synopsis: The proposed amendment provides that a Member may establish no more than two CY's and two CFS's in the commercial zones of ports in Florida and U.S. Gulf Coast ports.

Agreement No.: 202–003103–110.
Title: Japan-Atlantic & Gulf Freight Conference.
Parties:
Hapag-Lloyd AG
Mitsui O.S.K. Line, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines Limited
Nippon Yusen Kaisha
Wilhelmsen Lines AS

Synopsis: The proposed amendment modifies Article 8(d)(2)(d) by deleting the requirement of voting by secret ballot and permitting changes in service contract rates to be decided by a two-thirds majority of all votes actually cast.

Agreement No.: 202–011102–022.
Title: U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement.
Parties:
A.P. Moller-Maersk Line
Evergreen Marine Corporation (Taiwan) Ltd.
Italia di Navigazione, S.p.A.
Lykes Bros. Steamship Co., Inc.
Nedlloyd Lines
P&O Containers Limited
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would permit the Agreement members to take independent action on rate or service items that are exempted from the tariff filing requirements of section 8 of the Shipping Act on or after January 1, 1995.

Agreement No.: 202–011375–013.
Title: Trans-Atlantic Agreement.
Parties:
Atlantic Container Line AB
Cho Yang Shipping Co. Ltd.
Sea-Land Service, Inc.
A.P. Moller-Maersk Line
Nedlloyd Lijnen BV
Hapag Lloyd AG
Mediterranean Shipping Company, S.A.
DSR/Senator Joint Service
Polish Ocean Lines
Orient Overseas Container Line (UK) Ltd.
Transportation Maritima Mexicana, S.A. de C.V.
P&O Containers Limited

Nippon Yusen Kaisha
Tecomar S.A. de C.V.

Synopsis: The proposed amendment eliminates the rate committee/non-rate committee status, reduces the specific I/A notice, changes to the service contract provisions, and restructures the framework of the capacity management program. In addition, the Agreement name has been changed to "Trans-Atlantic Conference Agreement" and the Agreement has been restated to reflect these and other non-substantive changes.

Agreement No.: 203–011460.
Title: Systems and Logistics Agreement.
Parties:

Atlantic Container Line
Blue Star (North America) Ltd.
Cho Yang Shipping Col Ltd.
Senator Linie GMBH & Co. KG

Synopsis: The proposed Agreement authorizes the parties to discuss, exchange documents and information and cooperate in the development, and use of uniform and or compatible systems in accounting, inland transportation, logistics, "in transit" handling of containers, ATFI-related matters, booking and documentation, and equipment utilization, between world-wide ports and points.

Agreement No.: 224–200872.
Title: Port of San Diego/Tenth Avenue Cold Storage Company Facility Operating Contract.
Parties:

Port of San Diego ("Port")
Tenth Avenue Cold Storage Company

Synopsis: The proposed Agreement authorizes the Port to retain a contractor to operate and maintain the Tenth Avenue Cool/Cold Storage Facility.

Agreement No.: 224–200873.
Title: Port of Houston Authority/Port-Cooper/T. Smith Stevedoring Company Terminal Agreement.
Parties:

Port of Houston ("Port")
Port-Cooper/T. Smith Stevedoring Company ("P–C/TSSC")

Synopsis: The proposed Agreement authorizes P–C/TSSC to perform freight handling services at the Port's Open Areas 8 and 9 and Transit Shed Number 9.

Dated: July 7, 1994.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 94–16834 Filed 7–11–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. R–0841]

10 Percent Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: In 1987 and 1989 the Board authorized bank holding companies to establish separate nonbank subsidiaries ("section 20 subsidiaries") to underwrite and deal in securities that a bank may not underwrite and deal in directly ("ineligible securities"). In order to ensure compliance with section 20 of the Glass-Steagall Act (12 U.S.C. 377), the Board required that the amount of revenue a section 20 subsidiary derives from ineligible securities underwriting and dealing activities may not exceed 10 percent of the total revenue of the subsidiary. Section 20 prohibits a member bank of the Federal Reserve System from being affiliated with a company that is "engaged principally" in underwriting and dealing in securities.

In January 1993, after notice and the opportunity for public comment, the Board authorized section 20 subsidiaries to use an alternative indexed method to compute compliance with the 10 percent revenue limitation to account for unusual changes in the level and structure of interest rates since 1989, when the 10 percent limit was adopted. When the Board adopted the indexed revenue test, the Board deferred adoption of another alternative test for the 10 percent limit that would be based on assets, rather than revenue. Inasmuch as the Board has had increased experience in reviewing and monitoring the operations and activities of the section 20 subsidiaries, and in order to allow these subsidiaries additional flexibility in the conduct of their securities operations, the Board now proposes to modify its orders approving the establishment of the section 20 subsidiaries to allow such subsidiaries the option of using an alternative measure to the revenue-based tests for assessing compliance with the 10 percent limit. The Board requests comment on whether asset values, sales volume data, or both measures should be used as a new alternative to the revenue test.

DATES: Comments must be received by August 12, 1994.

ADDRESSES: Comments, which should refer to Docket No. R–0841, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William Wiles, Secretary. Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room MP–500 between 9 a.m. and 5 p.m. weekdays, except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Richard M. Ashton, Associate General Counsel (202/452–3750), Thomas M. Corsi, Senior Attorney (202/452–3275), Legal Division; Michael J. Schoenfeld, Senior Securities Regulation Analyst (202/452–2781), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorthea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC.

SUPPLEMENTARY INFORMATION:

1. Background

A. Ten Percent Limit on Ineligible Securities Activities of Section 20 Subsidiaries

Beginning with orders issued in 1987, the Board has authorized bank holding companies to establish nonbank subsidiaries ("section 20 subsidiaries") to underwrite and deal in securities that a bank may not underwrite and deal in directly ("ineligible securities").[1] In order to assure compliance with section 20 of the Glass-Steagall Act, the Board limited the amount of ineligible securities that these section 20 subsidiaries could underwrite and deal in. Section 20 provides that a member bank may not be affiliated with a company that is "engaged principally" in underwriting and dealing in securities.[2] In particular, the Board

[1] *E.g., Citicorp*, 73 Federal Reserve Bulletin 473 (1987), *aff'd, Securities Industry Association* v. *Board of Governors*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988).

[2] 12 U.S.C. 377. The Board and the courts have ruled that section 20 does not prohibit a member bank from being affiliated with a company that is engaged principally in underwriting and dealing in securities that banks may underwrite and deal in directly ("eligible securities"). *See Citicorp*, *supra*.

determined that a bank affiliate would not be "engaged principally" in ineligible securities activities for purposes of section 20 if those activities were not substantial relative to the other activities of the subsidiary. The Board ruled that ineligible securities activities are not a substantial part of a subsidiary's business if the gross revenue derived from those activities does not exceed 10 percent of the total gross revenues of the subsidiary, when revenue is averaged over a rolling 8-quarter period. Subject to this limitation, the Board has approved the establishment of over 30 section 20 subsidiaries, several of which are authorized to underwrite and deal in debt and equity securities generally.

B. Adoption of Alternative Indexed Revenue Test

In July 1992, the Board proposed to establish two alternative methods that a section 20 subsidiary could elect to use to determine compliance with the 10 percent limit on ineligible securities activities in place of the gross revenue test.[3] In proposing these alternative tests, the Board noted that historically unusual changes in the level and structure of interest rates have distorted the revenue test as a measure of the relative importance of ineligible securities activities in a manner that was not anticipated when the 10 percent limit was adopted in 1989.[4] To address this problem, the Board first proposed an alternative revenue test indexed to interest rate changes that would allow for adjustment of the current revenue of a section 20 subsidiary to account for the unanticipated interest rate conditions. In January 1993, the Board adopted an optional alternative indexed revenue test.[5]

[3] 57 FR 33507, July 29, 1992.

[4] The Board pointed out that, in contrast to conditions in 1989, there was an unusually wide difference between short- and long-term rates. Since eligible securities tend to be shorter term than ineligible securities, the unusually sharp increase in the steepness of the yield curve had the effect of making it appear, based on revenue data, that the eligible securities activities of at least some section 20 subsidiaries had been reduced, even though the relative proportion of eligible and ineligible securities activities being conducted by those subsidiaries remained essentially the same.

[5] 79 Federal Reserve Bulletin 226 (1993). Under the indexed revenue test, current interest and dividend revenues from eligible and ineligible activities for each quarter are increased or decreased by an adjustment factor provided by the Board based on the average duration of a section 20 subsidiary's eligible and ineligible securities portfolio. The adjustment factors, which vary according to specific time periods of average duration, represent the ratio of interest rates on Treasury securities in the most recent quarter to those in September 1989.

C. Proposed Asset-Based Test

At the same time that the indexed revenue test was proposed, the Board also proposed an alternative asset-based test. Specifically, the Board proposed that the 10 percent limit would be computed by using average daily assets held in connection with ineligible securities activities and with other activities. The Board recognized that in 1987, when it initially decided to use revenue as the appropriate measure of the section 20 limit on ineligible securities activities, the Board had expressed two concerns about a test based on average assets. One concern was that an asset-based test might be manipulated, for example, through "matched book" repurchase and reverse repurchase agreements for government securities. The second concern was that an average asset test, even if computed on a daily basis, would not include securities that were underwritten by the section 20 subsidiary but that were held only for a few hours, which is typical in many underwriting transactions. Accordingly, when the Board proposed an alternative asset-based test in 1992, the Board requested comment on possible modifications to address these concerns.

A number of banking organizations commenting on the Board's proposal supported adoption of an asset-based alternative measure for computing the 10 percent limit. These comments stated that, like the indexed revenue proposal, a limit based on assets would be less susceptible than the unadjusted revenue test to unusual changes in interest rate conditions. Those supporting the asset-based test also stated that this test would be easier and less costly to apply than a measure that required adjustments to revenue data and would allow for greater predictability in the management of the operations of the subsidiary.

Many commenters also opposed establishing any specific restrictions to address the potential for manipulative transactions. These commenters believed that the capital and funding requirements needed to support such transactions, as well as earnings considerations and market-imposed credit risk constraints, would effectively curtail the excessive use of asset transactions conducted solely to increase the level of eligible assets. Commenters also observed that implementation of such separate limits would be difficult in practice.

On the question of the treatment of intra-day holdings of securities that are being underwritten, while there was some support for including the value of such securities for purposes of applying an asset-based test, other comments opposed counting the value of such holdings on the grounds that the 10 percent limit should measure only assets that pose a risk to the section 20 subsidiary.

After considering these comments, the Board decided to defer adoption of an alternative asset-based test, noting that the Board was not then able to assess the potential practical effect of the test.

II. Proposed Alternative Test

A. Need for an Improved Alternative to the Gross Revenue Test

Since the decision to defer consideration of the asset-based test, the Board has had a greater opportunity to review and analyze the operations of section 20 subsidiaries. At the outset, the Board notes that, during this time period and in the entire seven year period since the Board first approved the creation of section 20 subsidiaries, the Board has not uncovered evidence of unsafe or unsound practices, conflicts of interest, or other conduct related to the operations of these subsidiaries that has impaired the condition of the affiliated depository institutions or the banking organizations as a whole. The available evidence further suggests that these subsidiaries have exerted a beneficial procompetitive influence on the securities markets in which they compete.

When the section 20 subsidiaries were first authorized, the Board selected revenue, rather than asset values or sales volume, as the best overall measure of ineligible securities activities because the Board believed that such a test would pose the fewest operational difficulties and provide the most accurate indication of the relative importance of specific activities. The Board also noted that although the applicants had argued that a variety of factors could be used to judge "engaged principally" status, a single uniform standard was desirable.[6]

However, subsequent events have shown that the susceptibility of results from the gross revenue measure to distortion caused by changes in interest rate conditions casts doubt on the appropriateness of that test. Although the indexed revenue test addresses these concerns, it necessarily involves increased operational difficulties. For some section 20 subsidiaries, the costs and resources needed to implement the indexed revenue test, with the need for complicated duration models and the calculation of the duration of all

[6] *Citicorp, supra*, 73 Federal Reserve Bulletin at 484.

securities in a section 20 subsidiary's portfolio on a regular basis, may provide a disincentive for using that test.[7]

Accordingly, and in order to provide additional flexibility to section 20 subsidiaries in the conduct of authorized activities, the Board now believes it is desirable to consider adoption of another optional measure in addition to revenue for applying 10 percent limit on ineligible securities activities. The Board believes that either asset values or sales volume, or a combination of both measures, should be considered as a new alternative measure.

B. Asset-Based Test as an Alternative Measure

Any asset-based test would limit a section 20 subsidiary's average daily assets held in connection with underwriting and dealing in ineligible securities to 10 percent of its total average daily assets, computed on a rolling 8-quarter basis. Because, as the Board observed when an asset-based test was previously proposed, a measure relying on asset values would be less sensitive to unanticipated changes in interest rate conditions than a test based on revenues, such a test would address these distortions. Also, it appears that for at least some section 20 subsidiaries a test relying on asset values may be easier in practice to apply than the indexed revenue test. Moreover, as explained below, in light of its greater experience with the operations of the section 20 subsidiaries, the Board is now of the view that the concerns previously expressed about the operation of an asset-based test can be appropriately mitigated.

The Board believes that the use of assets acquired in connection with particular types of securities activities may represent a permissible measure of compliance with the statutory limitation in section 20 on ineligible securities activities. Asset values do provide a rough approximation of risk to the section 20 subsidiary, and risk to banking organizations was one of the concerns behind passage of the Glass-Steagall Act. The Board notes that the New York State Banking Department, in applying a state law restriction on the level of ineligible securities activities of affiliates of state-chartered banks, allows the use of either assets or revenue as a measure of compliance with the law.[8]

Underwriting

The Board believes that, if an asset-based test is adopted as an alternative measure, the value of any securities underwritten by a subsidiary would have to be accounted for in computing average daily assets, even where the securities are disposed of prior to the end of the day. The literal language of section 20 covers any underwriting activity. Thus, under the proposed asset-based test, if securities underwritten by a section 20 subsidiary are recorded as assets of the subsidiary, but are disposed of before the end of the day on which underwriting activity takes place, then the securities would be treated as if they were carried as assets on the books of the subsidiary as of the end of that day. If securities are underwritten by the section 20 subsidiary on a "best efforts" or agency basis the securities would be treated as assets of the subsidiary for each day that underwriting activity occurs with respect to that particular security.[9]

Anti-Manipulation Limits

Should an asset-based test be adopted as an alternative measure, the Board does not propose that any specific limits be incorporated to address the potential for manipulative transactions carried out solely to inflate artificially a section 20 subsidiary's base of eligible assets. Many of the comments on the previously proposed asset-based test stated that there are sufficient financial and market constraints on the holding of excessive eligible securities solely to support increased ineligible securities activities. Even in the case of matched book-type transactions, counterparties typically impose limits on the amount of transactions they will engage in with any particular section 20 subsidiary, in order to control credit risk. The Board's minimum consolidated leverage ratio and the SEC's net capital rule, which is applicable to a section 20 subsidiary, would impose additional constraints. In addition, the acquisition of significant amounts of eligible securities by a section 20 subsidiary in matched book or similar transactions would also tend to have an overall negative impact on the earnings performance of the consolidated bank holding company organization, given the small profit margins typical in such transactions. Finally, the Board believes that it has the authority to take appropriate corrective action where manipulative transactions are detected.

C. Sales Volume Test as Alternative Measure

The Board is also requesting comment on adoption of sales volume as an alternative measure. If sales volume data is used as the measure of an alternative test for applying the 10 percent limit, then the dollar volume of a section 20 subsidiary's sales of ineligible securities as a result of underwriting and dealing in such securities could not be allowed to exceed 10 percent of its total sales volume over a rolling 8-quarter period.

The Board believes that the value of various types of securities and other assets sold by a section 20 subsidiary bears a relationship to the subsidiary's level of activity with respect to each type of security or other asset. Use of such data is thus consistent with the statutory requirements. Under a sales volume test, intra-day transactions like underwriting and dealing sales would be automatically covered, even if the assets involved were not recorded on the subsidiary's books at the end of the day. In addition, like an asset-based test, a sales volume test would be less sensitive to changes in interest rate relationships. Such a test may also be easier to comply with than the current alternative of indexed revenues.

Repurchase Transactions and Other Sales Transactions

One question raised by the use of sales volume as a test of the 10 percent limit is whether securities repurchase agreements ("repo transactions") should be treated as "sales" and therefore covered under such a test. Repo transactions are hybrids, having some characteristics of collateralized lending and some characteristics of an outright sale of securities. The Federal Reserve, for purposes of open market operations, has taken the position that repo transactions are sales rather than loans. The Board requests comment on how repo transactions should be treated for purposes of a sales volume test, if such a test were adopted as an appropriate alternative measure.

In addition, the Board invites comments concerning reporting and other administrative issues associated with implementing a sales volume test. The Board specifically requests comment on how sales volume should be computed for various types of transactions involving the same kinds of underlying securities in different market places. For example, Treasury bonds may be sold in the cash market, on a "When Issued" basis, on a forward contract basis, or indirectly, by

[7] At present only four section 20 subsidiaries are using the indexed revenue test.

[8] *E.g.*, letter, dated December 23, 1986, from New York Superintendent of Banks to Morgan Guaranty Trust Company and Bankers Trust Company.

[9] Under an asset-based alternative measure, similar treatment would be accorded an entire issue of privately-placed securities when any portion of the issue is taken into inventory pursuant to SEC Rule 144A.

purchasing a put option or selling a futures contract. Although each type of transaction may be reported differently for balance sheet purposes, all of the various kinds of transactions may have an identical impact on the section 20 subsidiary's risk profile.

The Board is considering adopting instructions similar to those contained in the current Federal Reserve Report Series Form FR 2004, Schedule B "Weekly Report of Cumulative Dealer Transactions" for collection of sales volume information. Accordingly, comments are requested concerning whether the instructions and definitions for reporting sales volume data in the FR 2004 would provide an adequate basis for developing sales volume reporting for section 20 subsidiaries. Comments are also requested concerning the definition and reporting of various types of transactions that are not addressed in the existing FR 2004 report instructions.

Manipulative Transactions

When the Board first approved the establishment of the section 20 subsidiaries, it considered and rejected using a sales volume test, on the ground that the eligible securities sales volume of a section 20 subsidiary, like asset values, could be easily inflated by repeated matched book transactions intended for no other purpose than to inflate the subsidiary's eligible sales volume base.[10] As noted above, many of the comments on the previously proposed asset-based test pointed out the credit risk and market limitations on the extent to which a section 20 subsidiary may engage in matched book or similar transactions. While these limits may be less effective where a section 20 subsidiary engages in unusual sales of securities with its own affiliate, rather than with a third party, solely for the purpose of increasing the volume of eligible securities sales, these matters can be addressed during the examination process and, as noted above, corrective action can be taken where manipulative transactions are found.

D. Compliance With Both Measures

A possible means for addressing the disadvantages of asset values and sales volume alone as appropriate measures is to require a section 20 subsidiary electing an alternative test to comply with both measures. The Board seeks comment on this possible requirement.

[10] *Citicorp, supra*, 73 Federal Reserve Bulletin at 484.

E. Implementation of Any Alternative Test

The Board notes that comments received on the asset-based test previously proposed suggested that, if such a test were adopted, some section 20 subsidiaries may not have access to sufficiently detailed asset data for earlier quarters to allow computation of such a test on a rolling 8-quarter basis and may not be able to obtain this information easily. Therefore, the Board proposes that, if an alternative measure is adopted using either asset values or sales volume, or a combination of both measures, a section 20 subsidiary would be allowed, at its election, initially to comply with such a test on a prospective basis only for the first two-year period. The Board followed this approach when the indexed revenue test was adopted.

As was also the case with respect to adoption of the indexed revenue test, the Board proposes that, regardless of which test may be adopted as an alternative measure, any section 20 subsidiary electing to use a new test would be required to continue using that test for a period of at least two years, in order to prevent frequent switching between tests that would impair an accurate assessment of the relative importance of the subsidiary's ineligible securities activities.

F. Proposed Elimination of Indexed Revenue Test

The Board also seeks comment as to why, if a new alternative measure is adopted, the indexed revenue test should not be eliminated because there would no longer be a need for that alternative measure. However, a section 20 subsidiary would be allowed to continue to elect to use the unadjusted revenue test, if the subsidiary wishes to avoid the costs associated with converting to any new test.

G. Proposed Modification of Board Orders

The Board proposes that its orders approving the establishment of section 20 subsidiaries be modified to provide that a section 20 subsidiary may elect, as an alternative to the existing revenue tests, to apply an asset-based test to assess compliance with the 10 percent limit on ineligible securities activities. Under such a test, a section 20 subsidiary would be viewed as in compliance with that section for any quarter if the average daily assets held in connection with underwriting and dealing in ineligible securities for that quarter, when added to the average daily assets held in connection with ineligible securities activities for the previous seven quarters, does not exceed 10 percent of the average daily total assets of the subsidiary for that quarter and for the seven previous quarters.[11]

In the alternative, the Board proposes that section 20 subsidiaries be authorized to elect to apply, as an alternative to the existing revenue test, a sales volume test to assess compliance with the 10 percent limit. Under such a test, a section 20 subsidiary would be viewed as in compliance with that section for any quarter if the total dollar volume of sales of ineligible securities from underwriting and dealing activities for that quarter, when added to the total dollar volume of such sales for the previous seven quarters, does not exceed 10 percent of the total dollar volume of sales of all securities and other assets by the subsidiary for that quarter and for the seven previous quarters.

Finally, as a third alternative, the Board proposes that section 20 subsidiaries be authorized to apply an alternative test measured by both asset values and sales volume. Under such a test, a section 20 subsidiary would be viewed as in compliance with section 20 for any quarter if the subsidiary simultaneously satisfied both the asset-based and sales volume measures described above.

By order of the Board of Governors of the Federal Reserve System, July 6, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-16820 Filed 7-11-94; 8:45 am]

BILLING CODE 6210-01-P

[11] Securities underwritten by the subsidiary, including securities taken into inventory in a private placement pursuant to SEC Rule 144A, would be treated as assets of the subsidiary for each day underwriting activity takes place with respect to such securities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

White House Conference on Aging

AGENCY: White House Conference on Aging, AoA, HHS.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to Title II of the Older Americans Act Amendments of 1987, Public Law 100-175 as amended by Public Law 102-375 and Public Law 103-171, that the 1995 White House Conference on Aging Policy Committee will hold a meeting on Wednesday, July

27, 1994, from 1 P.M. to 4 P.M. The meeting will be held in Room 216, Hart Senate Office Building, Constitution and Delaware Avenues NE, Washington, DC 20510.

The meeting of the Committee shall be open to the public. The proposed agenda includes the establishment of the date, time and location of the 1995 White House Conference on Aging and the number of delegates.

Records shall be kept of all Committee proceedings and shall be available for public inspection at 501 School Street, SW 8th floor Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: Kenton Williams, White House Conference on Aging, 501 School St. SW., 8th Floor, Washington, DC 20024, 202–245–7116.

Dated: July 6, 1994.

Fernando M. Torres-Gil,

Assistant Secretary for Aging.

[FR Doc. 94–16822 Filed 7–11–94; 8:45 am]

BILLING CODE 4130–02–M

Administration for Children and Families

[Program Announcement No. ACF–94–X]

Administration on Children, Youth and Families; Youth Gang Drug Prevention Program; Availability of Fiscal Year 1994 Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF); Administration for Children and Families (ACF); HHS.

ACTION: Extension of closing date for submittal of applications under the Youth Gang Drug Prevention program announcement cited above.

SUMMARY: On May 9, 1994, the Administration on Children, Youth and Families published a program announcement in the **Federal Register** (59 FR 23867).

The announcement solicited applications from eligible agencies and organizations to conduct community-based, comprehensive and coordinated activities to reduce and prevent the involvement of youth in gangs that engage in illicit drug-related activities.

Because of recent flooding in the Southeastern United States, which disrupted normal work schedules, we are allowing all prospective applicants more time to submit their applications. Therefore, we are extending the due date for submission of applications by two business days. The due date is extended from July 8 to July 12, 1994.

(Catalog of Federal Domestic Assistance Number 93.660, Youth Gang Drug Prevention Program)

Dated: July 7, 1994.

Joseph A. Mottola,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 94–16865 Filed 7–11–94; 8:45 am]

BILLING CODE 4184–01–M

Centers for Disease Control and Prevention

[Announcement 447]

Evaluation of the Impact of the 1993 AIDS Case Definition

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a competitive cooperative agreement program to study the quality of AIDS surveillance using the 1993 AIDS case definition and reporting system to determine methods that increase the efficiency of AIDS surveillance activities.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of HIV Infection. (To order a copy of "Healthy People 2000," see the section Where To Obtain Additional Information.)

Authority: These cooperative agreements are authorized under Sections 301(a) and 311 of the Public Health Service Act [42 U.S.C. 241(a) and 243], as amended. Applicable program regulations are found in 42 CFR Part 52, Grants for Research Projects.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Assistance will be provided only to official public health agencies of States and their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and the following cities and county only: the cities of Chicago, Houston, Philadelphia, New York, San Francisco, and the County of Los Angeles.

Availability of Funds

Approximately $1,200,000 is available in FY 1994 to fund four to six awards. It is expected that the average award will be $250,000, ranging from $200,000 to $300,000. It is expected that the awards will begin on or about September 30, 1994, and will be for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change. Continuation awards within a project period will be based on satisfactory progress and the availability of funds.

Purpose

The purpose of these awards is to assist State and local health departments in: (1) Determining the sensitivity, timeliness, and validity of the AIDS surveillance system; (2) Improving the efficiency of AIDS surveillance by evaluating a variety of case ascertainment methods; and (3) Identifying the information collected as part of AIDS surveillance that is most useful for planning and evaluating HIV-related treatment and preventive services.

All activities should be implemented under various reporting alternatives (provider-based vs. lab-initiated reporting) through a population-based retrospective study.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for activities under A., below, and CDC will be responsible for conducting activities under B., below:

A. Recipient Activities

1. Conduct a retrospective evaluation of medical and laboratory records to obtain histories of CD4+ and HIV testing, the occurrence of opportunistic infections (OIs) among persons reported to AIDS surveillance, and the number and type of sites that provide care for HIV-infected persons to determine the sensitivity, validity, and timeliness of AIDS surveillance and the ability to effectively monitor the epidemic using the 1993 AIDS surveillance definition and reporting system. As needed, conduct personal interviews with all, or a sample of, persons who are reported with AIDS to retrospectively collect data on dates and results of all prior CD4+ and HIV tests, OIs, receipt of treatment and prophylaxis, and degree of access to the health care system. If the cases being

investigated received treatment in multiple health facilities, as many records as possible should be pursued.

2. Propose alternative surveillance methods to increase the cost effectiveness, quality, and efficiency of case-finding. For example, areas with provider-based surveillance can pilot a laboratory-initiated reporting system and compare this activity to existing surveillance methods. For areas with both provider and laboratory-initiated case-finding methods, evaluative methods may include comparing data from these sources to alternative data bases. The alternative data bases used for evaluation should not currently be linked to case-finding activities, and may vary by State (e.g., death certificates are used for case-finding in most areas, and are therefore not useful for evaluation activities). Other methods to increase efficiency may be explored in comparison to existing case-finding methods, including: sampling for risk information; reporting only from laboratory and alternative data bases, such as death registries; and conducting active surveillance for preventable opportunistic infections only.

3. Collect data in the treatment and services referral section of the adult HIV/AIDS confidential case report form on all or a representative sample of persons reported to AIDS surveillance, describe the data sources, the collection methods, and determine resources needed to obtain these data. Develop measures to assess the usefulness of these data for the planning of prevention activities by the local health department and community planning bodies.

4. Participate in meetings to plan and develop standardized evaluation protocols and to discuss progress and methodologic issues. If travel is needed it will be supported through specific funds awarded in this cooperative agreement.

5. Ensure confidentiality of information collected from persons with AIDS and persons with confirmed or suspected HIV infection.

6. Maintain responsibility for analysis and presentation of data collected for local purposes.

7. Demonstrate coordination with existing HIV/AIDS surveillance activities.

8. Identify and select appropriate staff.

B. CDC Activities

1. Provide oversight and technical assistance as the project progresses.

2. Assist the participant in planning and implementing the evaluation, including providing technical guidance in the development of data collection instruments, outcome measures, reporting protocols, training, and pretesting methods. Coordinate activities among project participants to promote information sharing and ensure comparability of data collection.

3. Compile, analyze, and report results of aggregate data in collaboration with participating sites.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. The quality of the plan to evaluate the 1993 surveillance case definition and the impact of the case definition on AIDS surveillance. (10 points)

2. Descriptions of the alternative data bases that will be used and how they will be used. (10 points)

3. The applicant's current activities in the surveillance of AIDS and HIV infection and past or ongoing research projects to evaluate sensitivity, representativeness, and validity of reporting. (10 points)

4. The number and distribution of recent AIDS cases collected by the health department and their representativeness of minority populations, women, heterosexual transmission cases, and geographic areas with the largest increases in the number of cases reported. (25 points)

5. The applicant's willingness to cooperate in the project with CDC and other participants. (5 points)

6. The applicant's ability to obtain data from charts or interviews with patients directly or in association with personnel *not currently responsible for the reporting of AIDS cases*, and the ability to manage, analyze, and use surveillance data. (10 points)

7. Description of methods for evaluating project activities and for modifying activities based on evaluation findings. (5 points)

8. The extent to which the proposal describes how the project will be administered, including the size, qualifications, commitment, and time allocation of the proposed staff; the availability of facilities to be used during the project and a schedule for accomplishing activities. (10 points)

9. The applicant's ability to mobilize resources effectively to ensure the quality and quantity of data needed to implement this evaluation. (5 points)

10. A plan to protect the confidentiality of all surveillance data and a description of the applicant's authority to collect data from patients, alternate sources, and medical records. (10 points)

11. The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds. (Not Weighted)

Funding Priorities

Cooperative agreement recipients reporting at least 4,500 cumulative cases of AIDS to CDC through December 31, 1993 (as provisionally reported in the draft CDC HIV/AIDS Surveillance Report, 1993 Year-End Edition, released in March 1994), will be given priority for funding. In addition, the final selection of applications for this project must include at least one of each group of States representing these categories: (1) Laboratory-initiated HIV or CD4 reporting implemented by January 1, 1994, by law or regulation, and (2) provider-initiated reporting only. This approach is justified since the objective of the project is to evaluate the attributes of surveillance systems under various reporting alternatives.

Interested persons are invited to comment on the proposed funding priority. All comments received on or before August 11, 1994, will be considered before the final funding priority should change as a result of any comments received, a revised Announcement will be published in the **Federal Register** prior to the final selection of awards.

Written comments should be addressed to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East

Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305, no later than 60 days after the application deadline date. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or explain" State process recommendations it receives after that date.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number assigned to this program is 94.944.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

HIV/AIDS Requirements

Recipients must comply with the document entitled "Content of HIV/AIDS-related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions," (June 1992), a copy of which is included in the application kit. To meet the requirements for a program review panel, recipients are encouraged to use an existing program review panel, such as the one created by the State health department's HIV/AIDS prevention program. If the recipient forms its own program review panel, at least one member must be an employee (or a designated representative) of a State or local health department. The names of the review panel members must be listed on the Assurance of Compliance Form CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved.

Application Submission and Deadline

The program announcement and application kit were sent to all eligible applicants in June 1994.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package and business management technical assistant may be obtained from Nealean K. Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305, telephone (404) 842–6508. Programmatic technical assistance may be obtained from R. Monina Klevens, D.D.S., M.P.H., Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–47, Atlanta, Georgia 30333, telephone (404) 639–2050.

Please refer to Announcement Number 447 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 6, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–16805 Filed 7–11–94; 8:45 am]

BILLING CODE 4163–18–P

[Announcement Number 491]

Hantavirus Pulmonary Syndrome (HPS)/Immunology Cooperative Agreement

Introduction

The Centers for Disease Control and Prevention (CDC) announces a program for competitive fiscal year (FY) 1994 funds to conduct Hantavirus Pulmonary Syndrome (HPS) Immunologic Investigations. These activities are intended to focus on the role of immunopathology and its role in induction of HPS. These investigations will provide the basis for further work in understanding the pathogenesis of HPS and provide additional avenues for progress in clinical management, treatment, and vaccine development.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (To order a copy of Healthy People 2000, see the section **Where to Obtain Additional Information.**)

Authority: This program is authorized under Section 301(a) [42 U.S.C. 241(a)], 311 [42 U.S.C. 243], and 317(k)(3) [42 U.S.C. 247b(k)(3)] of the Public Health Service Act, as amended. Application program regulations are found in 42 CFR Part 52—Grants for Research Projects.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, including State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $250,000 is available in FY 1994 to fund one award. It is expected that the award will begin on or about September 30, 1994, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of this cooperative agreement is to assist researchers in studies of the immunology and immunopathology of hantavirus infections that focus on the role of cellular immune response. The overall goals of this program are to facilitate: (1) Development of information that can guide future strategies for vaccine development, and (2) Identification of immunopathologic disease processes which can lead to the development of therapeutic approaches for blocking these processes.

Program Requirements

In conducting activities to achieve the purpose of this agreement, the recipients shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

1. Prepare and evaluate bulk cultures of specific T lymphocytes and T cell clones from humans and/or non-human primates. Include evaluation of functional capabilities, phenotype, major histocompatibility complex restriction, and epitope specificity. Focus on understanding the role of T cells in protection against HPS.

2. Investigate the relative roles of cellular and humoral immunity in recovery from hantaviral disease in general and HPS in particular. Investigate the ongoing antibody response, T cell infiltrates in the alveolar septae of the lung in deceased patients, and the non-cytopathic replication of HPS viruses in causing disease.

3. In accordance with current hantavirus biosafety procedures, perform studies in appropriate BSL–3 and BSL–4 containment facilities.

4. Analyze all results in collaboration with CDC. Present/publish all significant findings.

B. CDC Activities

1. Until commercially available, provide inactivated antigens, expression vectors containing viral genes, and sera from HPS patients.

2. Provide access to CDC's BSL–4 laboratory facilities and BSL–3 laboratory as necessary (CDC has one of only two BSL–4 laboratories in the United States).

3. Provide fresh or appropriately frozen lymphocytes from immune humans or nonhuman primates, as available.

4. Provide technical support as necessary.

Evaluation Criteria

All applications will be reviewed and evaluated according to the following criteria:

A. Background and Need

Extent to which applicant demonstrates a clear understanding of the purpose and objectives of this proposed cooperative agreement. Extent to which applicant demonstrates a clear understanding of the requirements, responsibilities, interactions, problems, constraints, complexities, etc., that may be encountered in conducting the project and performing the studies. (30 points)

B. Capacity

Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed in this cooperative agreement as evidenced by curriculum vitae, publications, etc. (35 points)

C. Objectives and Technical Approach

Extent to which applicant describes objectives of the proposed project which are consistent with the purpose and program requirements of this cooperative agreement and which are measurable and time-phased. Extent to which applicant presents a detailed plan for initiating and conducting the project. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed studies. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives. Extent to which applicant describes adequate collaboration with CDC during various phases of the project. Extent to which applicant provides a detailed plan for evaluating study results and for evaluating progress towards achieving project objectives. (35 points)

D. Budget

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds. (Not Weighted)

Executive Order 12372

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305. The due date for State process recommendations is 30 days after the application deadline date for new and competing continuation awards. (A waiver for the 60 day requirement has been requested.) The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305. This should be done no later than 30 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Application Submission and Deadline

The original and two copies of the application, Form PHS–5161–1 (Revised 7/92), must be submitted to Edwin L. Dixon, Grants Management Officer,

Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, on or before August 22, 1994.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications shall not be considered in the current competition for funding and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Gordon R. Clapp, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6508.

Programmatic technical assistance may be obtained from Kathleen F. Cavallaro, Operations and Management, Hantavirus Task Force, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop A–26, Atlanta, GA 30333, telephone (404) 639–1511.

Please refer to Announcement Number 491 when requesting information regarding this program.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1), referenced in the Introduction, through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: July 6, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–16808 Filed 7–11–94; 8:45 am]

BILLING CODE 4163–18–P

[Announcement 454]

Cooperative Agreement To Establish a Health Promotion and Disease Prevention Initiative Program for African-Americans

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for a cooperative agreement program to develop a health promotion and disease prevention initiative to reduce preventable death, sickness, and disability; to reduce disparities in health; and to enhance the quality of life among African-Americans.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to all the priority areas of Healthy People 2000 as well as the 1985 Secretary's Task Force Report on Black and Minority Health. (For ordering a copy of "Healthy People 2000" or the "Report of the Secretary's Task Force on Black and Minority Health," see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under Sections 301 [42 U.S.C. 241) and 317(k)(2) (42 U.S.C. 247b(k)(2)) of the Public Health Service Act, as amended, and the President's Executive Order 12876 of 1993.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Eligible applicants are National Minority Organizations (NMOs) and/or Regional Minority Organizations (RMOs) which principally serve African-American populations. The African-American population is very diverse and more targeted strategies and activities are needed to reduce the growing health gap among this group. Consistent with the 1985 Secretary's Task Force Report on Black and Minority Health, excess mortality, morbidity and disability continues to disproportionately affect African-Americans. A more current update of that report documents continuing excess deaths specifically for African-Americans. Eligible applicants must submit documentation to demonstrate that they comply with the following:

1. Are an established tax-exempt organization (a nongovernmental, tax-exempt corporation or association whose net earnings in no part lawfully accrue to the benefit of private shareholders or individuals). The following is acceptable evidence of tax-exempt status: (i) A reference to the applicant's organization in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code; or (ii) a copy of a currently valid IRS tax exemption certificate.

2. Have a governing body or board that is composed of more than 50% racial or ethnic minority group members who are representative of the population to be served.

3. Have a minimum of 12 months documented experience in operating and centrally administering a coordinated public health or related program serving racial or ethnic minority populations within a major portion or region (multistate or multiterritory) of the United States through its own offices, organizational affiliates, or the participation of other minority organizations.

4. Have a specific charge from the Articles of Incorporation or Bylaws or a resolution from its governing body or board to operate nationally or regionally (multistate or multiterritory) within the United States and its Territories.

5. Organizations participating in the program must have agreements with their affiliates, chapters, or other minority organizations that each organization must have a governing body or board whose membership is composed of more than 50% racial or ethnic minority group members who are representative of the population to be served.

Availability of Funds

A minimum of $100,000 is available in FY 1994 to fund one award. Additional funds are expected. It is expected that the award will begin on or about September 30, 1994, for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the

project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The principal purpose of the cooperative agreement is to assist an NMO or RMO to establish the following three components: a Health Program Unit, a Speakers Bureau, and a National Health Network. This will allow the awardee to use these components for the following:

Health Program Unit: The awardee will implement preventive strategies to improve the health of African-Americans by targeting the seven leading causes of excess deaths in this population. The Health Program Unit will also develop and implement strategies to improve the utilization of community health resources by African-Americans.

Speakers Bureau: The awardee will organize a National Speakers Bureau of health professionals and other professionals to provide oral presentations on salient health promotion and disease prevention topics relating to African-Americans at national, State, and local meetings. Other organizations will have ready access to the Speakers Bureau to assist in improving disease prevention and health promotion activities in their areas.

National Health Network: The awardee will assist minority organizations to: (1) Expand their internal and external organizational networks, and (2) facilitate the dissemination of health promotion and disease prevention information to African-Americans. This network will use the communication systems that already exist in the community to assist in reaching the target audience.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities under B. (CDC Activities).

A. Recipient Activities

1. The Health Program Unit

a. Communicate science-based health promotion and disease prevention strategies developed with CDC throughout African-American communities to improve the environment and personal health behaviors of those living in these communities.

b. Assess ongoing health related activities in various communities to determine if African-Americans are involved, and to determine if the activities are appropriate for the target audience (i.e., immunization, STD/HIV prevention).

c. Focus on the seven leading causes of deaths in African-American populations, and help design health promotion and disease prevention materials relevant to the populations served.

d. Improve the utilization of the community health resources by African-Americans.

e. Develop and disseminate audio-visual and written health promotion material for the target population.

f. Develop quality of life measures for community members through a consensus building process (e.g., oral health, mental health). Inform the target group about health promotion and disease prevention activities related to the seven leading causes of deaths among African-Americans that were found in the community.

2. The Speakers Bureau

a. Establish a Speakers Bureau that will improve the information available to minority organizations concerning health promotion and disease prevention activities among African-Americans.

b. Design a strategy to access and/or create a reservoir of professional speakers to address local, State and national audiences on health promotion and disease prevention needs and practices among African-Americans.

c. Develop culturally specific measures to encourage African-Americans to improve their health.

d. Identify subject area experts who will address and integrate the structural units of health: physical, social, and psychological well-being. Develop a consensus building strategy to educate the community about the overlapping influence of these three health components.

e. Develop an effective mechanism through community based organizations (CBOs), radio, television, or open forum to communicate current/updated information on health promotion and disease prevention to individuals and groups in African-American communities.

f. Develop a mechanism to advance health promotion and disease prevention activities among members of community groups, health practitioners, educators, advocacy groups, health professions, health professional schools, and public schools. Share the information at national conventions and meetings.

3. The National Health Network

a. Identify national, State/district and local African-American groups to collaborate with the CDC and State and local health departments.

b. Establish a distribution system to disseminate health promotion and disease prevention information.

c. Collaborate with national minority health professional associations, community based organizations, and PHS agencies to develop an effective plan to implement health promotion and disease prevention activities in the African-American communities (e.g., immunization).

B. CDC Activities

1. Provide consultation, assistance and support to the grantee in planning, implementing and evaluating all aspects of the agreement.

2. Collaborate with the grantee in identifying areas of the project that need evaluation.

3. Collaborate with grantee in identifying priority needs for public health programs at the local, State, and national levels.

4. Collaborate with the grantee in developing, testing and validating more effective and efficient disease prevention and health promotion models to African-Americans.

5. Collaborate with grantee and other concerned parties in workshops and conferences to exchange current information, opinions and findings in fields of public health and minority health.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. Applicant's Understanding of the Problem (15%)

The extent to which the applicant has a clear, concise understanding of the requirements, objectives, and purpose of the cooperative agreement. The extent to which the application reflects an understanding of the complexities surrounding health promotion, health disparities and health promotion issues, that have an impact in the African-American community.

B. Organizational Experience (30%)

The extent to which the applicant has demonstrated skill and experience in working effectively with community based projects, and has the ability to establish meaningful relationships with various community based organizations. The applicant must demonstrate experience in providing leadership for community projects at the national,

State and local levels. The applicant must provide proof of experience in sharing financial or technical resources with CBOs, affiliates, and chapters that provide a variety of services directly to racial and ethnic minority populations.

C. Approach and Capability (40%)

The extent to which the applicant has included a description of their approach and track record on developing a network which includes the various segments of the African-American community at national, State and local levels. The grantee must demonstrate geographical distributions, and their ability to influence policy of the various community groups.

D. Program Personnel (15%)

The adequacy of the description for present staff and capabilities of the organization to assemble culturally competent and trained staff to conduct all three components proposed in this health promotion and disease prevention initiative. The applicant shall identify all current and potential personnel who will be utilized to work on this cooperative agreement, including qualifications and specific experience as it relates to the requirements set forth in this request. The organization must provide proof that their program and administrative staff and the program and administrative staff of affiliates and participating organizations involved in the project are representative of the communities and population to be served.

E. Budget Justification and Adequacy of Facilities (not scored)

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

F. Evidence of Compliance With Eligibility Requirements

Each applicant must provide documentation that they comply with all eligibility requirements specified under the "Eligible Applicants" section. Failure to provide this documentation will result in disqualification. It is suggested that each applicant provide a separate section in their application entitled "eligibility narrative."

Executive Order 12372

Applications are not subject to review by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirement

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Clara M. Jenkins, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 320, Mail Stop E–15, Atlanta, GA 30305, on or before August 15, 1994.

1. *Deadlines:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned unread to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, application package and business management technical assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 320, Mail Stop E–15, Atlanta, Georgia 30305, telephone (404) 842–6872. Programmatic technical assistance may be obtained from Karen Harris, Staff Specialist for Minority Health, Office of the Director, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mail Stop D–39, Atlanta, GA 30333, telephone (404) 639–0029.

Please refer to Announcement Number 454 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0), "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) or "Report of the Secretary's Task Force on Black and Minority Health" (Full report, Stock No. 491–313–44706) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC, 20402–9325, telephone (202) 783–3238.

Dated: July 6, 1994.

Martha Katz,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–16809 Filed 7–11–94; 8:45 am]

BILLING CODE 4163–18–P

Savannah River Site Environmental Dose Reconstruction Project; Public Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Savannah River Site Environmental Dose Reconstruction Project.

Time and Date: 5:30 p.m.–9:30 p.m., July 27, 1994.

Place: Savannah Public Library, 2002 Bull Street, Savannah, Georgia 31499.

Status: Open to the public for observation and comment, limited only by space available.

Purpose: Under a Memorandum of Understanding (MOU) with the Department of Energy (DOE), the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between the Agency for Toxic Substances and Disease Registry (ATSDR) and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Community involvement is a critical part of the HHS energy-related research and activities. With an environmental dose reconstruction for DOE's Savannah River Site near Augusta, Georgia, as well as a worker study at the same site, the availability of a formal site-specific advisory committee composed of South Carolina and Georgia citizens to provide consensus advice to CDC and ATSDR regarding these projects is necessary. CDC and ATSDR are currently taking steps to obtain authorization for a "Citizens' Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites" to be chartered under the Federal Advisory Committee Act.

The draft charter for this proposed committee states, "Because of the varying concerns within communities at each DOE site, operational guidelines at each site must be developed separately to clarify the scope of activities and the responsibilities of the committee members and agencies." Therefore, CDC and ATSDR are holding a series of public meetings to begin developing operational guidelines at specific DOE sites. The purpose of this meeting will be to update the public on the status of CDC's and ATSDR's community involvement plans and to seek individual advice and recommendations from interested parties concerning selection criteria and operating procedures.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Paul Renard, 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.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94-16806 Filed 7-11-94; 8:45 am]

BILLING CODE 4163-18-M

Food and Drug Administration

[Docket No. 94N-0249]

Sandoz Pharmaceuticals Corp., et al.; Withdrawal of Approval of 7 Abbreviated Antibiotic Applications and 11 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 7 abbreviated antibiotic applications (AADA's) and 11 abbreviated new drug applications (ANDA's). The holders of these applications 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: August 11, 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: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

Application No.	Drug	Applicant
AADA, 62-025 ..	Griseofulvin, U.S.P. (Nonsterile bulk)	Sandoz Pharmaceuticals Corp., 59 Rt. 10, East Hanover, NJ 07936-1080.
AADA, 62-323 ..	Amoxicillin Oral Suspension, U.S.P., 125 milligrams (mg)/5 milliliters (mL) and 250 mg/5 mL.	Apothecon, Inc., P.O. Box 4500, Princeton, NJ 08543-4500.
AADA, 62-541 ..	Nystatin Oral Suspension, U.S.P., 100,000 units/mL	Pharmafair, Inc., 110 Kennedy Dr., Hauppauge, NY 11788.
AADA, 62-616 ..	Erythromycin Topical Solution, U.S.P., 2%	Do.
AADA, 62-694 ..	Ampicillin Trihydrate, U.S.P. (Nonsterile bulk)	Sandoz Pharmaceuticals Corp.
AADA, 62-728 ..	Amphotericin B for Injection, U.S.P., 50 mg/vial	Fujisawa USA, Inc., Parkway North Center, Three Parkway North, Deerfield, IL 60015-2548.
AADA, 63-219 ..	Amoxicillin Trihydrate, U.S.P. (Nonsterile bulk)	Sandoz Pharmaceuticals Corp.
ANDA, 71-038 ..	Lorazepam Tablets, U.S.P., 1 mg	Warner Chilcott Laboratories, 201 Tabor Rd., Morris Plains, NJ 07950.
ANDA, 71-039 ..	Lorazepam Tablets, U.S.P., 2 mg	Do.
ANDA, 80-431 ..	Metaraminol Bitartrate Injection, U.S.P., 10 mg/mL	Fujisawa USA, Inc.
ANDA, 80-446 ..	Reserpine Tablets, U.S.P., 0.25 mg	Solvay Pharmaceuticals, Inc., 901 Sawyer Rd., Marietta, GA 30062.
ANDA, 80-563 ..	Prednisone Tablets, U.S.P., 2.5 mg and 5 mg	MK Labs, 11 Fairway Lane, Trumbull, CT 06611.
ANDA, 84-035 ..	Phentermine Hydrochloride Tablets, U.S.P., 8 mg	Solvay Pharmaceuticals, Inc.
ANDA, 86-867 ..	Prednisone Tablets, U.S.P., 50 mg	Danbury Pharmacal, Inc., 131 West St., Danbury, CT 06810.
ANDA, 87-556 ..	Reserpine, Hydralazine Hydrochloride, and Hydrochlorothiazide Tablets, U.S.P., 0.1 mg/25 mg/15 mg.	Do.
ANDA, 87-674 ..	Phenylbutazone Tablets, U.S.P., 100 mg	Do.
ANDA, 88-087 ..	Proparacaine Hydrochloride Ophthalmic Solution, U.S.P., 0.5%.	Pharmafair, Inc.
ANDA, 89-572 ..	Pyridostigmine Bromide Tablets, U.S.P., 30 mg	Solvay Pharmaceuticals, Inc.

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 applications listed above, and all amendments and supplements thereto, is hereby withdrawn, effective August 11, 1994.

Dated: June 25, 1994.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 94-16735 Filed 7-11-94; 8:45 am]

BILLING CODE 4160-01-P

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority; Reorganization of the Medicaid Bureau

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 59, No. 60, pp. 14629 and 14633, dated March 29, 1994, is amended to reflect a reorganization within the Medicaid Bureau. The Medicaid Bureau's Medicaid Special Program Initiatives Staff (MSPIS) is abolished and replaced with a new Office of Planning and Special Initiatives (OPSI). OPSI will assume the duties previously performed in MSPIS to serve as the focal point for all HCFA Medicaid activities in the area of maternal and infant health care, children preventive care services, and Acquired Immune Deficiency-infected recipients. In addition, OPSI will be responsible for coordinating and monitoring the Bureau's activities involving States' health reform initiatives.

The specific amendments to Part F are described below:

Section F.10., Health Care Financing Administration (Organization), paragraph A.5.b., Medicaid Special Program Initiatives Staff (FAB-2) is deleted and replaced by a new paragraph A.5.b., Office of Planning and Special Initiatives (FAB3).

Section F.20., Health Care Financing Administration (Functions), paragraph A.5.b., Medicaid Special Program Initiatives Staff (FAB-2) is deleted and replaced by the following new paragraph A.5.b., Office of Planning and Special Initiatives (FAB3).

The new functional statement reads as follows:

b. Office of Planning and Special Initiatives (FAB3)

- Promotes and supports States' development of Medicaid program transitions to health system reform.
- Represents the Medicaid Bureau in coordinating activities related to the impact on the Medicaid program of State-initiated interim health system reforms accomplished through Statewide Section 1115 projects.
- Serves as clearinghouse for information on the nature, scope, and status of State Medicaid initiatives.
- Identifies States' needs and coordinates initiatives for technical assistance, information exchange, and capacity building to further States' progress toward program improvements and reforms.
- Develops multi-faceted initiatives focused on priority program areas and the special needs of subpopulations of Medicaid beneficiaries.
- Collaborates with federal and State agencies and private organizations to improve health services for Medicaid beneficiaries.
- Supports management of Medicaid strategic planning through analysis of data, trends and external forces, assessment of program activities in light of planned objectives, and coordination of Medicaid planning activities with other agencies and organizations.
- Serves as the Medicaid Bureau focal point for data applications relevant to Medicaid program interests and populations.

Dated: June 28, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 94-16821 Filed 7-11-94; 8:45 am]

BILLING CODE 4120-01-P

Statement of Organization, Functions, and Delegations of Authority

Section F.50 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) (49 FR 35247, dated September 6, 1984) is hereby amended to add a new paragraph, F.50.2.g., to indicate that the authorities under Section 1928 of Title XIX of the Social Security Act as added by Section 13631 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), as amended hereafter, excluding subsections 1928(a)(2)(B) and 1928(c)(2)(c)(ii) have been delegated to the Assistant Secretary for Health. The new paragraph reads as follows:

g. The Assistant Secretary for Health shall exercise all the authorities under Section 1928 of Title XIX of the Social Security Act as added by Section 13631 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 100-66), as amended hereafter, excluding subsections 1928(a)(2)(B) and 1928(c)(2)(c)(ii).

Dated: June 30, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94-16737 Filed 7-11-94; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

Omnibus Budget Reconciliation Act of 1993; Delegations of Authority

Notice is hereby given that I have delegated to the Assistant Secretary for Health with authority to redelegate, all the authorities vested in the Secretary of Health and Human Services under Section 1928 of Title XIX of the Social Security Act as added by Section 13631 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66, as amended hereafter, excluding subsections 1928(a)(2)(B) and 1928(c)(2)(C)(ii).

The Secretary reserves the authority under Subsections 1928(a)(2)(B) "Special Rules Where Vaccine Is Unavailable"; and the authority to promulgate regulations and to submit reports to the Congress.

In addition, Section 1928(c)(2)(C)(ii) is vested with the Administrator for the Health Care Financing Administration.

This delegation is effective upon date of signature. It is to be carried out in cooperation with the Health Care Financing Administration. In addition, I hereby affirm and ratify any actions taken by you or your subordinates which involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: June 30, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94-16736 Filed 7-11-94; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-060-03-4110-03]

Notice of Intent To Prepare a Supplement to the Blackleaf Environmental Impact Statement To Analyze a Drilling Proposal in the Blackleaf Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a supplement to the Blackleaf Environmental Impact Statement (EIS) for a drilling proposal in the Blackleaf Gas Field, Teton County, Montana.

SUMMARY: On January 20, 1994, the Bureau of Land Management (BLM) received a Notice of Staking (NOS) for a proposed well in the Blackleaf Unit. The proposed well is located in northwestern Teton County about 25 miles northwest of Choteau, Montana. The NOS is the first step in the process and allows an operator to survey a location and access route to a proposed well. An Application for Permit to Drill (APD) including the subsurface plan (which details the drilling program) and the surface use plan (which describes any surface disturbances) will be submitted to BLM following an onsite inspection. Upon receipt of the APD, the BLM will analyze the proposal.

DATES: A public scoping meeting has been scheduled for August 15th and 16th, 1994, in the American Room of the Heritage Inn, 1700 Fox Farm Road, in Great Falls, Montana.

ADDRESS: Comments should be sent to Richard L. Hopkins, Area Manager, Great Falls Resource Area, 812 14th St. N., Great Falls, MT 59401, 406–727–0503.

FOR FURTHER INFORMATION CONTACT: Tad Day, Great Falls Resource Area, 812 14th St. N., Great Falls, MT 59401, 406–727–0503.

SUPPLEMENTARY INFORMATION: The BLM issued a final Blackleaf EIS in June 1992 which analyzed the impacts of reasonably foreseeable oil and gas development activities in the Blackleaf Unit. A record of decision was not prepared, pending receipt of a proposal for oil and gas activity within the Blackleaf Unit.

Upon completion of the analysis for the proposal, the BLM will issue a decision on the APD and the final Blackleaf EIS.

Dated: July 1, 1994.

David L. Mari,

Lewistown District Manager.

[FR Doc. 94–16836 Filed 7–11–94; 8:45 am]

BILLING CODE 4310–DN–P

[ES–960–4950–10–4377] ES–046872, Group 159, Minnesota; 4–00157–ILM]

Filing of Plat of the Dependent Resurvey, Survey of the Subdivision of Sections 13, 15 and 23, and Metes-and-Bounds Survey

The plat of the dependent resurvey of a portion of the subdivisional lines, and a portion of the subdivision of section 15; reestablishment of the record meander line in section 13; survey of the subdivision of sections 13, 15 and 23, and the metes-and-bounds survey of a portion of the public highway in sections 14, 15 and 23, Township 115 North, Range 39 West, Fifth Principal Meridian, Minnesota, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on August 25, 1994.

The survey was made upon request by the Bureau of Indian Affairs. All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., August 25, 1994.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: June 30, 1994.

Carson W. Culp, Jr.,

State Director.

[FR Doc. 94–16739 Filed 7–11–94; 8:45 am]

BILLING CODE 4310–GJ–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 2, 1994. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 27, 1994.

Beth Boland,

Acting Chief of Registration, National Register.

ALABAMA

Mobile County

Roberts House, 3 Wimbledon Dr., Mobile, 94000789

CONNECTICUT

Middlesex County

Clinton Village Historic District, Along Cemetery Rd., Church, E. Main and Liberty Sts., Old Post Rd. and Waterside Ln., Clinton, 94000788

FLORIDA

Monroe County

SAN FELIPE Shipwreck Site, Address Restricted, Islamorada vicinity, 94000794

Polk County

Fort Meade Historic District, Roughly bounded by N. 3rd St., Orange Ave., S. 3rd St. and Sand Mountain Rd., Fort Meade, 94000781

GEORGIA

De Kalb County

South Candler Street—Agnes Scott College Historic District, Roughly bounded by E College, S. McDonough, S. Candler, E. Hill and E. Davis Sts., Decatur, 94000787

MARYLAND

Frederick County

Horris Farm, Jct. of Devilbiss and Glade Rds., Walkersville vicinity, 94000799

Somerset County

Ward Brothers' House and Shop, 3199 Sackertown Rd., Crisfield, 94000790

MINNESOTA

Wabasha County

Kuehn, Lucas, House (Red Brick Houses in Wobosha, Minnesota, Associated with Merchant-Tradesmen MPS), 306 E. Main St., Wabasha, 89000369

MONTANA

Deer Lodge County

Methodist Episcopal Church of Anaconda, Jct. of Oak and E. Third Sts., Anaconda, 94000783

Gallatin County

Flaming Arrow Lodge, 15521 Bridger Canyon Rd., Bozeman, 94000784

Ravalli County

DeNaver House (Stevensville MPS), 327 Main, Stevensville, 94000782

NEW YORK

Suffolk County

Suffolk County Historical Society Building, 300 W. Main St., Riverhead, 94000786

TEXAS

Galveston County

Hutchings, Sealy, House, 2805 Ave. O, Galveston, 94000796

UTAH

San Juan County

Hyland Hotel, 116 S. 100 West, Monticello, 94000785

VIRGINIA

Caroline County

Riverview, Water St., Port Royal, 94000792
Townfield, Water St., Port Royal, 94000793

Bristol Independent City

King-Lancaster-McCoy-Mitchell House, 54 King St., Bristol (Independent City), 94000793

WASHINGTON

Clallam County

Hyer, John A., Farm, Address Restricted, Sequim vicinity, 94000797

Spokane County

Hotel Upton (Single-Room Occupancy Hotels in Spokane's Central Business District MPS), S. 106 Cedar St., Spokane, 94000798
Spokane Club Building—Legion Building, 108 N. Washington St., Spokane, 94000800

Whitman County

Swain, William, House, Address Restricted, Pullman vicinity 94000801

[FR Doc. 94–16841 Filed 7–11–94; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32531]

Patrick D. Broe, The Broe Companies, The Great Western Railway Company, Railco Inc., Chicago West Pullman Transportation Corp., et al.—Corporate Family Reorganization Exemption

On June 9, 1994, Patrick D. Broe (Mr. Broe), The Broe Companies, Inc. (BCI), The Great Western Railway Company (GWR), Railco Inc. (Railco), Chicago West Pullman Transportation Corp. (CWPT), OmniTRAX, Inc. (OmniTRAX), and their carrier subsidiaries jointly filed a notice of exemption under 49 CFR 1180.2(d)(3) to reorganize the carrier subsidiaries and for OmniTRAX, a noncarrier holding company, to control the carrier subsidiaries.

Mr. Broe is a noncarrier individual who directly controls Panhandle Northern Railroad Company (PNR) and Central Kansas Railway Limited Liability Company (CKR) and who also owns and controls BCI and OmniTRAX. BCI is a noncarrier holding company that directly controls the noncarriers GWR and Railco. GWR directly controls the carriers Great Western Railway of Colorado, Inc. (GWRC), Great Western Railway Company of Iowa, Inc. (GWRI), and Great Western Railway of Oregon, Inc. (GWRO). Railco controls the noncarrier CWPT, which in turn controls six class III railroads: the Chicago, West Pullman & Southern Railroad Company (CWP&S); the Georgia Woodlands Railroad Company (GWRR); The Newburgh & South Shore Railroad Company (NSR); Chicago Rail Link (CRL); Manufacturers' Junction Railway Company (MJR); and Kansas Southwestern Railway Company (KSW).

Under the reorganization, MJR, CWP&S, GWRR, KSW, CRL, GWRI, PNR and GWRC will be reformed as limited liability companies. GWRO will remain a corporation. NSR will be reformed as a limited liability partnership. BCI will convey its interest in GWR, Railco and CWPT to OmniTRAX and the GWR, Railco and CWPT holding companies will be dissolved. Mr. Broe will transfer his direct controlling interests in PNR and CKR to OmniTRAX. As a result of these transactions, OmniTRAX will control all 11 rail carriers (MJR, CWP&S, GWRR, KSW, CRL, GWRI, PNR, GWRC, NSR, CKR and GWRO). Mr Broe will continue to control OmniTRAX.

The parties intend to consummate the transactions on or after June 15, 1994.

These transactions are within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties say that the transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The stated purpose of the reorganization is to obtain better tax treatment, to facilitate estate planning, and to simplify the corporate structure, which should allow a more efficient operation.

As a condition to use of this exemption, any employees adversely affected by the transactions will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transactions. Pleadings must be filed with the Commission and served on: Karl Morell, Ball, Janik & Novack, Suite 1035, 1101 Pennsylvania Ave., NW., Washington, DC 20004.

Decided: July 6, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–16837 Filed 7–11–94; 8:45 am]
BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 27, 1994, Arenol Chemical Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, 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
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
Amphetamine (1100)	II
Methamphetamine (1105)	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 August 11, 1994.

Dated: July 1, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–16811 Filed 7–11–94; 8:45 am]
BILLING CODE 4410–09–M

[Docket No. 93–9]

Steven E. Warren, M.D.; Revocation of Registration

On October 5, 1992, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause to Steven E. Warren, M.D. (Respondent), of Salt Lake City, Utah, proposing to revoke his DEA Certificate of Registration, AW1662609, and to deny any pending applications for registration as a practitioner. The Order to Show Cause alleged that Respondent's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4), in that the Respondent was personally abusing narcotic controlled substances and obscured this use from others; that Respondent misused his registration privilege to obtain Schedule II controlled substances for other than legitimate medical purposes; that Respondent failed to maintain complete and accurate controlled substance records; that Respondent failed to account for 40 to 50 multi-dose vials of Demerol; that Respondent added saline solution to a commercial vial of Demerol in an effort to mislead

investigators; and that Respondent distributed controlled substance samples without a legitimate medical purpose.

Additionally, citing his preliminary finding that Respondent's continued registration posed an imminent danger to the public health and safety, the Administrator ordered the immediate suspension of DEA Certificate of Registration, AW1662609, during the pendency of these proceedings. 21 U.S.C. 824(d).

The Respondent, by counsel, responded to the Order to Show Cause and requested a hearing. The matter was docketed before Administrative Law Judge Paul A. Tenney. A hearing was held in Salt Lake City, Utah on July 28, 1993.

On October 6, 1993, the administrative law judge issued his findings of fact, conclusions of law, and recommended ruling in which he recommended, *iner alia*, that the Respondent's DEA registration be revoked and that any pending applications be denied. The administrative law judge also recommended that the Administrator grant the Respondent alternative relief in the form of a waiver of DEA regulations to permit the San Juan County Hospital to employ Respondent and permit him to order controlled substances for hospital patients. The Government filed exceptions to this recommendation, and the Respondent filed a response to the Government's exceptions. The administrative law judge transmitted the record to the Acting Administrator on November 8, 1993. The Deputy Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that the Respondent graduated from medical school with the assistance of a National Service Corps scholarship, and was subsequently assigned to a remote county in Utah to complete his four year obligation to the Federal Government. After completion of his obligation, Respondent continued to practice in the area. For a period of approximately two years, Respondent was the only physician in the county.

In 1991 and 1992, Utah State licensing authorities initiated an investigation into the Respondent's prescribing practices by conducting audits of two local pharmacies. No violations were found. However, in June 1992, after anonymous complaints that the Respondent was receiving injections during his medical practice, the state initiated a new investigation and determined that the Respondent was unable to account for quantities of Demerol, a Schedule II narcotic controlled substance. Additionally, investigators determined that improper transfers of Demerol from the local hospital to the Respondent's medical office had been made.

At the DEA administrative hearing, Respondent testified that he had started self-administering Demerol for shoulder pain and migraine headaches after a fall off the roof of his home. Subsequently, the Respondent was exposed to a contaminated needle in the course of his practice, became ill, and was admitted to a hospital for several days. There, he discussed his addiction with physicians, who arranged his admission to a five-week rehabilitative program. The Respondent surrendered his state controlled substance license in October 1992.

The administrative law judge found that the Respondent used Demerol, without a legitimate medical purpose, and became addicted during the summer of 1992. To obscure his use of the drug from hospital and clinic personnel, the Respondent used Demerol from the hospital inventory, wrote false prescriptions, and, at least once, injected saline solution into a Demerol vial. Additionally, the Respondent failed to keep complete and accurate records of his acquisition, disposition, and inventory of controlled substances. The administrative law judge found that the Respondent's demanding work schedule, his spouse's health problems, and a shoulder injury predisposed the Respondent to Demerol addiction.

The Respondent was charged, under Utah State law, with possessing and distributing a counterfeit substance, possession of a controlled substance without a valid prescription, possession of a false prescription and failure to make a record for prescribing and administering controlled substances. On May 3, 1993, before the Seventh Judicial District Court for San Juan County, Utah, the Respondent pled guilty to five felony counts. The Respondent's sentence included a fine, imprisonment not to exceed five years, and a one-year suspension of his medical license. The Court's Judgment and Order stayed the sentence for a period of five years and the Respondent was placed on probation with conditions, which included a two year prohibition from reapplying for a state controlled substance license. On May 5, 1993, the State of Utah Division of Occupational and Professional Licensing issued a Stipulation and Order with terms similar to that of the Judgment and Order, including a provision that the Respondent complete a rehabilitation program.

The administrative law judge found that the Respondent participated in an aftercare recovery program, attending Alcoholics Anonymous meetings; agreed to random drug screening all of which were negative; and was complying with or working on the conditions imposed in his probation agreement and in his licensing board stipulations. The administrative law judge concluded that the Respondent had made substantial efforts at rehabilitation, is presently in recovery, and that his prognosis for a full recovery is good.

Under 21 U.S.C. 824(a), the Deputy Administrator of the Drug Enforcement Administration may revoke the registration of a practitioner "* * * upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance;

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) has committed such acts as would render his registration under Section 823 of this title inconsistent with the public interest as determined under such section; or

(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42."

The administrative law judge determined that subsections (2), (3), and (4) provide a basis for revocation based on Respondent's conviction of five felony counts relating to controlled substances, his surrender of his state controlled substance license, and the public interest factors.

Under 21 U.S.C. 824(a)(4), and pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Deputy Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. *Henry J. Schwarz, Jr., M.D.*, 54 FR 16422 (1989).

The administrative law judge found that all of the factors listed in 21 U.S.C. 823(f) are relevant. Respondent surrendered his state controlled substance license and the State of Utah has recommended that he not apply for reinstatement for a period of time. Respondent admitted to wrongfully obtaining Demerol for his own use, and he pled guilty to five felony counts relating to controlled substances. As to factor (5), the administrative law judge found that the public health and safety are not at risk, since the Respondent has made progress in his rehabilitation and both the criminal plea agreement and medical board agreement require that the Respondent comply with numerous conditions to ensure that he will not suffer a relapse in his recovery.

The DEA has consistently held that it does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state to dispense controlled substances. DEA has consistently held that termination of a registrant's state authority to handle controlled substances requires that DEA revoke the registrant's DEA Certificate of Registration. *Bobby Watts, M.D.*, 53 FR 11919 (1987). Based on the foregoing, the Deputy Administrator concludes that the Respondent's registration must be revoked. 21 U.S.C. 824(a) (2), (3) and (4).

As an additional issue, the administrative law judge found that the Respondent presented evidence that the local community has suffered by the lack of Respondent's ability to practice in the hospital emergency room. The Respondent and the San Juan County Hospital entered into a protocol in which the Respondent would be able to write hospital patient prescriptions for controlled substances under the hospital's DEA number. This agreement is contingent on the successful application to the Deputy Administrator of the DEA by the hospital for a waiver of the provisions of 21 CFR 1301.76(a), which precludes the hospital from employing an individual with access to controlled substances if that individual has been convicted of a controlled substance related felony. The San Juan County Hospital requested that the Deputy Administrator grant a waiver to allow the employment of the Respondent. The administrative law judge recommended that such a waiver be granted by the Deputy Administrator pursuant to his authority under 21 CFR 1307.03.

The Government filed an exception to the recommendation of the administrative law judge that a waiver of 21 CFR 1301.76(a) be granted contending that since the Respondent has no underlying state controlled substance license nor a DEA registration, he should not be permitted to handle controlled substances under any circumstance. The Respondent, in response to the Government exception, presented a letter from the Utah Attorney General's office permitting the Respondent, with the appropriate DEA exemption, to order controlled substances for hospital patients, until such time as the Utah State Division of Occupational and Professional Licensing arrived at a formal opinion on this issue.

The Deputy Administrator disagrees with the administrative law judge's recommendation with regard to a waiver or exemption from regulations and agrees with the Government's contention that such a waiver should not be granted. In fact, on December 7, 1993, DEA previously denied the request of San Juan Hospital that it be granted an exemption from the regulations to allow the Respondent's employment with access to controlled substances.

The Deputy Administrator adopts the findings of fact, conclusions of law, and recommended ruling of Administrative Law Judge Tenney, except as otherwise noted herein. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104 (59 FR 23637), hereby orders that DEA Certificate of Registration, AW1662609, previously issued to Steven E. Warren, M.D., be, and it hereby is, revoked, and that any pending applications for registration, be, and they hereby are, denied. This order is effective July 12, 1994.

Dated: July 5, 1994.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 94-16738 Filed 7-11-94; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Full Committee Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the Administration of the Act, will meet on July 28–29, 1994 at the Bureau of Labor Statistics Conference and Training Center, Postal Square Building, 2 Massachusetts Avenue NE, Room G440 (meeting rooms 2 & 3), Washington, DC. The meeting is open to the public and will begin at 8:30 a.m. on each day.

At this first meeting and swearing-in of the newly appointed committee, members will establish committee goals, plan for future meetings, discuss OSHA's standards setting process, and hear about the current agenda and direction of OSHA.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify Joanne Goodell before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Person who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chair of the Advisory Committee. Individuals with disabilities who need special accommodations should contact Tom Hall by July 23 at the address indicated below.

An official record of the meeting will be available for public inspection through Tom Hall, Division of Consumer Affairs, Room N–3647, 200 Constitution Avenue, NW., Washington, DC, 20210, telephone 202–219–8615.

For additional information contact: Joanne Goodell, Directorate of Policy, Occupational Safety and Health Administration, Room N–3641, 200 Constitution Avenue, NW., Washington, DC, 20210, telephone 202–219–8021.

Signed at Washington, DC, this 7th day of July 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–16851 Filed 7–11–94; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–277]

In the Matter of: Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Unit 2)

Exemption

I

Philadelphia Electric Company (the licensee), is the holder of Facility Operating License No. DPR–44, which authorizes operation of the Peach Bottom Atomic Power Station (PBAPS), Unit 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The PBAPS, Unit 2 facility consists of a boiling water reactor located in York County, Pennsylvania.

II

In its letter dated April 18, 1994, the licensee requested an exemption from the Commission's regulations. The subject exemption is from a requirement in Appendix J to 10 CFR Part 50 that Type B and C containment penetration leak rate tests be performed at intervals no greater than 2 years. The exemption would allow a one-time 60-day extension of the 2-year requirement. Hence, this one-time exemption would allow the licensee to perform the testing in Sections III.D.2.(a) and III.D.3 during Unit 2's Cycle 10 refueling outage scheduled to begin no later than September 24, 1994.

The licensee is utilizing a new core design at PBAPS, Unit 2, which allows the intervals between reactor shutdowns for refueling to extend beyond the maximum allowable 2-year interval. Accordingly, the licensee is unable to comply with the testing intervals specified in Appendix J of 10 CFR Part 50. Prior to the current operating cycle, local leak rate tests were performed in conjunction with an operating cycle of 18 months. The 18-month operating cycle was more conducive to the 2-year testing interval.

Use of extended cycle core designs has been recognized as a growing trend in the industry as discussed in the staff's Generic Letter 91–04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," dated April 2, 1991. The staff previously granted the licensee two license amendments to allow PBAPS, Unit 2 to perform selected surveillances on a 24-month interval (see Amendment 169 dated August 19, 1992, and Amendment 179 dated August 2, 1993). However, the regulations cited by the licensee in the exemption request have not yet been revised to reflect the use of a 24-month operating cycle by some licensees. Therefore, the licensee has requested an exemption in order to avoid a premature shutdown, which would be needed to accomplish the testing, and also to properly schedule the testing during the refueling outage.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. * * *"

The underlying purpose of the requirement to perform Type B and Type C containment leak rate tests at intervals not to exceed 2 years, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or being unknown, and long enough to allow the tests to be conducted during scheduled refueling outages. This interval was originally published in Appendix J when refueling cycles were conducted at approximately annual intervals and has not been changed to reflect 18-month or 2-year operating cycles. It is not the intent of the regulation to require a plant shutdown solely for the purpose of conducting the periodic leak rate tests.

Based on the information presented in the licensee's application, the proposed extended test interval would not result in a non-detectable leakage rate in excess of the value established by 10 CFR Part 50, Appendix J, or in any changes to the containment structure or plant systems. Therefore, the containment integrity would be maintained. As a result, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

On this basis, the NRC staff finds that the licensee has demonstrated that special circumstances are present as required by 10 CFR 50.12(a)(2)(ii). Since the licensee has justified the leaktight integrity of the containment based on previous leakage test results, the staff concludes that a one-time extension of no more than 60 days beyond the 2-year permitted interval will not have a significant safety impact. Therefore, the staff also finds that extending the interval between tests will not present an undue risk to the public health and safety.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2), such that application of 10 CFR Part 50, Appendix J, Sections III.D.2(a) and III.D.3 are not necessary in order to achieve the underlying purpose of this regulation; and hereby grants the following exemption with respect to the requirements of 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3.

For the Peach Bottom Atomic Power Station, Unit 2, the testing intervals specified in 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3 are extended to allow the testing to be performed during the Unit 2 cycle 10 refueling outage. This one-time extension is granted for a maximum of 60 days from the 2 year interval required by 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (59 FR 33312).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 5th day of July 1994.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16819 Filed 7–11–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System; Alternative Forms of Annuity Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to employees who elect the alternative form of annuity under section 8343a of title 5, United States Code. This notice is necessary to conform the present value factors to changes in economic assumptions approved by the Board of Actuaries.

EFFECTIVE DATE: Revised present value factors will apply to anyone whose annuity commences October 1, 1994, or later.

ADDRESSES: Send requests for actuarial assumptions and data to the Office of the Actuary, Room 4307 STOP, Office of Personnel Management, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Section 831.2205(a) of Title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8343a. That reduction is required in order to produce an annuity that is actuarially equivalent to the annuity of a retiree who does not elect an alternative form of annuity. The present value factors currently used to compute the reduction were published by OPM (56 FR 7424) on February 22, 1991.

On September 20, 1993, OPM published (58 FR 49066) a notice in the **Federal Register** to revise the normal cost percentage under the FERS Act of 1988, Pub. L. 99–335, based on changed economic assumptions approved by the Board of Actuaries. Those changed economic assumptions require corresponding changes in the present value factors used to compute an alternative form of annuity. The changed factors will also be used, in accordance with 5 U.S.C. 8334(d)(2), to compute the annuity of an employee whose annuity commences on or after October 1, 1994, and who retires while owing a redeposit of a refund for service that ended before October 1, 1990. OPM is, therefore, revising the table of present value factors to read as follows:

CSRS PRESENT VALUE FACTORS

Age at retirement	Present value of a monthly annuity	Age at retirement	Present value of a monthly annuity
40	294.4	66	156.0
41	290.0	67	150.7
42	285.5	68	145.4
43	280.8	69	140.2
44	276.2	70	134.7
45	270.4	71	129.4
46	264.7	72	124.0
47	259.2	73	118.8
48	253.5	74	113.6
49	247.2	75	108.5
50	240.4	76	103.5
51	235.0	77	98.7
52	229.8	78	93.9
53	224.4	79	89.4
54	218.6	80	84.9
55	212.6	81	80.5
56	207.5	82	76.3
57	202.4	83	72.3
58	197.0	84	68.4
59	192.3	85	64.7
60	188.3	86	61.2
61	182.9	87	57.9
62	177.0	88	54.7
63	171.9	89	51.8
64	166.5	90	48.9
65	161.1		

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–16715 Filed 7–11–94; 8:45 am]

BILLING CODE 6325–01–M

Federal Employees Retirement System; Alternative Forms of Annuity Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to employees who elect the alternative form of annuity under section 8343a of title 5, United States Code. This notice is necessary to conform the present value factors to changes in economic assumptions approved by the Board of Actuaries.

EFFECTIVE DATE: Revised present value factors will apply to anyone whose annuity commences October 1, 1994, or later.

ADDRESSES: Send requests for actuarial assumptions and data to the Office of the Actuary, Room 4307 STOP, Office of Personnel Management, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Section 842.706(a) of Title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8420a. That reduction is required in order to produce an annuity that is actuarially equivalent to the annuity of a retiree who does not elect an alternative form of annuity. The present value factors currently used to compute the reduction were published by OPM (56 FR 8223) on February 27, 1991.

On September 20, 1993, OPM published (at 58 FR 49066) a notice in the **Federal Register** to revise the normal cost percentage under the FERS Act of 1986, Pub. L. 99–335, based on changed economic assumptions approved by the Board of Actuaries. Those changed economic assumptions require corresponding changes in the present value factors used to compute an alternative form of annuity. OPM is, therefore, revising the tables of present value factors to read as follows:

TABLE I.—FERS PRESENT VALUE FACTORS APPLICABLE TO ALL RETIREES EXCEPT THOSE DESCRIBED IN TABLE II

Age at retirement	Present value of a monthly annuity	Age at retirement	Present value of a monthly annuity
40	169.2	66	143.6
41	168.8	67	139.1
42	168.4	68	134.6
43	168.1	69	130.1
44	167.7	70	125.4
45	166.9	71	120.7
46	166.1	72	116.0
47	165.4	73	111.4
48	164.7	74	106.8
49	163.7	75	102.2
50	162.4	76	97.8
51	161.9	77	93.5
52	161.6	78	89.2
53	161.2	79	85.0
54	160.6	80	80.9
55	160.0	81	77.0
56	160.0	82	73.1
57	160.2	83	69.4
58	160.4	84	65.8
59	161.2	85	62.4
60	162.7	86	59.1
61	163.5	87	56.0
62	161.3	88	53.0
63	157.1	89	50.2
64	152.5	90	47.5
65	148.0		

TABLE II.—FERS PRESENT VALUE FACTORS APPLICABLE TO INDIVIDUALS RETIRING BEFORE AGE 62 WHO ARE ELIGIBLE FOR COLA'S [1]

Age at retirement	Present value of a monthly annuity
40	245.2
41	241.9
42	238.5
43	235.0
44	231.5
45	227.9
46	224.2
47	220.3
48	216.5
49	212.6
50	208.6
51	204.5
52	200.3
53	196.1
54	191.8
55	187.4
56	183.1
57	178.6
58	174.2
59	169.7
60	165.1
61	160.4

[1] In Accordance with 5 U.S.C. 8462(c)(3)(B)(ii); i.e., Military Reserve Technicians Who Retire Under 5 U.S.C. 8414(c) by Reason of Disability, Law Enforcement Officers, Firefighters, And Air Traffic Controllers.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–16716 Filed 7–11–94; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34314; File No. SR–CHX–94–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. To Waive Exchange Transaction Fees on Trades in the Chicago Stock Basket

July 5, 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 June 30, 1994, 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, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to waive, through September 30, 1994, Exchange transaction fees for trades in the Chicago Stock Basket ("CXM"). This would extend a waiver currently in effect through June 30, 1994.[1] Proposed new language is italicized and deleted language is bracketed:

(c) Transaction Fee Schedule Round Lots/Mixed Lots
45 cents per 100 shares $100 maximum per trade
Odd Lots
35 cents per trade
$400 maximum monthly fee

The above fees shall not apply to transactions in the Chicago Basket ("CXM") through [June 30, 1994] *September 30, 1994.*

II. Self-Regulatory Organizations'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 IV 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 change is to extend the waiver of certain Exchange fees for trades in the CXM through September 30, 1994.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable fees and other charges among members using its facilities.

[1] This waiver became effective in Securities Exchange Act Release No. 33056 (October 15, 1993), 58 FR 54387 (October 21, 1993) (File No. SR–CHX–93–24), and subsequently was extended in Securities Exchange Act Release Nos. 33381 (December 23, 1993), 58 FR 69415 (December 30, 1993) (File No. SR–CHX–93–34); and 33836 (March 30, 1994), 59 FR 16248 (April 6, 1994) (File No. SR–CHX–94–08).

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 on the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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, N.W., Washington, D.C. 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–94–16 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-16750 Filed 7-11-94 8:45 am]

BILLING CODE 8010-01-M

[Release No. 43-34306; File No. SR-CBOE-94-05]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Options and Regular and Reduced-Value Long-Term Options on the CBOE Real Estate Investment Trust Index

July 5, 1994.

I. Introduction

On March 8, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of options and long-term options ("LEAPS")[3] on the CBOE's Real Estate Investment Trust ("REIT") Index ("REIT Index" or "Index"), and LEAPS on a reduced-value REIT Index. On June 14, 1994, the CBOE filed Amendment No. 1 to the proposed rule change.[4]

Notice of the Exchange's proposed rule change appeared in the Federal Register on April 19, 1994.[5] No comment letters were received on the proposal. This order approves the proposal and Amendment No. 1 thereto.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1993).

[3] "LEAPS" is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long-term index option series that expire from 12 to 36 months from their date of issuance. *See* CBOE Rule 24.9(b)(1).

[4] In Amendment No. 1, the CBOE: (1) advised that surveillance procedures currently used to monitor trading in each of the Exchange's other index options also will be used to monitor trading in regular index options and in full-value and reduced-value LEAPS on the Index; and (2) advised that the REIT Index will be calculated and disseminated to the Options Price Reporting Authority ("OPRA") every 15 seconds by the CBOE, based on the last-sale prices of the component stocks, and that OPRA in turn will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron. *See* Letter from Scott Lyden, Senior Research Analyst, CBOE, to Thomas McManus, Division of Market Regulation Commission, dated June 13, 1994.

[5] *See* Securities Exchange Act Release No. 33872 (April 7, 1994), 59 FR 17804 (April 14, 1994).

II. Description of the Proposal

A. General

The CBOE proposes to list and trade options on the REIT Index, a new securities index developed by the CBOE and based on REITs that are traded on the New York Stock Exchange, Inc. ("NYSE") and American Stock Exchange, Inc. ("Amex"). The CBOE also proposes to list LEAPS on the full-value Index and LEAPS on a reduced-value Index that will be computed at one-tenth of the value of the REIT Index. REIT Index LEAPS will trade independent of and in addition to regular REIT Index options traded on the Exchange;[6] however, as discussed below, position and exercise limits of Index LEAPS and regular Index options will be aggregated.

B. Composition of the Index

The Index is based on securities representing 25 REIT stocks that the Exchange believes are representative of the REIT markets. The CBOE represents that the 25 REIT stocks have invested a preponderance of their assets in real property (typically at least 75 percent), and the property portfolios owned by these REITs constitute a diverse pool of income-earning real estate investments.

Twenty-three of the REIT stocks currently trade on the NYSE, and two trade on the Amex. All component stocks are "reported securities," as that term is defined in Rule 11Aa3-1 under the Act.[7] The Index is price-weighted and will be calculated on a real-time basis using last sale prices.

As of the close of trading on June 10, 1994, the Index was valued at 212.55.[8]

[6] According to the CBOE, the REIT Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means of achieving diversification or to tilt their portfolios toward, or away from, real estate investments. The CBOE believes that the Index will provide retail and institutional investors with a means of benefitting from their forecasts about the financial performance of REITS and their underlying real estate assets. Options on the Index also may be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively and actively managed REITS, as well as a means of hedging the risks of investing in real estate generally, the REIT stocks in particular.

[7] *See* 17 CFR 240.11Aa3-1. A "reported security" is defined in paragraph (a)(4) of this rule as "any listed equity security or Nasdaq security for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan." A "transaction reporting plan" is defined in paragraph (a)(2) of this rule as "any plan for collecting, processing, making available or disseminating transaction reports with respect to transactions in reported securities filed with the Commission pursuant to, and meeting the requirements of, this section."

[8] The index value was set to equal 200.00 on the base date of the Index, January 3, 1994. *See* Letter from Dan W. Schneider, Schiff Hardin & Waite, to Thomas McManus, Branch of Options Regulation, Division of Market Regulation, Commission, dated March 22, 1994.

As of the close of trading on February 14, 1994, the market capitalizations of the individual securities in the Index ranged from a high of $1.1 billion (New Plan Reality) to a low of $220.2 million (Western Investment Real Estate Trust), with a mean and median of $541.9 million and $518.7 million, respectively. The total market capitalization of the securities in the Index was $13.5 billion. The total number of shares outstanding for the REITs in the Index ranged from a high of 49.1 million shares (New Plan Realty) to a low of 10.9 million shares (BRE Properties). The average price per share of the securities in the Index, for the six-month period preceding February 14, 1994,[9] ranged from a high of $39.90 (Weingarten Realty Investors) to a low of $6.99 (Rockefeller Center Properties). In addition, the average daily trading volume of the REITs in the Index ranged from a high of 560,210 shares per day (Simon Property Group)[10] to a low of 15,330 shares per day (BRE Properties), with the mean and median being 94,900 and 49,100 shares, respectively. Lastly, no one REIT accounted for more than 6.5 percent of the Index's total value (Weingarten Realty Investors and Nationwide Health Properties), and the percentage weighting of the five largest issues in the Index accounted for 30.2 percent of the Index's value. The percentage weighting of the lowest weighted component was 1.1 percent of the Index (Rockefeller Center Properties) and the percentage weighting of the five smallest issues accounted for 10.2 percent of the Index's value.

Four of the component stocks are currently the subject of trading in equity options, and the balance of the component stocks meet the criteria for allowing the listing of equity options under CBOE Rule 5.3.

C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time, subject to compliance with the maintenance criteria discussed herein, to reflect conditions in REIT markets. If it becomes necessary to replace a

[9] Trading data for these preceding six months were available for nineteen of the REIT stocks in the Index. Six of the component REIT stocks commenced trading at various points of time within that six month period.

[10] Simon Property Group commenced trading on December 14, 1993. The highest average daily trading volume for a REIT stock which traded for the full six month period prior to February 14, 1994 was 122,800 shares (Rockefeller Center Properties).

security in the Index, the Exchange represents that it will make every effort to add new REITs that are representative of REIT markets as a whole and will take into account the capitalization, liquidity, volatility, and name recognition of the proposed replacement security. Further, securities may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component securities to greater than 33 or reduce the number of Index component securities to fewer than 17, the CBOE will seek and obtain Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of REIT Index options and Index LEAPS. In addition, in choosing replacement securities for the Index, the CBOE will be required to ensure that at least 90 percent of the weight of the Index continues to be comprised of REITs that are eligible for standardized options trading.[11]

D. Applicability of CBOE Rules Regarding Index Options

The rules in Chapter XXIV of the CBOE Rules will be applicable to REIT Index options and full-value and reduced-value Index LEAPS. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for narrow-based index options.

E. Calculation of the Index

The REIT Index is a price-weighted index and reflects changes in the prices of the Index component securities relative to the Index's base date of January 3, 1994. Specifically, the Index value is calculated by adding the prices of the component REITs and then dividing this summation by a divisor that is equal to the number of components of the Index to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes that may result in divisor adjustments include, but are not limited to, removal and replacement of a component REIT stock, component stock splits, and the financial restructuring of a component stock.

The Index will be calculated continuously and will be disseminated to OPRA every 15 seconds by the CBOE, based on the last-sale prices of the component REITs.[12] OPRA, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[13] Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard Time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.[14] In addition, pursuant to CBOE Rule 24.9, there may be up to six expiration months outstanding at any given time. Specifically, there may be up to three expiration months from the March, June, September, and December cycle, plus up to three additional near-term months so that the two nearest-term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAPS series that expire from 12 to 36 months from the date of issuance.

G. Settlement of Index Options

Options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"), and the last trading day for an expiring Index option series will normally be the second to last business day before Expiration Friday (normally a Thursday). The Index value for purposes of settling outstanding regular Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component securities in their primary market on the last trading day prior to expiration (*i.e.*, Expiration Friday). Once all of the component REITs have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component REITs do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, normally a Thursday) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component security for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on Expiration Friday.

H. Listing of Long-Term Options on the Full-Value or Reduced-Value REIT Index

The Exchange's proposal provides that the Exchange may list LEAPS that expire from 12 to 36 months from the listing based on the full-value REIT Index or a reduced-value REIT Index that will be computed at one-tenth the value of the full-value Index, subject to existing Exchange requirements applicable to full-value and reduced-value LEAPS.[15] The current and closing Index value for reduced-value REIT Index LEAPS will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 212.55 would be 21.26 for the reduced-value Index LEAPS, and 212.54 would become 21.25. The reduced-value Index LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all of the Exchange's index options, including sales practice rules, margin requirements, and floor trading procedures. Pursuant to CBOE Rule 24.9, the strike price interval for the reduced-value Index LEAPS will be no less than $2.50, instead of $5.00.

I. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an "industry index" under CBOE rules,[16] Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of REIT Index options and LEAPS. Specifically, Exchange rules governing margin requirements,[17] position and

[11] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 shareholders; (3) trading volume must have been at least 2.4 million shares over the preceding 12 months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

[12] For purposes of the daily dissemination of the Index value, if a REIT included in the Index has not opened for trading, the CBOE will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[13] A European-style option can be exercised only during a specified period before the option expires.

[14] For a description of the strike price intervals for regular and reduced-value Index LEAPS, *see infra* Section II.H.

[15] *See* CBOE Rule 24.9(b).

[16] *See* CBOE Rule 24.1(i).

[17] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) for short options positions, 100 percent of the current market value of the options contract plus 20 percent of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10 percent of the underlying aggregate Index value;

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exercise limits,[18] and trading halt procedures [19] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. For purposes of determining whether a given position in reduced-value Index LEAPS complies with applicable position and exercise limits, positions in reduced-value Index LEAPS will be aggregated with positions in the full-value Index options.[20] For these purposes, ten reduced-value contracts will equal one full-value contract.

J. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options also will be used to monitor trading in regular Index options and in full-value and reduced-value Index LEAPS. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[21]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[22] Specifically, the Commission finds that the trading of REIT Index options, including full-value and reduced-value REIT Index LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means of hedging exposure to market risk associated with REIT securities.[23]

However, the trading of options on the REIT Index, including full-value and reduced-value LEAPS on the Index, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE has adequately addressed these concerns.

A. Index Design and Structure

The Commission finds that the REIT Index is a narrow-based index. The REIT Index is composed of only 25 securities, all of which are REIT stocks.[24] Accordingly, the Commission believes that it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.[25]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component securities significantly minimize the potential for manipulation of the Index. First, the majority of the components that comprise the Index are actively-traded, with a mean and median average daily trading volume of 94,900 and 49,100 shares, respectively.[26] Second, the market capitalizations of the securities in the Index are very large, ranging from a high of $1.1 billion to a low of $220.2 million, as of February 14, 1994, with the mean and median being $541.9 million and $518.7 million, respectively. Third, although the Index is only comprised of 25 component securities, no one particular security or group of securities dominates the Index. Specifically, no individual REIT stock comprises more than 6.5 percent of the Index's total value, and the percentage weighting of the five largest issues in the Index account for 30.2 percent of the Index's value.[27] Fourth all of the securities in the Index are eligible for standardized options trading (four of which currently underlie exchange-listed options).[28] The proposed CBOE maintenance requirement that at least 90 percent of the weighting of the Index be comprised of securities that are eligible for options trading will ensure that the Index is always substantially comprised of options eligible securities. Fifth, if the CBOE increases the number of component securities to more than 33 or decreases that number to less than 17, the CBOE will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of REIT Index options and Index LEAPS. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in REIT Index options and Index LEAPS. Sixth, the CBOE will be required to ensure that each component of the Index is subject to last sale reporting requirements in the United States. This will further reduce the potential for manipulation of the value of the Index. Finally, the Commission believes that the expense of attempting to manipulate the value of the REIT Index in any significant way through trading in component REITs, coupled with existing mechanisms to

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and (2) for LEAPS positions, 100 percent of the options premium paid.

[18] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 10,500 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5, that a lower limit is warranted.

[19] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20 percent of the Index value is halted or suspended.

[20] *See* CBOE Rule 24.4A(c).

[21] The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983, among other things, to coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, dated July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to Intermarket Surveillance Group Agreement, dated January 29, 1990. The members of the ISG are: the Amex, the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[22] 15 U.S.C. 78f(b)(5) (1988).

[23] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed index options and full-value index LEAPS on the REIT Index will provide investors with a hedging vehicle that should reflect the overall movement of REIT securities in the U.S. securities markets. The Commission also believes that these Index options will provide investors with a means by which to make investment decisions in the REIT sector of the U.S. securities markets, allowing them to establish positions or increase existing positions in such markets in a cost-effective manner. Moreover, the Commission believes that the reduced-value Index LEAPS, which will be traded on an index computed at one-tenth the value of the REIT index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

[24] The reduced-value REIT Index, which is composed of the same component securities as the Index, is identical to the REIT Index, except that it is calculated by dividing the Index value by ten.

[25] *See supra* notes 16 through 20, and accompanying text.

[26] In addition, for the six month period prior to February 14, 1994, no component of the Index had an average daily trading volume of less than 15,300 shares per day.

[27] For an index with a significantly greater number of securities than 25 issues, the Commission might come to a different conclusion if only a few securities accounted for a significant portion of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it could be traded as an index product.

[28] *See supra* note 11.

monitor trading activity in those securities, as discussed below, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as REIT Index options (including full-value and reduced-value Index LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized, exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in REIT Index options and full-value and reduced-value REIT Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a security index derivative product and the exchange(s) trading the securities underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the security index product less readily susceptible to manipulation.[29] In this regard, the NYSE and the Amex, which currently are the primary markets for the REITs comprising the Index, are both members of the ISG, which provides for the exchange of all necessary surveillance information.[30]

D. Market Impact

The Commission believes that the listing and trading on the CBOE of options on the REIT Index, including full-value and reduced-value Index LEAPS, will not adversely impact the underlying securities markets.[31] First, as described above, for the most part no one security or group of securities dominates the Index. Second, because at least 90 percent of the numerical value of the Index must be accounted for by securities that meet the Exchange's options listing standards, the component securities generally will be actively-traded, highly-capitalized securities. Third, the 10,500 contract position and exercise limits applicable to Index options and Index LEAPS will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by The Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring REIT Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[32]

E. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the Exchange's proposed rule change prior to the thirtieth day after the date of publication on notice of filing thereof in the **Federal Register**. Amendment No. 1 merely clarifies the proposed rule change by making specific representations with respect to surveillance and Index value dissemination. These representations are identical in all material respects to those made by the Exchange in connection with similar proposals to list options on stock indexes.[33] Therefore, the Commission finds that no new regulatory issues are raised by Amendment No. 1. Accordingly, the Commission believes it is consistent with Sections 19(b)(2) and 6(b)(5) of the Act to approve Amendment No. 1 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the foregoing that are filed with the Commission, and all written communications relating to the foregoing between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W. Washington, D.C. Copies of such filings also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–94–05, and should be submitted by August 2, 1994.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[34] that the proposed rule change (File No. SR–CBOE–94–05), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16749 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34296; File No. SR–MSRB–94–3]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Procedures in Connection With the Administration of Board Rules

July 1, 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 April 14, 1994, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared

[29] Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[30] *See supra* note 21.

[31] In addition, the CBOE has represented that the CBOE and OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options and LEAPS on the REIT Index. *See* Letter from Joseph P. Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated February 25, 1994.

[32] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[33] *See, e.g.*, Securities Exchange Act Release No. 33962 (April 25, 1994), 59 FR 22874 (May 3, 1994).

[34] 15 U.S.C. 78s(b)(2) (1988).

[35] 17 CFR 200.30–3(a)(12) (1993).

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 Board is filing herewith a proposed rule change to establish a method by which the Board may, from time to time, prescribe and amend procedures relating to the administration of Board rules.

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 IV 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.

The text of the proposed rule change is as follows (additions are italicized): [1]

Rule A–8. Rulemaking Procedures

(a) (no change.)

(b) (no change.)

(c) *Procedures.*

The Board may from time to time prescribe and amend procedures relating to the administration of Board rules. Such procedures and amendments may be approved by the Board pursuant to rule A–4(d).

Each broker, dealer and municipal securities dealer shall be subject to such procedures and amendments thereto in the same manner as the broker, dealer and municipal securities dealer is subject to the rules of the Board.

Procedures and amendments thereto shall become effective no earlier than 10 business days after publication of such procedures and amendments.

(*d*) Access to Board Rules and Other Action. (No change.)

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Board believes that the proposed rule change would increase the efficiency of both the implementation and operation of Board rules involving the submission of information to the Board. The "procedures" contemplated by the proposed rule change would concern only matters of a technical nature. The proposed rule change further provides that any procedures, or amendment thereto, may be approved by the Board without the necessity of a formal Board meeting, pursuant to existing rule A–4(d). Rule A–4(d) provides a mechanism by which action, "other than action on proposed rules or proposed amendment to rules of the Board," may be taken by written consent of the Board or by telephone poll of all Board members.[2] Of course, the Board will continue to file any matters with the Commission, as required, pursuant to Section 19(b)(1) of the Act, and Rule 19b–4 thereunder.[3]

On April 7, 1994, the Commission approved Board rule G–37, concerning political contributions and prohibitions on municipal securities business.[4] This rule, among other things, requires dealers to submit certain information "to the Board on Form G–37, in accordance with Board rule G–37 filing procedures, quarterly with due dates determined by the Board. * * *"[5] In its filing with the Commission, the Board noted that it "is in the process of developing appropriate rule G–37 filing procedures to allow for public access to the information to be submitted on Form G–37, as well as indexing, record storage, etc. * * *"[6] In the present filing, the Board discussed these rule G–37 filing procedures as an example of the types of procedures to which the instant proposed rule change would apply. The Board will submit to the Commission another proposed rule change relating to rule G–37 filing procedures.[7]

2. Statutory Basis

The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Act which provides that the Board's rules shall:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general to protect investors and the public interest. * * *

In addition, Section 15B(b)(2)(I) authorizes the Board to adopt rules which provide for the operation and administration of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, since it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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[1] The Commission notes that the reference to "publication" in proposed rule A–8(c) refers to publication in the *MSRB Reports*. Telephone conversation between Diane Klinke, MSRB, and Elizabeth MacGregor, Branch Chief, Commission, on June 30, 1994.

[2] Rule A–4(d) provides that: Action by the Board, other than action on proposed rules or proposed amendments to rules of the Board, may be taken without a meeting by written consent of the Board setting forth the action so taken or by telephone poll of all members of the Board, provided that, in the case of action taken by telephone, the Board, at a meeting, or the Chairman of the Board authorizes the action to be taken by such means. The Executive Director shall transmit to each Board member, as soon as practicable after a telephone poll is taken, a written statement setting forth the questions or questions with respect to which the telephone poll was taken and the results of the telephone poll. Such statements shall also be entered in the minutes of the next Board meeting. In the case of action taken without a meeting by written consent or telephone poll, an affirmative vote of a majority of the whole Board is required.

[3] The Commission notes that the present proposal is intended to expedite Board consideration of matters that are technical in nature, and is not intended to affect the types of proposals that the Board files with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19(b)(4) thereunder. Telephone conversation, *supra* note 1.

[4] Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994).

[5] Rule G–37(e)(ii).

[6] File No. SR–MSRB–94–2, at page 16.

[7] *See* Securities Exchange Act Release No. 34027 (May 9, 1994), 59 FR 25136 (notice of filing and order granting accelerated approval of File No. SR–MSRB–94–04). In addition, in order to assist dealer compliance with the filing requirements of rule G–37, the Board intends to develop an informal "Procedures Manual" for the relevant forms and procedures, and periodically to update or to amend the manual. The manual also would include forms and other filing information regarding rule G–36 on delivery of official statements and advance refunding documents to the Board. In the future, the Board also may adopt procedures regarding technical matters relating to the Board's Continuing Disclosure Information system, as well as any transaction reporting system the Board may develop.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the MSRB. All submissions should refer to File No. SR–MSRB–94–3 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16751 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34310; File No. SR–MSRB–94–8]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G–15(a) on Customer Confirmations

July 5, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("ACT"),[1] notice is hereby given that on June 7, 1994, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by MSRB. 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

MSRB has filed an interpretation regarding Rule G–15(a). The new interpretation of the rule allows dealers under certain circumstances to satisfy the Rule G–15(a)'s requirement that municipal securities customers be provided a "written" confirmation by using the Thomson Financial Services, Inc. ("TFS") OASYS Global System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSRB 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 texts of these statements may be examined at the places specified in Item IV, below. MSRB 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

MSRB's rule change allows the requirement of Rule G–15(a), that customers be provided "written" confirmation at or before the completion of a transaction in municipal securities, to be satisfied by a contract confirmation message ("CCM") sent through the TFS OASYS Global System. The following conditions must be met before the OASYS Global System may be used: (i) The customer and dealer have both agreed to use the OASYS Global system for purposes of confirmation delivery; (ii) the CCM includes all information required by Rule G–15(a); and (iii) all other applicable requirements and conditions concerning the OASYS Global system expressed in the Commission's October 8, 1993, no-action letter concerning Securities Exchange Act Rule 10b–10 must continue to be met.[2]

MSRB understands that TFS's OASYS Global system is not a registered securities clearing agency and is not linked with other registered securities clearing agencies for purposes of automated confirmation/acknowledgment required under Rule G–15(d). Therefore, under these circumstances, use of the OASYS system will not constitute compliance with Rule G–15(d) regarding automated confirmation/acknowledgement.[3]

MSRB has adopted the rule change pursuant to Section 15B(b)(2)(C) of the Act, which provides that MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The no-action letter of October 8, 1993, stated that the Commission staff will not recommend enforcement action to the Commission if broker-dealers rely on the OASYS Global system's CCMs to satisfy the requirements of a confirmation of Rule 10b–10 of the Act provided (i) The CCMs can be printed or downloaded by the participants, (ii) the recipient of a CCM must respond through the system affirming or rejecting the trade, (iii), the CCMs will not be automatically deleted by the system, and (iv) the use of the system by the participants ensures that both parties to the transaction have the capacity to receive the CCMs. Letter from Catherine McGuire, Chief Counsel, Division of Market Regulation, SEC, to MariAnne Pisarri, Esq., Pickard and Djinis (October 8, 1993).

[3] MSRB Rule 15(d)(ii) states, among other things, that no broker, dealer, or municipal securities dealer who is or whose clearing agent is a participant in a clearing agency registered with the Commission shall effect a transaction in any municipal security to which a CUSIP number has been assigned on a delivery-versus-payment basis or on a receipt-versus-payment basis for the account of a customer whose clearing agent with respect to such transfer is a participant in such a clearing agency or in a clearing agency interfaced or otherwise linked with such a clearing agency unless the facilities of such clearing agency or the facilities of a clearing agency interfaced or otherwise linked with such a clearing agency are used for the confirmation and acknowledgment of such transaction.

general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSRB does not believe that the rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it will apply equally to all brokers, dealers, and municipal securities dealers. Moreover, the rule change only applies when dealers and customers agree between themselves to use TFS's OASYS Global system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

MSRB has not solicited or received comments on the proposed rule change. MSRB's consideration of the proposed rule change was prompted by an interpretive inquiry from TFS regarding the interpretation of Rule G–15(a).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e)(1) of Rule 19b–4 thereunder because it relates to the interpretation of the meaning of an existing rule. At any time within sixty days of filing of the rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested people are invited to submit written data, views, and arguments concerning the foregoing. People 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference room, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at MSRB's principal offices. All submissions should refer to File No. SR–MSRB–94–8 and should be submitted by August 2, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16752 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34304; File No. SR–NSCC–94–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Limiting the Use of Letters of Credit To Collateralize Clearing Fund Contributions

July 1, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 17, 1994, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–NSCC–94–10) as described below. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change through September 30, 1994.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change[2] increases the minimum cash clearing fund contribution for those members who use letters of credit as clearing fund collateral and sets a limit on the amount of a member's required clearing fund contribution that may be collateralized with letters of credit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC 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

NSCC is seeking permanent approval of a proposed rule change that modifies the amount of a member's required clearing fund deposit that may be collateralized by letters of credit. Specifically, the proposed rule change increases the minimum cash contribution for those members who use letters of credit from $50,000 to the greater of $50,000 or 10% of their required clearing fund deposit up to a maximum of $1,000,000. In addition, the rule change provides that only 70% of a member's required clearing fund deposit may be collateralized with letters of credit. The rule change also adds headings to the clearing fund formula section for purposes of clarity and includes other nonsubstantive drafting changes. The effect of the proposed rule change is to increase the liquidity of the clearing fund and to limit NSCC's exposure to unusual risks resulting from the reliance on letters of credit.

Since obtaining temporary approval of the original filing, NSCC has filed clearing fund composition reports with the Commission. NSCC states that since December 31, 1989, as a result of the new requirements, it has observed the following changes in the composition of the clearing fund:

1. Cash deposits have increased by approximately 225%;

2. The value of securities deposited has increased by approximately 205%;[3] and

3. Letter of credit deposits have declined by approximately 40%.[4]

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[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The proposed rule change was originally filed on October 27, 1989 and was approved temporarily through December 31, 1990. Securities Exchange Act Release No. 27664 (January 31, 1990), 55 FR 4297 (File No. SR–NSCC–89–16). Subsequently, the Commission granted a number of extensions to the temporary approval to allow the Commission and NSCC sufficient time to review and assess the use of letters of credit as clearing fund collateral. Most recently temporary approval was granted until June 30, 1994. Securities Exchange Act Release No. 32551 (June 29, 1993), 58 FR 36727 (File No. SR–NSCC–93–5).

[3] Securities eligible for deposit as clearing fund collateral include U.S. or municipal bonds in the first or second rating of any nationally known statistical service. NSCC Rule 4, § 1.

[4] In October of 1989 when the Commission initially granted temporary approval of NSCC's

NSCC states that the proposal is consistent with its requirements under Section 17A of the Act because it enhances NSCC's ability to safeguard securities and funds in its custody or under its control.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No new written comments have been solicited or received.[5] NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that a clearing agency's rules be designed, among other things, to ensure the safeguarding of securities and funds in its possession or control or for which it is responsible and to protect investors and the public interest.[6] NSCC's proposal to limit the use of letters of credit to collateralize clearing fund obligations will make NSCC's clearing fund more liquid. A liquid clearing fund is necessary to ensure the safety and soundness of a clearing agency. NSCC's proposal is therefore consistent with the requirements under the Act with regard to NSCC's obligation to safeguard securities and funds and to protect the interests of investors and of the public.

Although letters of credit are a useful means of funding clearing agency guarantee deposits, their unrestricted use may present risks to clearing agencies. Because letters of credit reflect the issuer's promise to pay funds upon presentation of stipulated documents by the holder, a clearing agency holding letters of credit will be exposed to risk should the issuer refuse to honor its promise to pay. Furthermore, because under the Uniform Commercial Code the issuer may defer honoring a payment request until the close of business on the third banking day following receipt of the required documents, the clearing agency either may have to await payment or may have to seek alternative short-term financing. This waiting period could reduce a clearing agency's liquidity and thereby could hinder its ability to meet its payment obligations on a timely basis.

As indicated above, since the proposal first received temporary approval, NSCC has experienced over a 200% increase in the deposit of cash and securities deposited as clearing fund collateral. Because cash and securities are generally more liquid than letters of credit, the enhanced level of such deposits helps to ensure the liquidity of the clearing fund in the event of a major member insolvency, catastrophic loss, or major settlement loss. By reducing the risk associated with the use of letters of credit, the proposal is consistent with NSCC's responsibilities under the Act to safeguard securities or funds in its custody or control and to protect investors and the public in general.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving because accelerated approval of the proposal will keep effective NSCC's rules that help reduce the exposure of NSCC's clearing fund to the potential liquidity risks associated with using letters of credit to collateralize members' clearing fund obligations. Moreover, since it was first introduced in 1989, NSCC's proposal has been open for public comment and has elicited only one opposing comment. Thus the Commission does not foresee that approval of the proposal will elicit further opposition.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–94–10 and should be submitted by August 2, 1994.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule filing is consistent with the Act and in particular with Section 17A of the Act.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–NSCC–94–10) be, and hereby is approved through September 30, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16753 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

proposal, letters of credit accounted for 76% of the total dollar value of required clearing fund deposits. By May 28, 1993, letters of credit accounted for less than 30%. During the period from June 1, 1992 to May 28, 1993, letters of credit accounted for an average of 30.49% of the total dollar value of required clearing fund deposits, and for no month during that period did the portion of letters of credit used for required clearing fund deposits rise above 34%. Letter from Karen L. Saperstein, Vice President/Director of Legal & Associate General Counsel, NSCC, to Jerry W. Carpenter, Branch Chief, Division, Commission (June 10, 1993).

[5] Since the initial filing of the proposed rule change NSCC has received one letter of comment. In the letter Wedbush Morgan Securities, Inc. opposed the NSCC's proposal because they believe it would increase the cost of posting collateral. Letter from Edward W. Wedbush, President, Wedbush Morgan Securities, Inc., to David F. Hoyt, Assistant Secretary, NSCC (November 9, 1989).

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–34321; File No. SR–NASD–94–36]

Self-Regulatory Organizations; Notice and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Small Order Execution System Tier Size Classifications

July 6, 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 June 7, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is submitting this filing to effectuate The Nasdaq Stock Market, Inc.'s ("Nasdaq") periodic reclassification of Nasdaq National Market ("NNM") securities into appropriate tier sizes for purposes of the maximum order size tiers for Nasdaq's Small Order Execution System ("SOES") and the minimum quote size requirements for Nasdaq market makers in NNM securities. Since the NASD's proposal is an interpretation of existing NASD rules, there are no language changes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to effectuate Nasdaq's periodic reclassification of NNM securities into appropriate tier sizes for purposes of the maximum order size tiers for SOES and the minimum quote size requirements for Nasdaq market makers in NNM securities. Nasdaq reviews the tier level applicable to each security periodically (approximately every six months) to determine if the trading characteristics of the issue have changed so as to warrant a tier level adjustment. Such a review was conducted as of February 28, 1994, using the following established criteria: [1]

NNM securities with an average daily non-block volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers are subject to a minimum quotation size requirement of 1,000 shares and a maximum SOES order size of 500 shares; [2]

NNM securities with an average daily non-block volume of 1,000 shares or more a day, a bid price less than or equal to $150, and two or more market makers are subject to a minimum quotation size requirement of 500 shares and a maximum SOES order size of 500 shares; and

NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price less than or equal to $250, and less than two market makers are subject to a minimum quotation size requirement of 200 shares and a maximum SOES order size of 200 shares.

Pursuant to the application of this classification criteria, 500 NNM securities will be reclassified effective July 11, 1994. These 500 NNM securities are set out in the NASD's *Notice To Members* 94–48 (June 1994).

In ranking NNM securities pursuant to the established classification criteria, Nasdaq followed the changes dictated by the criteria with two exceptions. First, an issue was not moved more than one tier size level. For example, if an issue was previously categorized in the 1,000-share tier size, it would not be permitted to move to the 200-share tier even if the reclassification criteria showed that such a move was warranted. In adopting this policy, Nasdaq was attempting to maintain adequate public investor access to the market for issues in which the tier size level decreased and minimize market maker exposure in issues for which the tier size level increased. Second, for eight securities priced below $1 where the reclassification called for a reduction in tier size, Nasdaq determined not to recommend a decline in tier size given the low price of these securities and the negligible effect on market maker exposure. As a result, five securities that would have been reduced to a tier size of 200 shares from 500 shares remained at 500 shares and three securities that would have been reduced to a tier size of 500 shares from 1,000 shares remained at 1,000 shares.

The NASD believes that the proposed rule change is consistent with Sections 15A(b)(6) and 15A(b)(11) of the Act. Section 15A(b)(6) requires, among other things, that the rules of the NASD be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Section 15A(b)(11) applies to the form and content of quotations. Section 15A(b)(11) requires that rules relating to quotations must be fair and informative so as to promote orderly procedures for collecting, distributing and publishing quotations. The NASD believes that the reassignment of NNM securities within SOES tier size levels and minimum quotation size levels will further these ends by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and providing investors with the assurance that they can effect trades up to a certain size at the quotations displayed on Nasdaq.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective immediately pursuant to section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4 because the reranking of NNM securities into appropriate order size tiers and quotation size requirements was done pursuant to the NASD's stated policy and practice with respect to the administration and enforcement of two existing NASD rules. Further, in the SOES Tier Size Order,[3] the Commission requested that the NASD provide this information as an interpretation of an existing NASD rule under section 19(b)(3)(A) of the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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[1] The classification criteria is set forth in footnote 1 to Section (a)(7) of the SOES Rules and Section 2(a) of Part V of Schedule D to the NASD By-Laws.

[2] On December 23, 1993, the Commission approved a reduction in the maximum SOES tier size to 500 shares from 1,000 shares. *See* Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993). Even though the maximum order size for SOES is now 500 shares, Nasdaq has continued to classify NNM securities within the 1,000 share tier size because Nasdaq market makers must continue to display a size of 1,000 shares in their quotations for these securities, and remain firm for a minimum of 1,000 shares at their publicized quotations in these securities for orders outside of SOES.

[3] *See* Securities Exchange Act Release No. 25799 (June 9, 1988), 53 FR 22594 (June 16, 1988).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–94–36 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16823 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34320; File No. SR–PSE–94–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Stock Exchange, Inc., Relating to the Fine Schedule for the Rule on Dissemination of Quotations in Local Issues

July 6, 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 May 24, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[4] 17 CFR 200.30–3(a)(12).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to amend its fine schedule for violations of Equity Floor Procedure Advice 2–B, relating to the dissemination of quotations in local issues.

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 IV 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

Equity Floor Procedure Advice ("EFPA") 2–B of the Rules of the Pacific Stock Exchange is designed to enforce the requirement that PSE specialists disseminate quotations in their assigned local issues every day. Specifically, the specialist must disseminate a quote prior to one-half (½) hour after the PSE opening.

In order to enforce this requirement, EFPA 2–B has a schedule that requires that all specialists be monitored daily on a rotating quarterly basis. Failure to satisfy the requirement currently results in a $25 fine for each violation beginning with the sixth violation.

At this time, the PSE is proposing to amend this rule to provide that the fine be changed to $100 with an implementation upon the third violation. It is the position of the Exchange that this will provide an effective deterrent and reflect a more appropriate penalty for non-compliance with EFPA 2–B.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act, is general, and Sections 6(b)(5) and 6(b)(6), in particular, in that it is designed to protect investors and the public interest, to promote just and equitable principles of trade, and to assure that Exchange members are appropriately disciplined.

B. Self-Regulatory Organization's Statements 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 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, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–94–13 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16825 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34317; File No. SR–PSE–94–21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Incorporated, Relating to a One Hundred Twenty (120) Day Extension of Municipal Bond Trading Pilot Program

July 5, 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 July 1, 1994, the Pacific Stock Exchange Incorporated ("PSE" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and simultaneously publishing an order granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or "Exchange") proposes to extend the municipal bond trading pilot program for an additional 120 days until November 2, 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 IV 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

On March 7, 1994, the Commission approved an Exchange proposal to establish new rules for the listing and trading of municipal securities on the Exchange.[1] The Commission approved the pilot for an interim period of 120 days through July 5, 1994.[2] The Exchange is now requesting a 120-day extension of the pilot in order to provide additional time for evaluation of the program.

The Exchange believes that 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 will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities, and, in general will contribute to the protection of investors and the public interest.

B. Self-Regulatory Organizations 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice in the **Federal Register**. PSE believes it appropriate to approve the proposed rule change so that it may have time to evaluate its program for listing qualified municipal securities. The Commission finds that the proposed rule change extending the PSE pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the PSE and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication of the notice of filing thereof in that PSE requires additional time to evaluate the pilot before it can file a request for permanent approval of the listing of municipal securities.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 PSE. All submissions should refer to File No. SR–PSE–94–21 and should be submitted by August 2, 1994.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved through November 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16824 Filed 7–11–94; 8:45 am]

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[1] See Exchange Act Release No. 33721 (March 7, 1994), 59 FR 11636 (March 11, 1994) (granting temporary accelerated approval to File No. SR–PSE–94–05).

[2] *Id.*, 59 FR at 11638.

[Release No. 34–34316; File No. SR–Amex–93–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Specialist Participation in the After-Hours Trading Facility in Portfolio Depositary Receipts and Investment Trust Securities Based on Stock Indexes

July 5, 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 April 21, 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, II and III below, which Items have been prepared by the self-regulatory organization. The filing requested: (1) Permanent approval of the After-Hours Trading ("AHT") Facility; and (2) approval on a pilot basis for specialists in investment trust securities based on stock indexes to participate in the AHT Facility. The Commission approved the portion of the filing that requested permanent approval of the AHT Facility in Securities Exchange Act Release No. 33993.[3] On August 3, 1993, the Exchange amended the filing to request that specialists in Portfolio Depository Receipts ("PDRs") also be permitted to participate in the AHT Facility.[4] On July 5, 1994, the Exchange amended the proposed rule change to eliminate the migration of limit orders for PDRs and investment trust securities from the specialist's limit order book to the AHT Facility.[5] The Commission is publishing this notice to solicit comments from interested persons on specialist participation in the AHT Facility in Portfolio Depository Receipts and investment trust securities based on Stock Indexes.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] As originally filed, File No. SR–Amex–93–15 requested permanent approval of Amex's pilot After-Hours Trading facility. On January 4, 1994, the Amex amended the filing to request a three-month extension of the pilot until April 30, 1994. On May 2, 1994, the Commission granted permanent approval to that portion of File No. SR–Amex–93–15 concerning the Amex's After-Hours Trading facility, not including the specialist participation request. *See* Securities Exchange Act Release No. 33993 (May 2, 1994), 59 FR 23902 (May 9, 1994).

[4] *See* letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Diana Luka-Hopson, SEC, dated August 3, 1993.

[5] *See* letter from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Sandra Sciole, Special Counsel, SEC, dated July 1, 1994.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit specialists in Portfolio Depositary Receipts and investment trust securities to participate in the Exchange's After-Hours Trading ("AHT") facility for a one year pilot period.

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 IV 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 Exchange requests Commission approval for specialists in Portfolio Depositary Receipts ("PDRs") and investment trust securities listed pursuant to Section 118B of the Exchange's Listing Guidelines[6] to participate in the AHT facility to "clean-up" order imbalances in the AHT facility by entering an order for the specialist's account. For example, if there were single sided orders to buy 10,000 and sell 20,000 SPDRs immediately prior to the 5:00 p.m. close of the AHT facility, the specialist would be permitted under the Exchange's proposed rule amendments to enter an order for its account to buy up to 10,000 SPDRs in order to eliminate the sell side order imbalance.

The Exchange also seeks Commission approval for specialists in PDRs and investment trust securities to participate in a coupled closing price order so long as the other side of the order is not for an account in which a member or member organization has a direct or indirect interest. For example, under the Exchange's proposal, the specialist in SPDRs would be permitted to agree prior to the 4:15 close of the regular trading session for such securities to take the other side of a customer order to buy or sell SPDRs for execution in the AHT facility as a closing price coupled order. Such a capability would conform the trading of PDRs and investment trust securities to the practices of the "basket" market for equities where it is customary for a dealer to agree prior to the close of the regular trading session to take the contra side of a customer basket order and the closing index value. Specialists on the New York Stock Exchange, Inc. ("NYSE") currently are permitted to take the contra side of a customer order to buy or sell a particular equity security and enter such order into the NYSE's Off-Hours Trading facility as a closing price coupled order. The Exchange seeks a similar capability for specialists in PDRs and investment trust securities to conform the trading of these listed instruments to the practices of the basket market.

The Exchange believes that permitting specialists in PDRs and investment trust securities to participate in the AHT facility in order to "clean-up" order imbalances and effect closing price coupled orders would benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon well known market indexes, such as those described above. The market price of these securities is based upon transactions largely effected in markets other than the Amex. The specialist in such securities has no unique access to market sensitive information regarding the market for the underlying securities or closing index values. The Exchange, therefore, believes that specialist participation in the AHT facility in PDRs and investment trust securities in the manner described above does not raise any market integrity issues. In addition, should a customer not care for an execution at the closing price, the rules of the Exchange's AHT facility permit cancellation of an order up to the close of the AHT session at 5:00 p.m. (orders in the AHT facility are not executed until the 5:00 p.m. close of the after-hours session.) A customer, therefore, will have approximately 40 minutes to determine if an execution at the closing price suits its needs, and may cancel its order if it believes that the closing price does not suit its objectives.

The Exchange also proposes to eliminate the migration of limit orders for PDRs and investment trust securities from the specialist's limit order book to the AHT facility to eliminate any concern with the handling of such orders.

[6] The Exchange currently lists one Portfolio Depositary Receipt, *viz.*, Standard and Poor's Depositary Receipts ("SPDRs"); and two investment trust securities pursuant to Section 118B of the Exchange's Listing Guidelines: LOR Index Trust SuperUnits and LOR Money Market SuperUnits.

The Exchange proposes that the Commission approve the Exchange's application to permit specialist participation in the AHT facility for PDRs and investment trust securities on a pilot basis, during which time the Exchange will study the operation of the facility to determine if there are any additional issues that need to be addressed.

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 prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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 of the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the 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–93–15 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16746 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34309; File No. SR–BSE–94–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Additions to Its Minor Rule Violation Plan

July 5, 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 May 6, 1994, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE seeks to amend its Minor Rule Violation Plan ("Plan") to provide for the imposition of summary fines for violation of certain specified Exchange rules and policy by revising the List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Section 4 of Chapter XVIII ("List") for the imposition of fines by adding the following rule and policy violations: [1]

1. Failure to Promptly Respond to Exchange Blue Sheet Requests or File Regularly Scheduled Financial (FOCUS, SIPC) and/or Regulatory Reports (Specialist Performance Evaluation Questionnaire, Quarterly Option Report);

2. Improper Use of the ITS Administrative Message Function; and

3. Failure to Register Floor Employees and Complete Appropriate Forms.

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 IV 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 Exchange's Plan provides that the Exchange may impose a fine, not to exceed $2,500, on any member, member organization, allied member, approved person, registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.[2]

The purpose of the Plan is to provide for a response to a rule violation when a sanction is appropriate but when initiation of a full disciplinary proceeding is not suitable because such proceeding would be more costly and onerous than would be warranted given the minor nature of the violation. The Plan provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.

In the Exchange's initial filing which set forth the provisions and procedures of the Plan, the Exchange indicated that it periodically would amend the list of rules subject to the Plan as the Exchange

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[7] 17 CFR 200.30–3(a)(12) (1991).

[1] The BSE also has requested approval, under Rule 19d–1(c)(2), 17 CFR 240.19–1(c)(2), to amend its Rule 19d–1 minor rule violation enforcement and reporting plan to include these policy violations. *See* letter from Karen Aluise, Staff Attorney, to Sandy Sciole, Special Counsel, Division, dated April 28, 1994.

[2] The BSE's Plan for enforcing and reporting minor disciplinary rule violations was approved by the Commission in Securities Exchange Act Release No. 26737 (April 17, 1989), 54 FR 16438–1 (April 24, 1989) (File No. SR–BSE–88–2).

deemed appropriate. The Exchange now seeks to add the aforementioned rules and policy to the List.

2 Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(6) of the Act, in that its members and persons associated with its members will be appropriately disciplined for violation of rules and policies where the Exchange has determined that such violation is minor in nature. In accordance with Sections 6(b)(7) and 6(d)(1) of the Act, the Plan provides for a fair disciplinary procedure for the imposition of sanctions.

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.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–94–08 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16747 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34307; File No. SR–Phlx–94–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange Relating to the Listing and Trading of Options on the Semiconductor Index

July 5, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 5, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx.[2] 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 Phlx, pursuant to Rule 19b–4 of the Act, proposes to list and trade options on the Semiconductor Index ("Index"), an index developed by the Phlx and comprised of sixteen of the most highly capitalized and widely-held U.S. stocks representing the semiconductor industry.

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 Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below The Phlx 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 the Statutory Basis for, the Proposed Rule Change

The Phlx proposes to list for trading American-style options[3] on the Index, a price-weighted index composed of sixteen highly capitalized and widely held common stocks of U.S. companies that are primarily involved in the design, manufacture, sale and distribution of semiconductors used in computer and other electronic device manufacturing.[4] The Exchange proposes classifying the Index as a narrow-based industry index.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] On January 14, 1994, the Phlx submitted Amendment No. 1 to the proposal: (1) To correct the description of the formula for calculating the value of the Index; (2) to set the exercise prices at 5 point intervals instead of 2½ point intervals; (3) to provide that if the number of components in the Index increases to more than 21 components or decreases to less than 11 components, the Exchange shall submit a rule filing to the Commission pursuant to Section 19(b)(4) of the Act; and (4) to require that the components of the Index will be required to be listed for trading on the New York Stock Exchange or the American Stock Exchange, or traded as National Market securities through the facilities of the National Association of Securities Dealers, Inc. Automated Quotation system. *See* Letter from William Uchimoto, General Counsel, Phlx, to Richard Zack, Branch Chief, Office of Derivatives and Equity Oversight ("ODEO"), Division of Market Regulation ("Division"), SEC, dated January 14, 1994. On April 26, 1994, the Phlx filed Amendment No. 2 to the proposal which: (1) provides that the index will be updated during the trading day at least once every 15 seconds, rather than once every minute; (2) specifies that the expiration cycle applicable to options of the Index will be three expiration months from the March, June, September, December cycle plus two additional near-term months; (3) provides that additional exercise prices will be added pursuant to Rule 1101A rather than Rule 1012; and (4) clarifies the Exchange's obligations with respect to delisting and replacing components of the Index. *See* Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Michael Walinskas, Branch Chief, ODEO, Division, SEC, dated April 26, 1994. The Exchange filed Amendment No. 3 to the proposal on May 20, 1994, to provide that the Index will be maintained so that if at any time, less than 90% of the component issues by weight are eligible for exchange options trading, the Exchange will submit a Rule 19b–4 filing to the Commission before opening any new series of options on the Index for trading. *See* Letter from Michele R. Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Attorney, ODEO, Division, SEC, dated May 20, 1994.

[3] An American-style option can be exercised at any time before the option expires.

[4] The components of the Index are: Advanced Micro Devices; Analog Devices; Applied Materials; Cypress Semiconductor; Integrated Device Technology; Intel Corp. International Rectifier Corp.; Lattice Semiconductor Corp.; LSI Logic Corp.; Micron Technology Inc.; Motorola Inc.; National Semiconductor Corp.; Novellus Systems, Inc.; Teradyne, Inc.; Texas Instruments, Inc.; and VLSI Technology, Inc.

The formula for calculating the Index is as follows:

$$\frac{(SP1\times100)+(SP2\times100)+\ldots\ldots(SP16\times100)}{BASE}$$

where:

SP=Current stock price for each component.
BASE=Base Value; Number by which the Index is initially normalized to a value of 200.

The current price of each component issue is multiplied by 100 shares. The resulting market values are added to determine the current aggregate market value of the issues in the Index. To compute the current Index value, the aggregate market value is divided by the base divisor. The value of the Index was set to equal 200 on December 1, 1993.

Adjustments in the value of the Index which are necessitated by the addition and/or deletion of an issue from the Index are made by adding and/or subtracting the market value (current stock price × 100 shares) of the relevant issues.

The Index value will be updated dynamically at least once every 15 seconds during the trading day. The Phlx has retained Bridge Data, Inc. to compute the value of the Index. Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority. The Index value will also be available on broker/dealer interrogation devices to subscribers of the option information.

In accordance with Phlx Rule 1009A, if any change in the nature of any stock in the Index occurs as a result of delisting, merger, acquisition or otherwise, the Exchange will take appropriate steps to delete this stock from the Index and replace it with another stock which the Exchange believes would be compatible with the intended market character of the Index. In making replacement determinations, the Exchange will also take into account the capitalization, liquidity, and volatility of a particular stock.

Index options will be traded pursuant to the current Phlx rules governing the trading of index options, particularly Phlx Rules 1000A through 1103A, and generally, Phlx Rules 1000 through 1070.

The settlement value for Index options will be based on the opening values of the component securities on the date prior to expiration. Index options will expire on the Saturday following the third Friday of the expiration month, and the last day for trading in an expiring series will be the second business day (ordinarily a Thursday) preceding the expiration date.

The Phlx proposes to employ position and exercise limits pursuant to Phlx Rule 1001A(b) (i) and 1002A, respectively. Exercise price intervals will be initially set at 5 point intervals and additional exercise prices will be added in accordance with Phlx Rule 1101A(a).

The Phlx will trade consecutive and cycle month series pursuant to Phlx Rule 1101A. Specifically, there will be three expiration months from the March, June, September, December cycle plus two additional near-term months so that the three nearest term months will always be available.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and with Section 6(b)(5),[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–94–02 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16754 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78f(b)(5) (1988).

[6] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–34312; File No. SR–BSE–94–6]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Chapter XV ("Dealer-Specialists")

July 5, 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 June 20, 1994, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On June 23, 1994, the BSE submitted to the Commission Amendment No. 1 to the proposed rule change.[1] 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 BSE proposes to amend Chapter XV of its Rule regarding Dealer-Specialists.[2]

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 governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 make certain structural and technical changes to Chapter XV ("Dealer-Specialists"). Primarily, the Exchange seeks to provide paragraph numbering for ease of reference. In addition, the Exchange seeks to remove outdated and repetitive language, such as reference to the Business Conduct Committee which is now the Market Performance Committee. Certain paragraphs have been relocated to sections which are more applicable, and clarifying language has been added to certain sections.

[1] *See* letter from Karen A. Aluise, Assistant Vice President, BSE, to Sandra Sciole, Special Counsel, SEC, dated June 22, 1994. Amendment No. 1 made certain clarifying changes to the proposal.

[2] The exact language of the proposal was included as Exhibit 1 to File No. SR–BSE–94–6 and can be examined at the locations specified in Item IV below.

(2) Statutory Basis

The basis under the Act for the proposed rule change is section 6(b)(5) in that the rule is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–94–6 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16748 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34308; International Series Release No. 679; File No. SR–Phlx–94–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to European-Term and Cross-Rate Customized Foreign Currency Options

July 5, 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 April 12, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. 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 Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend pending new Rule 1069[1] to provide for the ability to: (1) Trade European-term option contracts on any foreign currency on which the Phlx currently trades foreign currency options ("FCOs"); (2) trade cross-rate FCOs on any two such approved currencies; and (3) allow users to quote all customized FCOs in percentage terms. Proposed Rule 1069, as well as existing Rules 1000, 1009, 1014, 1033, and 1034, would be

[1] *See* Securities Exchange Act Release No. 33959 (April 25, 1994), 59 FR 22698 (May 2, 1994) ("File No. SR–Phlx–94–11").

amended accordingly. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, 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 Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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 the Statutory Basis for, the Proposed Rule Change

On March 4, 1994, the Phlx filed with the Commission a proposal (File No. SR–Phlx–94–11)[2] to allow FCO traders and their customers to have the ability, within specified limits, to designate their own option exercise price parameters on a trade. In that filing, the Exchange proposed to allow its users to dictate the specific strike price of an FCO contract that they would like to buy or sell without requiring the Exchange to continuously disseminate quotes for these options. For example, if the Exchange has listed June .5450 and .5500 Deutsche mark calls and the customer wants to trade June .5487 Deutsche mark calls, the customer could request a quote in this option and the trade could occur. The Exchange, however, would not have to continuously disseminate quotes for this option until expiration because this may be the only trade that ever occurs in this series.

The Exchange is now proposing to expand upon its proposed FCO customization contained in File No. SR–Phlx–94–11. If File No. SR–Phlx–94–11 as well as the present proposal are approved, the Exchange would be able to offer the ability for its participants to trade non-standardized strike prices on existing series of FCOs as well as "inverse" or European-term contracts on those currencies presently listed on the Exchange, and cross-rate contracts on any two of the existing eight currencies on which the Exchange presently lists FCOs (*i.e.*, the British pound, Swiss franc, French franc, Deutsche mark, Japanese yen, Australian dollar, Canadian dollar, and European Currency Unit).

European-Term FCOs

The first addition to the array of previously proposed customized FCOs that the Exchange now proposes to offer is the European-term contract. The Exchange presently lists options on eight foreign currencies. Each of these FCO contracts is structured so that the trading currency is the U.S. dollar (*e.g.*, French franc/U.S. dollar). The option is quoted in U.S. dollars per unit of the relevant foreign currency and the premium is paid in U.S. dollars. Upon exercise of a call option, for example, the relevant foreign currency would be delivered.

The European-term customized FCO contract would be the inverse of the FCO contracts just described (*e.g.*, U.S. dollar/French franc). The option will be quoted in units of the foreign currency per U.S. dollar and the premium will be paid in the foreign currency. Because the underlying currency is the U.S. dollar, U.S. dollars will be delivered upon exercise of a call option. The title of proposed Rule 1069[3] will be changed to "Customized Options" to reflect the fact that users will be able to customize FCO contracts in more aspects than merely the strike price. Exchange Rule 1000(13), which provides the definition of "foreign currency," will also be amended to include the U.S. dollar so that U.S. dollars may be considered an underlying foreign currency under all applicable Exchange rules. Similarly, Rule 1009, which lists all of the approved underlying foreign currencies would also be amended, as well as the definitions of "spot sales price" and "forward sales price" in Rules 1000(16) and 1000(17).

Cross-Rate FCOs

The second proposed addition to the customized FCO facility proposed in File No. SR–Phlx–94–11 would allow the Exchange to offer the ability to trade any cross-rate FCO contract on any two foreign currencies approved for trading on the Exchange pursuant to Rule 1009.[4] For example, an option on the Swiss franc/Canadian dollar could be traded. The Exchange believes, however, that it would be inefficient to disseminate updated quotes on all of the possible combinations of cross-rate FCOs that could be created by all of the listed currencies now available. The Exchange believes that most will not be of wide spread interest but may appeal to only a limited number of customers or be active for only brief periods of time due to unpredictable political or economic events in the U.S. and abroad.

Alternative Order Formats

Finally, the Exchange proposes to offer the ability to request quotes and receive quotes in terms of a percentage of the underlying currency in addition to the present unit of currency format (*i.e.*, cents per unit of the underlying currency). Percentage quoting would be offered on all FCOs available through the proposed customized FCO facility. The Exchange represents that many users of FCOs have requested this quotation method and the Exchange believes it is appropriate to offer it in this limited fashion through the proposed customized FCO facility. Unit of currency quotations will also still be available for the proposed customized FCOs.

The Exchange states that the over-the-counter ("OTC") market has traditionally given its users the ability to customize FCO contracts by allowing them to designate many if not all of the terms of the FCO contracts. The participants in the OTC market, according to the Exchange, are typically institutional investors, corporations, and banks, who buy and sell FCOs in large size transactions in order to hedge risks relating to fluctuating exchange rates. By trading in the OTC market, these users do not benefit from the advantages offered by an organized exchange, such as, transparency, margin and collateral, and secondary market liquidity. The Exchange is now proposing to give these users the flexibility of the OTC market by allowing them to trade and quote FCO contracts tailored to their specifications but within the confines of an exchange environment. By having the Options Clearing Corporation ("OCC") as the issuer and guarantor of the customized FCOs, it will eliminate concern over contra-party creditworthiness and assure performance upon exercise of the customized FCOs. Finally, the Exchange believes that transparency will be achieved by the real time dissemination of the quotes, requests for quotes, and last sale information through the Options Price Reporting Authority ("OPRA").

[2] *Id.*

[3] *Id.*

[4] The Exchange presently offers two standardized cross-rate FCOs, the Deutsche mark/Japanese yen and the British pound/Deutsche mark. The Exchange also has approval to trade the British pound/Japanese yen, however, it has not yet been made available for trading. *See* Securities Exchange Act Release No. 29919 (November 7, 1991), 56 FR 58109 (November 15, 1991).

Applicability of Existing Exchange Rules

European-term and cross-rate customized FCOs would be subject to all Exchange rules and regulations regarding surveillance and sales practice. Unless specifically exempted, all floor trading procedures will also be adhered to. Examples of different procedures for the proposed European-term and cross-rate customized FCOs include no continuous quoting, no opening or closing rotations, size restrictions as to exercise, new minimum fractional changes, and new maximum quote spread parameters. Position and exercise limits for European-term customized FCOs would be the same as those applicable to FCOs on the same foreign currency and positions in these options will be aggregated with existing FCOs in calculating position and exercise limits. For example, U.S. dollar/Deutsche mark FCOs will be aggregated with Deutsche mark/U.S. dollar FCO positions. The Exchange will establish separate position limits for the cross-rate customized FCOs.

The minimum quote and transaction sizes that the Exchange proposed in File No. SR–Phlx–94–11 for customized strike FCOs will also apply to customized European-term and cross-rate FCOs.[5] Specifically, quotes may not be requested and trades may not be executed in a series with no open interest for less than 300 contracts. Responsive quotes for series with no open interest must be at least 300 contracts for assigned ROTs and 100 contracts for non-assigned ROTs. Responsive quotes and transactions in currently opened series may be the lesser of 100 contracts or the remaining number of contracts for all participants.

Financial Responsibility

The Exchange will impose higher net capital requirements for ROTs trading in customized FCOs. Assigned ROTs will be subject to a $1 million minimum net liquid assets requirement and all other ROTs will be subject to a $250,000 minimum net liquid assets requirement. European-term customized FCOs will be margined in the same fashion as existing FCO contracts. The Exchange proposes to allow spread margin treatment for European-term contracts offset against corresponding standardized contracts in instances in which the long notional value of either the European-term or standardized contract equals or exceeds the short national value of the other side.

[5] *See* File No. SR–Phlx–94–11, *supra* note 1.

Cross-rate customized FCOs will be margined using a three tier system. The Exchange will look at the correlation coefficients between any two currency combinations for each of the 28 possible (non-U.S. dollar) cross-rates in order to determine whether the two currencies have high, low, or negative correlations. Margin levels will be set by using a tier system based upon the degree of correlation between the different currencies. Historically, for example, the Exchange states that there has been a very high correlation between the French franc, Swiss franc, Deutsche mark, and the European Currency Unit (Tier I). Thus, the margin levels necessary for a cross-rate based on any two of these currencies should, the Exchange believes, be low. The correlations between any Tier I currency and either the British pound or the Japanese yen (Tier II) are, according to the Exchange, slightly lower and would, therefore, require higher margin levels. Finally, the Exchange states that the correlations between any of the currencies in Tiers I or II and either the Canadian dollar or the Australian dollar (Tier III) are extremely low or negative, thereby requiring a higher margin level than the other two. Accordingly, the Exchange proposes to establish margin levels of 2% for cross-rate FCOs based upon any two currencies within Tier 1; 4% for cross-rate FCOs based on one Tier I currency and one Tier II currency or two Tier II currencies; and 6% for FCOs based on one Tier III currency and one Tier I or Tier II currency or two Tier III currencies. After the cross-rate customized FCOs are trading, the Exchange will review the correlations quarterly to see if any of the currencies are eligible for placement in another tier based upon the correlation over the prior quarter.

Transparency

When a request for a customized FCO quote is voiced in the trading crowd, it will be displayed and all responsive quotes will also be displayed. Once a trade is consummated, it will be reported to OPRA and disseminated as an administrative text message over the OPRA system. The Exchange will not be obligated to make continuous markets in customized FCOs, even where open interest has been created. OCC will clear and settle the customized FCOs. Because quotes in these options will not be continuously updated or otherwise priced by the Exchange, OCC will generate a theoretical price based on the prices and quotes of the customized FCOs, prices of standardized series and the closing value of the underlying foreign currency. OCC will use this price to mark the FCOs daily and calculate margin requirements.

Miscellaneous Corrections

Because this rule filing is proposing to change language in Rules 1009 and 1033, the Exchange is also proposing to correct some inaccurate or redundant information contained in those rules. First, the Exchange believes that Commentary .01(6) of Rule 1009 is almost identical to subsection (c) of that rule and is therefore proposed to be deleted. Secondly, the contract size of the British pound and the French franc, as approved by the Commission, are 31,250 pounds[6] and 250,000 francs,[7] not 12,500 pounds and 125,000 francs as currently stated in Phlx's rules. These sizes and corresponding examples of how to calculate the premium on these FCOs are being corrected in Rule 1033.

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information, and facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by providing foreign currency option market participants with strike prices more closely suited to their trading strategies.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of the notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

[6] *See* Securities Exchange Act Release No. 26088 (September 16, 1988), 53 FR 36931 (September 22, 1988).

[7] *See* Securities Exchange Act Release No. 26478 (January 19, 1989), 54 FR 4362 (January 30, 1989).

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Pubic Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will all be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–94–18 and should be submitted by August 2, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16755 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20382; File No. 811–4127]

Dean Witter Equity Income Trust; Application for Deregistration

July 1, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Dean Witter Equity Income Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on May 17, 1994 and amended on June 27, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 26, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Fran Pollack-Matz, Senior Attorney, at (202) 942–0570, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On October 12, 1984, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. The registration statement became effective on December 21, 1984, and the initial public offering commenced on January 25, 1985.

2. At a Special Meeting held on December 2, 1993, the board of trustees of applicant voted to approve an Agreement and Plan of Reorganization (the "Plan") and called a Special Meeting of the shareholders of applicant to vote on the Plan. Pursuant to the Plan, the assets of applicant were transferred to Dean Witter Value-Added Market Series, a Massachusetts business trust ("Value-Added") in exchange for shares of Value-Added (the "Reorganization").

3. In approving the Reorganization, the directors considered a number of factors, including, (a) the comparative investment performance and past growth in assets of applicant and Value-Added, (b) the comparative expenses of applicant and Value-Added, (c) the impact on applicant's security holders if applicant were not reorganized or were liquidated, (d) the compatibility of the investment objectives, policies, restrictions, and portfolios of applicant and Value-Added, (e) the terms and conditions of the Reorganization that would affect the price of Value-Added shares to be issued in the Reorganization, (f) the tax-free nature of the Reorganization, and (g) any direct or indirect costs to be incurred by applicant and Value-Added in connection with the Reorganization.

4. Applicant and Value-Added could be deemed affiliated persons of each other within the meaning of the Act. In accordance with rule 17a–8, the board of trustees of applicant determined that the sale of applicant's assets to Value-Added was in the best interests of applicant and applicant's shareholders, and that the interests of the existing shareholders would not be diluted as a result of applicant effecting the transaction.

5. Preliminary proxy materials were filed on December 3, 1993, as part of Value-Added's registration statement on Form N–14. Definitive proxy materials relating to the Reorganization were filed on February 25, 1993. Applicant's shareholders voted to approve the Plan on April 14, 1994.

6. As of April 15, 1994, applicant had 12,702,132.755 shares outstanding, at a net asset value of $8.38 per share and an aggregate net asset value of $106,440,011.49. Pursuant to the Plan, the assets of applicant were transferred to Value-Added in exchange for shares of beneficial interest of Value-Added. The aggregate net asset value of shares of Value-Added issued in the Reorganization was equal to the value of applicant's assets on April 15, 1994 (the business day immediately preceding the Reorganization) less applicant's liabilities. Applicant thereafter distributed the Value-Added shares it received to its security holders by crediting each security holder with a *pro rata* portion of Value-Added shares equal to the security holder's investment in applicant.

7. No brokerage commissions were paid in connection with the Reorganization. The cost of printing and mailing the proxy statement and any additional material relating to the stockholder meeting at which the Plan and the Reorganization were approved, and the cost of soliciting proxies, including legal and accounting fees in connection with the preparation of the proxy statement, was paid by applicant. Any expenses related to the shareholders of Value-Added, in

[8] 17 CFR 200.30–3(a)(12) (1993).

connection with the Reorganization, were paid by Value-Added.

8. At the time of the application, applicant had no security holders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant is not now engaged in, and does not propose to engage in, any business activities.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–16756 Filed 7–11–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2033]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Radiocommunications; Meetings

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct open meetings at 9:30 AM on Thursday, September 15, Thursday, October 20, Thursday, November 17, and Thursday, December 15, 1994. Meetings previously scheduled for September 28 and October 26, 1994, are canceled. These meetings will be held in the Department of Transportation Headquarters Building, 400 Seventh Street, S.W., Washington, DC 20950. The purpose of these meetings is to discuss the papers received and the draft U.S. positions in preparation for the 40th Session of the International Maritime Organization (IMO) Subcommittee on Radiocommunications which is scheduled for January 1995, at the IMO headquarters in London, England.

Among other things, the item of particular interest is:

—The implementation of the Global Maritime Distress and Safety System (GMDSS).

Members of the public may attend these meetings up to the seating capacity of the rooms. Interested persons may seek information, including meeting room numbers, by writing: Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters, Commandant (G–TTM), Room 6311, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–1389.

Dated: June 28, 1994.

Marie Murray,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 94–16743 Filed 7–11–94; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement; North Carolina Global TransPark Located at the Kinston Regional Jetport; Kinston, North Carolina

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration in cooperation with the U.S. Army Corps of Engineers announces that it will prepare an Environmental Impact Statement (EIS) for the proposed North Carolina Global TransPark (GTP) located at the Kinston Regional Jetport.

FOR FURTHER INFORMATION CONTACT: Thomas M. Roberts, Federal Aviation Administration, Atlanta Airports District Office, 1680 Phoenix Parkway, Suite 101, College Park, GA 30349 (404) 994–5306.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration in cooperation with the U.S. Army Corps of Engineers will prepare an environmental impact statement for the Global TransPark and Section 404 Permit application. The EIS will investigate the expansion of the existing Kinston Regional Jetport to accommodate the GTP. The proposed improvements consist of providing for the construction and operation of a new 11,500-foot runway, together with related taxiways, and other related facilities, along with land acquisition and land use planning. The proposed project also includes other primary infrastructure, such as roadway improvements, areas for industrial development and a central cargo facility to move products in and out of the complex.

The EIS is anticipated to address impacts on wetlands, historic properties, and so forth.

The EIS will also evaluate cumulative impacts anticipated to occur as a result of the implementation of other foreseeable improvements at the GTP in the future.

The North Carolina Global TransPark Authority (Authority) issued a Request For Proposals inviting local governments and other public and/or private groups interested in being the site for GTP to present written proposals of their qualifications of the site and surrounding area. The RFP requested that the proponent furnish information on environmental factors as well as services, quality of life, zoning and permitting, and financial participations on the site and area. Eleven proposals were received and, following an extensive review, the Lenoir County site (Kinston Regional Jetport) was identified as the preferred site. An Airport Master Plan was developed for the GPT which investigated several runway layouts and a draft environmental assessment was prepared and coordinated with Federal and state environmental agencies for their review and comments.

PUBLIC SCOPING: The Federal Aviation Administration and the U.S. Army Corps of Engineers will hold a scoping meeting to solicit input from Federal, state and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the project. In addition, the public may submit written comments on the scope of the environmental study to the address identified in **FOR FURTHER INFORMATION CONTACT.** A Public Notice issued at a later date will provide the date, time and place of the scoping meeting and the period for written comments.

Issued in Southern Region, Atlanta, Georgia, June 28, 1994.

Samuel F. Austin,

Manager, Atlanta Airports District Office.

[FR Doc. 94–16830 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Morgantown Municipal (Hart Field) Airport, Morgantown, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Morgantown Municipal (Hart Field) Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 11, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building, 469 Airport Circle, Beaver, West Virginia 25813–6216.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bill Plutt, Airport Manager for the City of Morgantown at the following address: Hart Field, Morgantown, West Virginia 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Morgantown under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Project Manager, Beckley Airports Field Office, Main Terminal building, 469 Airport Circle, Beaver, West Virginia 25813–6216 (Tel. 304–252–6216). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Morgantown Municipal (Hart Field) Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 25, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Morgantown was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 13, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $2.00
Proposed charge effective date: October 1, 1994
Proposed charge expiration date: September 30, 1999
Total estimated PFC revenue: $223,000

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of the following proposed AIP projects.

—Re-roof South Terminal
—Construct Public Facilities within North Terminal
—Purchase ARFF Vehicle
—Public Parking Expansion
—Short Terminal Parking Area
—Sealcoat to Asphalt Surface of Aircraft Parking Ramp
—Construct Baggage Handling System
—Rehabilitate Taxiway A North (Impose Only)
—Construct Parallel Taxiway for Runway 5/23 (Impose Only)
—Purchase Snow Removal Equipment (Impose Only)
—Overlay Taxiway A South (Impose Only)

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT"** and at the FAA regional Airport office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Morgantown, West Virginia.

Issued in Jamaica, New York State on July 1, 1994.

A.H. DeGraw,

Acting Manager, Airports Division, Eastern Region.

[FR Doc. 94–16831 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenues From a Passenger Facility Charge (PFC) at Tompkins County Airport, Ithaca, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenues from a PFC at Tompkins County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 11, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: New York Airports District Office, 181 South Franklin Avenue, Room 315, Valley Stream, New York 11581.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert A. Nicholas, Airport Manager of the Tompkins County Airport, at the following address: County of Tompkins, 320 North Tioga Street, Courthouse, Ithaca, NY 14850.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tompkins County Airport under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Philip Brito, Manager, New York Airports District Office 181 South Franklin Avenue, Room 315, Valley Stream, New York, 11581. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenues from a PFC at Tompkins County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On June 3, 1994, the FAA determined that the application to impose a PFC submitted by The County of Tompkins, New York was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 28, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: January 1, 1993
Proposed charge expiration date: December 31, 2003
Total estimated PFC revenue: $3,850,000
Brief description of proposed project(s):
—Construct New Passenger Terminal including access road, Ramp and taxiway modifications, relocation of T-hangars, site preparation and utilities relocation.
—Construct 800′ extension to Runway 6/24 including extension of parallel Taxiway and Distance to go signs.
—Purchase New Snow Plow
—Extend ARFF storage building
—Overlay Runway 14/32

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial operators filing FAA 1800–31

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT"** and at the FAA

regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at The County of Tompkins.

Issued in New York City, New York, on June 27, 1994.

A.H. DeGraw,

Acting Manager, Airport Division, Eastern Region.

[FR Doc. 94–16832 Filed 7–11–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Altus Federal Savings Bank, Mobile, Alabama; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator Altus Federal Savings Bank, Mobile, Alabama ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on May 20, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision,

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16799 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

Columbia Banking Federal Savings Association, Rochester, NY; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator Columbia Banking Federal Savings Association, Rochester, New York ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 3, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16796 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

Cooper River Federal Savings Association, North Charleston, South Carolina; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of § 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator Cooper River Federal Savings Association, North Charleston, South Carolina ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 3, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16798 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

Encino Savings Bank, FSB, Van Nuys, California; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator Encino Savings Bank, FSB, Van Nuys, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 3, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16797 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

Franklin Federal Savings Association, Ottawa, Kansas; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator Franklin Federal Savings Association, Ottawa, Kansas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 10, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16795 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

John Hanson Federal Savings Bank, Beltsville, MD; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator John Hanson Federal Savings Bank, Beltsville, Maryland ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 10, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16802 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

Ukrainian Federal Savings & Loan Association, Philadelphia, Pennsylvania; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator Ukrainian Federal Savings & Loan Association, Philadelphia, Pennsylvania ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on June 24, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16793 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

United Federal Savings Association of Iowa, Des Moines, Iowa; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in Subdivision (C) of section 5(d)(2) of the Home Owners' Loan Act, the Office of the Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator United Federal Savings Association of Iowa, Des Moines, Iowa ("Association"), with the Resolution

Trust Corporation as sole Receiver for the Association on June 24, 1994.

Dated: July 6, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16794 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

[AC–44; OTS No. 02407]

Forrest City Savings & Loan Association, F.A., Forrest City, AR; Approval of Conversion Application

Notice is hereby given that on June 10, 1994, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Forrest City Savings and Loan Association, F.A., Forrest City, Arkansas, convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039.

Dated: July 7, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16801 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

[AC–43; OTS No. 05704]

Jefferson Federal Mutual Holding Company, Gretna, LA; Approval of Conversion Application

Notice is hereby given that on June 30, 1994, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Jefferson Federal Mutual Holding Company, Gretna, Louisiana, convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039.

Dated: July 7, 1994.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 94–16800 Filed 7–11–94; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on July 13 in Room 600, 301 4th Street, S.W., Washington, D.C. from 9:45 a.m.–12:00 p.m.

The Commission will meet with Betty Tseu, Director, China Service, Voice of America; John Harbaugh, China Service, Voice of America; George Beasley, Director, Office of East Asia and Pacific Affairs; Richard Stites, China Desk Officer, Office of East Asia and Pacific Affairs; James R. Lilley, former U.S. Ambassador to China; David M. Lampton, President, National Committee on U.S.-China Relations; Peter Geithner, Director, Asia Programs, Ford Foundation; and Richard Bush, aide to Congressman Lee Hamilton (D-IN). Participants will discuss USIA's policies and programs in China, U.S. broadcasting to China, and how NGOs contribute to democratization and support for civil society in China.

FOR FURTHER INFORMATION: Please call Betty Hayes, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: July 6, 1994.

Rose Royal,

Management Analyst.

[FR Doc. 94–16744 Filed 7–11–94; 8:45 am]

BILLING CODE 8230–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–92]

Identification of Priority Foreign Country and Initiation of Section 302 Investigation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the identification of China as a priority foreign country pursuant to section 182(c) of the Trade Act of 1974, as amended (Trade Act), the initiation of an investigation pursuant to section 302(b)(2)(A) of the Trade Act, and request for public comment.

SUMMARY: Pursuant to section 182(c) of the Trade Act (19 U.S.C. 2242), the USTR has identified China as a priority foreign country based on its failure to provide adequate and effective protection of intellectual property rights and fair and equitable market access to persons relying on intellectual property protection. Pursuant to section 302(b)(2)(A) of the Trade Act (19 U.S.C. 2412(b)(2)(A)), the USTR has initiated an investigation of the acts, policies and practices that led to the identification of China as a priority foreign country.

EFFECTIVE DATE: The USTR's identification of China and initiation of the related investigation took place on June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Lee Sands, Deputy Assistant USTR for China and Mongolian Affairs (202) 395–5050, Deborah Lehr, Director for China and Mongolian Affairs (202) 395–5050, or Thomas Robertson, Assistant General Counsel (202) 395–6800, 600 17th Street, N.W., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Section 182(a) of the Trade Act requires the USTR annually to identify foreign countries that deny adequate and effective protection or enforcement of intellectual property rights or that deny fair and equitable market access to persons that rely on intellectual property protection. On April 30, 1994, the USTR identified China as being among the group of 36 foreign countries that fall into this category. At that time, the USTR noted that China's failures in this regard were particularly problematic, and that its status under special 301 would be reviewed again in 60 days. A U.S. government interagency team traveled to China in June to seek elimination or modification of the acts, policies, and practices of concern, but found little movement from the Chinese government on these issues.

Section 182(c) of the Trade Act permits the USTR at any time during the year to identify as priority foreign countries those trading partners that have the most onerous or egregious acts, policies, and practices that have the greatest adverse impact (actual or potential) on relevant U.S. products. Section 302(b)(2)(A) of the Trade Act requires the initiation of an investigation of the acts, policies, and practices which were the basis for the priority foreign country identification unless the acts, policies, and practices are already the subject of an

investigation or action under the section 301 provisions of the Trade Act.

Because of the severe problems with intellectual property protection and market access for persons that rely on intellectual property protection in China, and the unwillingness of the Chinese government to address these problems through productive consultations over the last 60 days, the USTR has designated China a priority foreign country and has initiated an investigation under section 301 of the Trade Act of its acts, policies, and practices in this area.

While China has implemented most of its commitments under the 1992 Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on the Protection of Intellectual Property, it has failed to create an effective intellectual property rights enforcement regime. Copyright piracy in China is particularly acute, and trademark infringement remains a serious concern, with little indication of their willingness to address these problems. Appropriate implementation of China's new patent law and administrative protection program for pharmaceuticals and agricultural chemicals is also of concern. Particular problems with China's present enforcement regime include, among other things, internally inconsistent laws; a lack of transparency in the enforcement structure; a lack of protection for existing works; gaps in responsibility in the enforcement structure; a lack of consistent application of the laws throughout the central, provincial and local governments; a lack of funding, training and education; the absence of clear and effective criminal penalties; possible conflicts of interest; burdensome and discriminatory agency requirements; overly-broad compulsory licensing provisions; a failure of enforcement authorities to coordinate; and the absence of an effective border control mechanism.

China also fails to provide fair and equitable market access for persons who rely on intellectual property protection. The most serious market access problems are found in the areas of audiovisual products, sound recordings, and published written materials. Particular concerns include a hidden system of internal quotas, a lack of transparency, a lack of consistency in application, monopoly control over the importation and distribution of products embodying intellectual property, and a prohibition on the production or distribution of products embodying intellectual property that is not related to the content of those products.

Pursuant to section 303(a) of the Trade Act, USTR has requested consultations with the Chinese government concerning the issues under investigation. USTR will seek information and advice from the appropriate committees established pursuant to section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Within 6 months after the date on which this investigation was initiated (i.e., on or before December 30, 1994), pursuant to section 304 of the Trade Act, the USTR must determine on the basis of the investigation and the consultations, whether any act, policy or practice described in section 301 of the Trade Act exists and, if that determination is affirmative, decide what action, if any, to take under section 301 of the Trade Act. The deadline for making those determinations may be extended up to 9 months after the initiation of the investigation if the USTR determines that certain conditions are met.

Requirements for Submissions

Interested persons are invited to submit written comments on the acts, policies or practices of the Chinese government that are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies or practices, and the determinations required under section 304 of the Trade Act.

Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) and are due no later than 12 noon, Monday, August 8, 1994. Comments must be in English and provided in twenty copies to: Chairman, section 301 Committee, Room 223, USTR, 600 17th St., NW., Washington, DC 20506.

Comments will be placed in a file (Docket 301–92) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "Business Confidential" in a contrasting color ink at the top of each page on each of the twenty copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the Docket open to public inspection.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 94–16826 Filed 7–11–94; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 132
Tuesday, July 12, 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), 5 U.S.C. 552b:

DATE AND TIME: July 13, 1994, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 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, 613th Meeting—July 13, 1994, Regular Meeting (10:00 a.m.)

CAH–1.
Docket No. EL94–32–001, Master Power Corporation, Inc.
CAH–2.
Project No. 2114–029 and Docket No. E–9569–004, Public Utility District No. 2 of Grant County, Washington
CAH–3.
Project No. 8459–013, Geoffrey Shadroui
CAH–4.
Project Nos. 2570–018, 019 and 020, Ohio Power Company
CAH–5.
Project No. 3083–060, Oklahoma Municipal Power Authority

Consent Agenda—Electric

CAE–1.
Docket No. ER94–1319–000, Delmarva Power & Light Company
CAE–2.
Omitted
CAE–3.
Docket No. ER94–1290–000, Rayburn Country Electric Cooperative, Inc.
CAE–4.
Docket No. ER94–804–001, Midwest Power Systems, Inc.
CAE–5. Docket No. EL94–24–001, Consumer Advocate Division of the Public Service Commission of West Virginia, Maryland People's Counsel and Pennsylvania Office of Consumer Advocate v. Allegheny Generating Company
CAE–6.
Docket No. ER93–932–001, Central Vermont Public Service Corporation
CAE–7.
Omitted
CAE–8.
Docket No. ER92–517–004, Southern Company Services, Inc.
CAE–9.
Docket No. EL94–39–001, City of Orangeburg, South Carolina v. South Carolina Electric & Gas Company
CAE–10.
Omitted
CAE–11.
Docket No. EG94–67–000, Electricidad De Cortes S. De R.L.
CAE–12.
Docket No. EG94–66–000, Compania De Electricidad De Puerto Plata, S.A.
CAE–13.
Docket No. EG94–65–000, 1069284 Ontario Inc.
CAE–14.
Omitted
CAE–15.
Docket No. EL94–60–000, Kansas City, Board of Public Utilities
Docket No. EL94–61–000, Okanogan County Public Utility District
CAE–16.
Docket Nos. EL94–20–000, QF92–166–003 and QF92–167–003, Gordonsville Energy, L.P.
CAE–17.
Docket No. EL94–69–000, Cogenerators of Southern California, Midway-Sunset Cogeneration Company, Harbor Cogeneration Company, Kern River Cogeneration Company and Sycamore Cogeneration Company
CAE–18.
Docket No. EL91–32–002, Power Authority of the State of New York v. Long Island Lighting Company
Docket No. EL91–34–002, Municipal Electric Utilities Association of the State of New York v. Long Island Lighting Company
CAE–19.
Docket No. EL93–52–000, Wholesale Power Services, Inc.

Consent Agenda—Oil and Gas

CAG–1.
Docket No. PR94–6–000, Red River Pipeline, L.P.
CAG–2.
Docket No. PR94–7–000, Associated Louisiana Intrastate Pipe Line Company
CAG–3.
Docket No. PR94–8–000, Louisiana Intrastate Gas Company, L.L.C.
CAG–4.
Docket No. PR94–9–000, Michigan Consolidated Gas Company
CAG–5.
Docket No. RP94–293–000, Granite State Gas Transmission, Inc.
CAG–6.
Docket No. TM94–6–4–000, Granite State Gas Transmission, Inc.
CAG–7.
Docket No. RP94–294–000, Panhandle Eastern Pipe Line Company
CAG–8.
Docket No. RP89–161–030, *et al.*, ANR Pipeline Company
CAG–9.
Docket Nos. RP93–61–003 and RP93–176–000, U-T Offshore System
CAG–10.
Docket Nos. RP93–70–003, CP93–441–000 and CP75–93–000, Black Marlin Pipeline Company
CAG–11.
Docket Nos. RP94–125–003 and 005, Texas Gas Transmission Corporation
CAG–12.
Omitted
CAG–13.
Docket Nos. RP93–59–003 and RP93–177–001, High Island Offshore System
CAG–14.
Docket No. RP94–281–000, Pacific Interstate Transmission Company
CAG–15.
Omitted
CAG–16.
Docket No. FA90–65–002, Northern Border Pipeline Company
CAG–17.
Docket No. RP85–177–121, Texas Eastern Transmission Corporation
CAG–18.
Docket No. RP93–3–011, NorAm Gas Transmission Company
CAG–19.
Docket No. RP94–199–001, Texas Gas Transmission Corporation
CAG–20.
Docket Nos. RP94–172–002 and RP94–205–002, Williams Natural Gas Company
CAG–21.
Omitted
CAG–22.
Omitted
CAG–23.
Docket Nos. OR92–8–004, OR93–5–002, OR94–3–001 and OR94–4–001, SFPP, L.P.
CAG–24.
Docket Nos. TM91–6–37–002 and TM92–7–37–000, Northwest Pipeline Corporation
CAG–25.
Docket No. CP88–391–014, Transcontinental Gas Pipe Line Corporation
CAG–26.

Docket No. RM94–18–000, Removal of Outdated Regulations Pertaining to the Sales of Natural Gas Production
CAG–27.
Docket Nos. IS92–3–000, IS93–6–000 and IS94–10–000, Amerada Hess Pipeline Corporation
Docket Nos. IS92–4–000, IS93–7–000 and IS94–11–000, ARCO Transportation Alaska, Inc.
Docket Nos. IS92–5–000, IS93–8–000 and IS94–12–000, BP Pipelines (Alaska) Inc.
Docket Nos. IS92–6–000, IS93–9–000 and IS94–14–000, Exxon Pipeline Company
Docket Nos. IS92–7–000, IS93–10–000, IS93–38–000, IS94–3–000, IS94–13–000 and IS94–15–000, Mobil Alaska Pipeline Company
Docket Nos. IS92–8–000, IS93–11–000 and IS94–16–000, Phillips Alaska Pipeline Corporation
Docket Nos. IS92–9–000, IS93–12–000, IS94–17–000 and IS94–31–000, Unocal Pipeline Company
Docket No. OR92–2–000, ARCO Alaska, Inc. v. Amerada Hess Pipeline Corporation, *et al.*
Docket No. OR92–5–000, Conoco Inc. v. Amerada Hess Pipeline Corporation, *et al.*
CAG–28.
Omitted
CAG–29.
Omitted
CAG–30.
Docket No. MG88–14–003, Black Marlin Pipeline Company
Docket No. MG88–7–005, Northern Natural Gas Company
Docket Nos. MG88–9–006 and 007, Transwestern Pipeline Company
CAG–31.
Docket No. MG94–4–000, Alabama-Tennessee Natural Gas Company
CAG–32.
Docket No. MG88–35–005, Northern Border Pipeline Company
Docket No. MG88–47–006, Texas Gas Transmission Corporation
CAG–33.
Docket Nos. CP92–498–000 and 004, Trunkline Gas Company
CAG–34.
Docket Nos. CP93–57–002 and CP92–189–002, Superior Offshore Pipeline Company
CAG–35.
Docket No. CP93–79–003, Mid Louisiana Gas Company and Fairbanks Gathering Company
CAG–36.
Docket No. CP93–326–001, Eastern American Energy Corporation
Docket No. CP93–328–001, Columbia Gas Transmission Corporation
CAG–37.
Docket No. CP93–361–002, SunShine Interstate Transmission Company
CAG–38.
Docket No. CP94–36–001, Arkla Gathering Services Company
CAG–39.
Docket No. CP94–68–001, Transcontinental Gas Pipe Line Corporation
CAG–40.
Docket No. CP93–147–001, Williams Natural Gas Company
Docket No. CP93–163–001, Kansas Gas Supply Corporation
CAG–41.
Omitted
CAG–42.
Docket No. CP93–567–000, Texas Gas Transmission Corporation
CAG–43.
Docket No. CP93–281–000, Paiute Pipeline Company
CAG–44.
Docket No. CP93–477–000, CNG Transmission Corporation
CAG–45.
Docket No. CP94–164–000, Florida Gas Transmission Company
CAG–46.
Docket No. CP94–227–000, Trunkline Gas Company
CAG–47.
Docket Nos. CP93–431–001 and 000, Questar Pipeline Company
CAG–48.
Docket No. CP94–107–000, NorAM Gas Transmission Company
Docket No. CP94–201–000, BCF, Inc.
CAG–49.
Docket No. CP93–198–000, Big Sandy Gas Company
Docket No. CP93–200–000, CNG Transmission Corporation
CAG–50.
Omitted
CAG–51.
Docket No. CP93–327–000, Williams Natural Gas Company
Docket No. CP93–329–000, Williams Gas Processing-Wamsutter Company

Hydro Agenda

H–1.
(A) Project Nos. 2436–010, 2447–009, 2448–016, 2449–008, 2450–006, 2451–006, 2452–013, 2453–004, 2468–006, 2580–017, 2599–007, Consumers Power Company. Order on offer of settlement.
(B) Project No. 2436–007, Consumers Power Company. Order on application for new major license.
(C) Project No. 2447–008, Consumers Power Company. Order on application for new major license.
(D) Project No. 2448–011, Consumers Power Company. Order on application for new major license.
(E) Project No. 2449–007, Consumers Power Company. Order on application for new major license.
(F) Project No. 2450–005, Consumers Power Company. Order on application for new major license.
(G) Project No. 2451–004, Consumers Power Company. Order on application for new major license.
(H) Project No. 2452–007, Consumers Power Company. Order on application for new major license.
(I) Project No. 2453–003, Consumers Power Company. Order on application for new major license.
(J) Project No. 2468–003, Consumers Power Company. Order on application for new major license.
(K) Project No. 2580–015, Consumers Power Company. Order on application for new major license.
(L) Project No. 2599–005, Consumers Power Company. Order on application for new major license.
H–2.
Project No. 11090–000, Tunbridge Mill Corporation. Order on application for minor license.
H–3.
(A) Project Nos. 2287–004 and 2288–005, Public Service Company of New Hampshire Project Nos. 2300–004, 2311–004, 2326–004, 2327–005 and 2422–006, James River-New Hampshire Electric, Inc. Order on applications for new license.
(B) Project No. 2287–003, Public Service Company of New Hampshire. Order on application for new license.
(C) Project No. 2288–004, Public Service Company of New Hampshire. Order on application for new license.
(D) Project No. 2300–002, James River-New Hampshire Electric, Inc. Order on application for new license.
(E) Project No. 2311–001, James River-New Hampshire Electric, Inc. Order on application for new license.
(F) Project No. 2326–002, James River-New Hampshire Electric, Inc. Order on application for new license.
(G) Project No. 2327–002, James River-New Hampshire Electric, Inc. Order on application for new license.
(H) Project No. 2422–004, James River-New Hampshire Electric, Inc. Order on application for new license.

Electric Agenda

E–1.
Docket No. TX94–2–000, El Paso Electric Company and Central and South West Services, Inc., as agent for Public Service Company of Oklahoma, West Texas Utilities Company, Southwestern Electric Power Company and Central Power and Light Company v. Southwestern Public Service Company. Whether the Commission should order wheeling for El Paso under section 211 of the Federal Power Act.
E–2.
Docket No. EC94–7–000, El Paso Electric Company and Central and South West Services, Inc.
Docket No. ER94–898–000, Central and South West Services, Inc. Whether the Commission should approve a merger and amendment to system agreement that will allow El Paso to emerge from bankruptcy and become part of Central & Southwest.
E–3.
Docket No. TX94–3–000, Minnesota Municipal Power Agency v. Southern Minnesota Municipal Power Agency. Whether the Commission should issue a final order under sections 211 and 212 of the Federal Power Act directing Southern Minnesota Municipal Power Agency to provide transmission service to Minnesota Municipal Power Agency and Establishing rates, terms and conditions of such service.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.

Omitted

II. Restructuring Matters

RS–1.
Reserved

III. Pipeline Certificate Matters

PC–1.
Reserved

Dated: July 6, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16907 Filed 7–8–94; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, July 14, 1994

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 14, 1994, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: MCI Communications Corporation and British Telecommunications' Joint Petition for Declaratory Ruling Concerning Section 310 (b)(4) and (d) of the Communications Act (File No. ISP–93–013). Summary: The Commission will consider a joint petition for declaratory ruling on the MCI and BT alliance.

2—Common Carrier—Title: Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions (CC Docket No. 91–273). Summary: The Commission will consider action on network outage reporting requirements.

3—Common Carrier—Title: Expanded Interconnection with Local Telephone Company Facilities (CC Docket No. 91–141). Summary: The Commission will consider addressing its expanded interconnection policy in light of the court's decision in *Bell Atlantic Telephone Companies* v. *FCC*, No. 92–1619 (DC Cir., June 10, 1994).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Audrey Spivack or Susan Lewis Sallet, Office of Public Affairs, telephone number (202) 418–0500.

Dated: July 7, 1994.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 94–16935 Filed 7–8–94; 10:39 am]

BILLING CODE 6712–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, July 11, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed response to the Department of the Treasury's Electronic Federal Tax Payment System Invitation for Expressions of Interest. This item was originally announced for a closed meeting on July 7, 1994.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 7, 1994

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–16908 Filed 7–8–94; 8:45 am]

BILLING CODE 6210–01–P

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, July 19, 1994.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Docket No. 41191, *West Texas Utilities Company v. Burlington Northern Railroad Company.*

Finance Docket No. 31922 (Sub-No. 1), *Wisconsin Central Ltd.—Purchase Exemption—Soo Line Railroad Company Line Between Superior and Ladysmith, WI.*

Finance Docket No. 32395, *City of Stafford, Texas v. Southern Pacific Transportation Company.*

Ex Parte No. 346 (Sub-No. 30), *Rail General Exemption Authority—Exemption of Rock Salt, Salt.*

Ex Parte No. 346 (Sub-No. 31), *Rail General Exemption Authority—Exemption of Grease or inedible Tallow, etc.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of Congressional and Press Services, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–16827 Filed 7–7–94; 1:02 pm]

BILLING CODE 7035–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND PLACE: 9:30 a.m., Tuesday, July 19, 1994.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The first item is open to the public. The last item is closed to the public under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

6170A—Marine Accident Report: Grounding of the Passenger Vessel *Yorktown Clipper* in Glacier Bay, Alaska, August 18, 1993

6388—Opinion and Order: Administrator v. Hampton, Dockets SE–13099 and –12130; disposition of respondent's appeal

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Ray Smith, (202) 382–6527.

Dated: July 8, 1994.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 94–17014 Filed 7–8–94; 3:53 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

DATES: Weeks of July 11, 18, 25, and August 1, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 11

Wednesday, July 13

2:00 p.m.
Briefing on Investigative Matters (Closed—Ex. 5 and 7)

Week of July 18—Tentative

Tuesday, July 19

10:00 a.m.
Briefing on Fuel Cycle and Waste Management Activities in France (Public Meeting)

Wednesday, July 20

10:30 a.m.
Discussion of Mangement Issues (Closed)—Ex. 2 and 6)

3:00 p.m.
Briefing on Proposed Changes to 10 CFR 50.36—Technical Specifications (Public Meeting)
(Contact: Christopher Grimes, 301–504–1161)

4:30 p.m.
Affirmation/Discussion And Vote (Public Meeting)

Thursday, July 21

3:00 p.m.
Briefing on Decommissioning Process (Public Meeting)
(Contact: David Futoma, 301–504–1621)

Week of July 25—Tentative

There are no meetings scheduled for the Week of July 25.

Week of August 1—Tentative

There are no meetings scheduled for the Week of August 1.

ADDITIONAL INFORMATION: By a vote of 3–0 (Commissioner Rogers not present) on June 29, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Amendments to 10 CFR Part 73 to Protect Against Malevolent Use of Vehicles at Nuclear Power Plants" (Public Meeting) be held on June 30, and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: July 8, 1994.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 94–17013 Filed 7–8–94; 3:52 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 59, No. 132
Tuesday, July 12, 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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 93-021-3]

RIN 0579-AA60

Importation of Potatoes From Canada

Correction

In rule document 94-4725 beginning on page 9917 in the issue of Wednesday, March 2, 1994 make the following correction:

§ 319.37-2 [Corrected]

On page 9918, in § 319.37-2, in the table, in the entry for "Solanum spp.", in the third column, insert "* * *".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 94-15532 beginning on page 32955 in the issue of Monday, June 27, 1994, make the following correction:

On page 32955, in the third column, "*Docket Number*: 9409004: *Applicant*: University of California, and *Docket Number*: 949008. *Applicant*: University of Florida," should read "*Docket Number*: 940-004: *Applicant*: University of California, and *Docket Number* 94-008: *Applicant*: University of Florida".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Anchorage Museum of History and Art, Anchorage, Alaska

Correction

In notice document 94-16457 appearing on page 34862 in the issue of Thursday, July 7, 1994, in the third column, beginning in the fifth line, "[*thirty days following publication of this notice*]" should read "August 8, 1994".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-94-24]

Petitions for Exemption Summary of Petitions Received; Dispositions of Petitions Issued

Correction

In notice document 94-15511 beginning on page 33036 in the issue of Monday, June 27, 1994, make the following correction:

On page 33036, in the first column, under **Petitions for Exemption**, "*Docket No.* 27660" should read "27650".

BILLING CODE 1505-01-D

Federal Register

Tuesday
July 12, 1994

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AA24

Migratory Bird Hunting; Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is proposing to establish the 1994–95 early-season hunting regulations for certain migratory game birds. The Service annually prescribes frameworks, or outer limits, for dates and times when hunting may occur and the maximum number of birds that may be taken and possessed in early seasons. These frameworks are necessary to allow State selections of final seasons and limits and to allow recreational harvest at levels compatible with population status and habitat conditions.

DATES: The comment period for proposed early-season frameworks will end on July 21, 1994; and for late-season proposals on August 29, 1994. A public hearing on late-season regulations will be held on August 4, 1994, starting at 9 a.m.

ADDRESSES: The August 4 public hearing will be held in the Auditorium of the Department of the Interior Building, 1849 C Street, NW., Washington, DC. Written comments on these proposals and notice of intention to participate in the late-season hearing should be sent in writing to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634—Arlington Square, Washington, DC 20240. Comments received will be available for public inspection during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634—Arlington Square, Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1994

On April 7, 1994, the Service published for public comment in the **Federal Register** (59 FR 16762) a proposal to amend 50 CFR part 20, with comment periods ending as noted earlier. On June 8, 1994, the Service published for public comment a second document (59 FR 29700) which provided supplemental proposals for early- and late-season migratory bird hunting regulations frameworks.

On June 23, 1994, a public hearing was held in Washington, DC, as announced in the April 7 and June 8 **Federal Registers** to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons.

This document is the third in a series of proposed, supplemental, and final rulemaking documents for migratory bird hunting regulations and deals specifically with proposed frameworks for early-season regulations. It will lead to final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 1994–95 season. All pertinent comments received through June 23, 1994, have been considered in developing this document. In addition, new proposals for certain early-season regulations are provided for public comment. Comment periods are specified above under **DATES**. Final regulatory frameworks for early seasons are scheduled for publication in the **Federal Register** on or about August 16, 1994.

This supplemental proposed rulemaking consolidates further changes in the original framework proposals published in the April 7 **Federal Register**. The regulations for early waterfowl hunting seasons proposed in this document are based on the most current information available about the status of waterfowl populations and habitat conditions on the breeding grounds.

Presentations at Public Hearing

Four Service employees presented reports on the status of various migratory bird species for which early hunting seasons are being proposed. These reports are briefly reviewed as a matter of public information.

Dr. John Bruggink, Woodcock Specialist, reported on the 1994 status of American woodcock. Age-ratio information from harvested woodcock indicated that the 1993 recruitment index (ratio of immatures to adult females) was 23.5 percent below the long-term average in the Eastern Region and 11.8 percent lower than the long-term average in the Central Region. Daily hunting success in the Eastern Region decreased from 2.0 woodcock bagged per hunter in 1992 to 1.9 woodcock bagged per hunter in 1993 (–5 percent). The seasonal-hunting-success index decreased from 9.7 to 7.0 woodcock per hunter (–27.8 percent). In the Central Region, the daily-success index decreased from 2.4 birds per hunter in 1992 to 2.3 birds per hunter in 1993 (–4.2 percent), and the seasonal success index decreased from 11.7 to 11.0 woodcock bagged per hunter (–6 percent). Analysis of data from the Singing-ground Survey indicated that the number of woodcock declined between 1993 and 1994 in the Eastern and Central Regions. Ten-year (1985–94) trends from the Singing-ground Survey also indicated declining populations. Since 1968, breeding population indices declined 1.9 percent per year in the Eastern Region and 1.1 percent per year in the Central Region.

Mr. David Dolton, Dove Specialist, presented the status of mourning doves in 1994. The report summarized call-count information gathered over the past 29 years. Trends were calculated for the most recent 10–year interval and for the entire 29–year period. Between 1993 and 1994, the average number of doves heard per route did not significantly change in any of the 3 management units. No significant trend was found in doves heard in the Eastern or Central Units for either the 10– or 29–year time frames. In the Western Unit, no trend was evident over the most recent 10 years, but there has been a significant decline over the past 29 years. Trends for doves seen at the unit level over the 10– and 29–year periods agreed with trends for doves heard.

Mr. Dolton also presented the status of western white-winged doves in Arizona. Whitewing populations declined rapidly in the 1970's, and have since remained relatively stable at a reduced level. In 1993, the Arizona whitewing harvest of 91,000 birds declined 3.7 percent from the harvest in 1992 and was 30 percent below the 1980–89 mean. The 1994 whitewing call-count survey indicated an 18 percent decrease from 1993.

Mr. Dolton then reported on the status of eastern white-winged doves and white-tipped doves in Texas. Results of the 1994 whitewing call-count survey indicated that 615,000 birds were nesting in the Lower Rio Grande Valley in Starr, Hidalgo, Cameron, and Willacy Counties. This estimate represents a 40 percent increase from 1993 and is 22 percent above the 33-year average of 501,000. In upper south Texas, more than 577,000 whitewings were nesting throughout a 19–county area. This is a 20 percent increase over last year's population and marks the sixth year of a population expansion in this portion of the State. West Texas supports a small population of whitewings. The 1994 estimate of 17,000 birds was 10

percent below the 1993 estimate. For white-tipped doves, an average of 0.78 birds were heard per stop in both brush and citrus locations in 1994. This is 30 percent below the 1993 level.

Finally, Mr. Dolton presented population and harvest information for band-tailed pigeons. This species is managed as two separate populations: the Coastal Population (California, Nevada, Oregon, and Washington) and the Four-Corners or Interior Population (Arizona, Colorado, New Mexico and Utah). For the Coastal Population, the Breeding Bird Survey (BBS) indicated a significant decline between 1968 and 1993. However, the population apparently has stabilized in the 9 years from 1985 to 1993. Mineral-spring counts conducted in Oregon suggest that bandtails experienced a precipitous decline in 1973 and again in 1985. Since 1985, these counts indicate that the population has been increasing gradually, but it remains at a lower level than during the 1970's. The 1993 count decreased 1.6 percent from 1992. Washington's call-count survey yielded a 1993 index 44 percent above that of 1992, although this change was not statistically significant. Two indirect population estimates in 1992 suggested that the population ranged between 2.4 and 3.1 million birds. The estimated harvest in 1993 was 6,000 birds in California and 3,200 in Oregon. Washington did not have a bandtail season in 1993.

In the Four-Corners area, BBS data indicated a stable population between 1968 and 1993. The combined harvest for all four States in 1993 was 828 birds. This was a decrease of 60 percent from more than 2,000 bandtails harvested in 1992.

Dr. Jim Dubovsky, Waterfowl Specialist, presented information on 1994 habitat conditions for waterfowl and preliminary estimates of blue-winged teal abundance and harvests. A video was shown depicting wetland and upland conditions in the Dakotas and the Prairie Provinces of Canada. Generally, nesting conditions were favorable throughout most of the survey area, with abundant wetlands and improved upland cover. Biologists in several regions stated that conditions were the best they have observed since the 1970's. There were approximately 6 million ponds in Prairie Canada and the northcentral U.S. This estimate is significantly greater than the estimate for 1993 and the long-term average.

The 1994 May breeding population survey yielded an estimate of 4.6 million blue-winged teal, 45 percent higher than the 1993 estimate of 3.2 million. The 1994 estimate was also 14 percent above the long-term average. The estimated harvest of blue-winged teal during the 1993 September teal season was approximately 134,000 birds, 30 percent below the outcome of the 1992 teal season. The combined September and regular-season harvest of all teal was approximately 1.03 million, 42 percent below the 1985–87 average. Harvest rates of blue-winged teal remained low during 1993–94 and were not different from those of last year or the 1985–87 period.

Mr. David Sharp, Central Flyway Representative, reported on the status and harvests of sandhill cranes. The Mid-Continent Population appears to have stabilized following dramatic increases in the early 1980's. The preliminary 1994 spring index for the Central Platte River Valley, uncorrected for visibility, was about 384,850. This index is 52 percent larger than the 1993 index of 253,800. The photo-corrected 3–year average for the 1991–93 period was 375,300, which is within the established population-objective range of 343,000–465,000 cranes. All Central Flyway States, except Nebraska, elected to allow crane hunting in portions of their respective States in 1993–94; about 19,000 permits were issued and approximately 7,200 permittees hunted one or more times. Compared to the previous year's seasons, the number of permittees increased about 10 percent and active hunters increased 35 percent. About 19,000 cranes were harvested in 1993–94, a 53 percent increase from the 12,433 harvested in 1992–93. In Canada, the retrieved harvest fell (51%) from 5,600 in the 1992–93 seasons to 2,800 in the 1993–94 seasons. Also, Mid-Continent cranes are hunted in Alaska and Mexico. Data for these areas are not yet available, but the combined harvest should not exceed 3,500 during the 1993–94 seasons. The total North American sport harvest was estimated to be about 30,200 cranes, which is near (–5%) the record high reported in the 1990–91 seasons (31,700), and only the second time the total has exceeded the 30,000 level.

Annual surveys of the Rocky Mountain Population, which migrates through the San Luis Valley of Colorado in March, suggest that the population has been relatively stable since 1984. The 1994 index of 17,214 cranes (uncorrected for visibility bias) was near the established objective range of 18,000–22,000. Limited special seasons were held during 1993 in portions of Arizona, Montana, New Mexico, Utah, and Wyoming, and resulted in an estimated harvest of 704 cranes.

Comments Received at Public Hearing

Mr. Charles D. Kelley, representing the Southeastern Association of Fish and Wildlife Agencies, reiterated the request made by a majority of States in the Southeast to prohibit dove hunting over top-sown wheat and urged the Service to include this prohibition in its final revision of the Code of Federal Regulations (50 CFR). He also expressed opposition to the proposed inclusion of wounded birds in the daily bag limit.

Mr. Ron Stromstad, representing the Central Flyway Council and the North Dakota Game and Fish Department, stated that he appreciated the work of the Service Regulations Committee in developing this year's annual hunting-season proposals. He indicated that the Central Flyway Council looked forward to working with the recently established Mid-Continent Population Sandhill Crane Working Group to revise the harvest strategy for this population. He supported the Central Flyway Council's recommendations regarding the conduct of September teal seasons and emphasized that evaluation of any proposed changes to these seasons should be undertaken on a flyway basis. He supported the Texas request for dove hunting during 3 time periods in the Central and Southern Zones. He appreciated the proposed change in the aggregate bag limit for white-winged doves from 2 to 6 in the Lower Rio Grande Valley. He noted that over the past 3 years, whitewings have expanded their range and populations have grown significantly. In the Rio Grande Valley, numbers are now well above average. With regard to the proposed revision of 50 CFR, he encouraged the Service to proceed slowly in the development of the proposed rule and suggested that the Service continue to work closely with the States. He supported the recommendations from the other Flyway Councils, with the exception of the proposed changes in the woodcock season in Tennessee. He emphasized that the record should clearly indicate that the Conservation Reserve Program, administered by the U.S. Department of Agriculture, is providing secure nesting habitats for grassland-nesting migratory birds. Improved water conditions on the prairies, coupled with the millions of acres of secure nesting cover, will undoubtedly have a significant beneficial effect on this year's recruitment of nesting birds in the northcentral States.

Written Comments Received

The preliminary proposed rulemaking, which appeared in the April 7 **Federal Register**, opened the

public comment period for migratory game bird hunting regulations. As of June 23, 1994, the Service had received 22 comments; 6 of these specifically addressed early-season issues. These early-season comments are summarized below and numbered in the order used in the April 7 **Federal Register**. Only the numbered items pertaining to early seasons for which written comments were received are included. The Service received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is also assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

Written Comments: An individual from Minnesota expressed concern that the Service is de-emphasizing waterfowl in terms of habitat, predator control, enforcement of regulations, and support for the North American Waterfowl Management Plan. He noted that waterfowl hunters help pay for management programs through purchase of "duck stamps," excise taxes, and donations to private conservation organizations.

1. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories containing substantial recommendations are included below.

G. Special Seasons/Species Management

i. September Teal Seasons

In the April 9, 1993, **Federal Register** (58 FR 37830), the Service reiterated that, consistent with the strategy for the use of shooting hours developed by the Service in 1990, shooting hours will begin at sunrise unless States can demonstrate that the impact of presunrise shooting hours on nontarget duck species is negligible. States will be allowed to continue presunrise shooting hours during their September seasons under the condition that they conduct studies or provide information that demonstrates a negligible impact on nontarget duck species during the one-half hour period prior to sunrise. Three States in the Mississippi Flyway (Alabama, Mississippi, and Louisiana) and five in the Central Flyway (Colorado, Oklahoma, Texas, Kansas, and New Mexico) conducted hunter observations during the 1993 September teal season that demonstrated that the attempted harvest of non-target species was no different between pre- and post-sunrise periods.

Council Recommendations:

The Central Flyway Council recommended that September teal season shooting hours begin one-half hour before sunrise to sunset without further evaluation for all non-production Central Flyway States.

The Central Flyway Council recommended that the Service review the guidelines for establishing a September teal season for any new requests for seasons.

The Upper-Region and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that Michigan be permitted to hold an experimental September teal season in southeastern portions of the State.

The Lower-Region Regulations Committee of the Mississippi Flyway Council requested that September teal season shooting hours beginning one-half hour before sunrise be made operational and that no further evaluation of shooting hours be required.

Written Comments: An individual representing a group of duck hunters from Wisconsin expressed concern that some States with a September teal season are allowed shooting hours that begin one-half hour before sunrise. He believes that hunters are unable to identify ducks and that most crippling loss occurs prior to sunrise.

The Michigan Department of Natural Resources requested that Michigan be allowed to conduct a teal season in areas where teal concentrate. They proposed limiting the season to no more than 2,000 hunters and believed that hunters' skills at identifying waterfowl are better now than they were during initial evaluations of teal seasons in the 1960's. Four individuals from Michigan supported the proposed September teal season for portions of Michigan.

ii. September Duck Seasons

A cooperative Wood Duck Initiative undertaken by the Service and the Atlantic and Mississippi Flyway Councils in 1991 is designed to improve banding programs and evaluate techniques for obtaining estimates of breeding population size and production. The Service does not propose to discontinue the September wood duck/teal seasons in Kentucky, Tennessee, and Florida or expand seasons elsewhere until this initiative has been completed. Furthermore, the Service requests an updated report on these seasons for Kentucky, Tennessee, and Florida, by February 1, 1995. These reports should contain wood duck recovery and survival rates, harvest, and the derivation of banded birds harvested during these seasons.

The Service has published a strategy concerning shooting hours which indicates that during species-specific duck seasons, shooting hours will begin at sunrise unless States can demonstrate that the impact of presunrise shooting hours on nontarget duck species is negligible. The Service received information from Kentucky, Tennessee, and Florida regarding the effect of presunrise shooting hours. This information was deemed sufficient to demonstrate a negligible impact of presunrise shooting hours on nontarget duck species during seasons directed at both teal and wood ducks. Therefore, Florida, Kentucky, and Tennessee will be allowed to continue presunrise shooting hours during their September seasons without further evaluation.

Council Recommendations: The Upper-Region and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that Iowa be permitted to hold a portion of their regular duck season in September to increase harvest opportunity on blue-winged teal.

Written Comments: One individual and a petition with 467 signatures requested nine additional days of duck hunting in Wisconsin. The request notes that the efforts of duck hunters, the Wisconsin Department of Natural Resources, Ducks Unlimited, and various sportsmen's organizations have resulted in record levels of duck production. The additional nine days of duck hunting would make Wisconsin's season equal in length to certain other States in the Mississippi Flyway that are permitted a September teal season.

3. Sea Ducks

Since 1992, the Service has expressed its concern about the status of sea ducks and the potential impact that increased hunting activity could have on these species. In 1993, the Service reduced bag limits on scoters from 7 to 4 within an overall 7–bird sea duck limit. Although data needed to monitor these species remain less than satisfactory, the Service reiterates its request that the Flyway Councils continue to review the status of sea ducks and complete

management plans. States are asked to participate in improving population surveys, harvest estimates, and production indices.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that West Virginia be permitted to initiate a 3-year experimental resident Canada goose season during September 1–15.

The Atlantic Flyway Council recommended modifications to hunt zones for September seasons on resident Canada geese in Maryland, North Carolina, Pennsylvania (Northwestern and Southeastern Zones), and Virginia. These proposed changes would be experimental.

The Upper-Region Regulations Committee of the Mississippi Flyway Council made the following recommendations pertaining to special Canada goose seasons:

In Indiana, expand the September season hunting area to Statewide with a September 1–15 framework. The proposed changes would not be experimental.

In Michigan, extend the seasons in the northern Lower Peninsula and Upper Peninsula for 2 additional years and expand the zone in the Upper Peninsula to approximately the eastern half of the Peninsula; change the season length in the southern part of the Lower Peninsula from 10 to 15 days (September 1–15) for 3 years and include the southern portions of Tuscola and Huron Counties. The proposed changes would be experimental.

In Minnesota, expand the Fergus Falls/Alexandria Zone and extend the framework for the 10-day season to September 1–16 for 3 years. The proposed changes would be experimental.

In Ohio, expand the September-season hunting area to Statewide with a September 1–15 framework. The proposed changes would not be experimental.

In Wisconsin, enlarge the size of the Southeastern Wisconsin Zone and continue as a special season with a September 1–13 framework. The proposed changes would not be experimental.

The Lower-Region Regulations Committee of the Mississippi Flyway Council requested that the Service closely monitor all Canada goose seasons and fully analyze data from existing special or experimental seasons before expanding seasons that cumulatively might increase harvest of the Southern James Bay Population. Also, current special seasons should adhere to present criteria designed by the Service.

The Lower-Region Regulations Committee of the Mississippi Flyway Council also requested that a 3-year experimental, 10-day September Canada goose season be permitted in the eastern portion of Tennessee.

B. Regular Seasons

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the early-season frameworks provide for the opening of regular goose seasons in Wisconsin and the Upper Peninsula of Michigan as early as September 24.

The Lower-Region Regulations Committee of the Mississippi Flyway Council requested that the Service closely monitor all Canada goose seasons and fully analyze data from existing special or experimental seasons before expanding seasons that cumulatively might increase harvest of the Southern James Bay Population of Canada geese.

The Pacific Flyway Council seeks a limited resumption of cackling Canada goose hunting throughout their range and recommends that the Service provide an expedited review of their recommended changes in cackling Canada goose regulations for impacts on Aleutian Canada geese under the Section 7 consultation process.

Written Comments: The Michigan Department of Natural Resources believes that regular goose seasons should be allowed to open as early as September 24 in the Upper Peninsula of Michigan. They noted that significant numbers of migrant geese begin arriving in the Upper Peninsula during September 20–24 in most years. They anticipate that harvest in this region would remain small compared to the rest of the State. They also believe that nearly all Canada geese harvested in this region are of the giant subspecies or the Mississippi Valley Population. Finally, they noted that allowing a September 24 opening would provide equitable hunting opportunity compared to other areas because most geese leave this region by early November.

The Association of Village Council Presidents, representing Native American interests in the Yukon-Kuskokwim Delta area, supported modest liberalizations of white-fronted goose seasons in Alaska and Washington. However, they did not support further liberlizations in Oregon or California, noting that liberalizations occurred during each of the preceding years and that it was difficult to measure the effects of these incremental changes.

9. Sandhill Cranes

In 1993, the Central and Pacific Flyways completed a revision of the Cooperative Management Plan for the Mid-Continent Population of sandhill cranes. This revision established a goal of a stable population at levels observed during the 1982–92 period and removed the harvest threshold (25,000) that had been in place since 1981. The Service believes that future management actions for Mid-Continent cranes should be based on the recognition of biologically discrete subpopulations, which would necessitate the development of data collection efforts at the subspecies level. In the April 9, 1993, **Federal Register** (59 FR 16765), the Service reiterated its concern that overall harvest levels should not be increased and that there should be no increase or shift in harvest toward the Gulf Coast Subpopulation or to the greater sandhill crane component.

Council Recommendations: The Central Flyway Council recommended no changes in the Federal frameworks for the hunting of Mid-Continent cranes during the 1994–95 seasons.

Written Comments: The Texas Parks and Wildlife Department responded to statements in the April 7, 1994, **Federal Register** (59 FR 16765) that indicated that there should be no increase or shift in crane harvest toward the Gulf Coast Subpopulation of Mid-Continent Sandhill Cranes and especially the greater sandhill crane component. They noted that the Central Flyway Council did not propose any framework changes for the 1994–95 seasons and asked for clarification of the reasons for this concern, especially since the population remains stable. In this regard, they suggested that the Service provide a harvest objective, rationale and method of evaluation of any harvest reduction proposed. Furthermore, the appropriate level of management should be clearly identified, i.e. population, subpopulation, or subspecies level. Biologists working in Texas support management at the population or subpopulation level. They indicated that zoning for the hunting of cranes could not be attempted until these issues had been resolved.

14. Woodcock

The Service is concerned about the gradual long-term declines in woodcock populations in both the Eastern and Central Management Regions. Although habitat changes appear to be the primary

factor in the declines, adjustment of harvest opportunities may be appropriate in light of current population trends. The Service and Flyway Councils should review the status of woodcock and cooperatively develop a harvest-management strategy.

Council Recommendations: The Lower-Region Regulations Committee of the Mississippi Flyway Council requested that Tennessee be allowed to divide the State into 2 zones (East and West) for woodcock hunting.

16. Mourning Doves

Council Recommendations: The Central Flyway Council recommended that Texas be allowed an increase in the number of segments from 2 to 3 in 2 of the 3 mourning dove hunting zones now offered to Texas.

17. White-winged and White-tipped doves

In the August 23, 1993, Federal Register (58 FR 44581), the Service stated that with continued improvement in the whitewing population in the Lower Rio Grande Valley of Texas, serious consideration would be given to a request to increase the number of whitewings in the aggregate bag limit in the special white-winged dove area in 1994 from 2 to 6 during the regular mourning dove season.

Council Recommendations: The Central Flyway Council recommended that the number of white-winged doves allowed in the 12-bird aggregate bag limit during the mourning dove season be increased from 2 to 6 in the Texas Counties of Cameron, Hidalgo, Starr, and Willacy.

18. Alaska

The Service proposed in the April 9, 1993, **Federal Register** (58 FR 19008-19012) to manage the harvest of canvasbacks based on a single, continental breeding population. The Service does not envision that full-season bag limits of 2 canvasbacks per day could be offered nationwide in the foreseeable future. Therefore, the Service proposes to reduce the bag limit in Alaska from 2 to 1 canvasback per day.

Council Recommendations: The Pacific Flyway Council recommended that Alaska be allowed no more than 1 Canada goose in the daily bag for Unit 9E and the western portions of Unit 18.

The Pacific Flyway Council recommended that the Statewide closure on cackling Canada geese be removed.

The Pacific Flyway Council recommended removal of restrictive bag limits for white-fronted geese in Units 1–9 and 14–18 in Alaska. The goose limit will be 6 daily and 12 in possession, of which no more than 4 daily and 8 in possession could be any combination of Canada or white-fronted geese.

Written Comments: The Association of Village Council Presidents, representing Native American interests in the Yukon-Kuskokwim Delta area, supported modest liberalizations of white-fronted goose seasons in Alaska and Washington.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons, shooting hours, and bag and possession limits for designated migratory game birds in the United States.

The Service intends that adopted final rules be as responsive as possible to all concerned interests, and therefore solicits the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time that the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability before mid-June of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified is contrary to the public interest.

Comment Procedure

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634, Arlington Square, Washington, DC 20240. Comments received will be available for public inspection during normal business hours at the Service's office in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. All relevant comments received during the comment period will be considered. The Service will attempt to acknowledge comments received, but substantive responses to individual comments may not be provided.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds" (FSES 88-14), filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

The Division of Endangered Species is completing a biological opinion on the proposed action. As in the past, hunting regulations this year will be designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. The Service's biological opinions resulting from consultations under Section 7 are considered public documents and are available for inspection in the Division of Endangered Species (room 432) and the Office of Migratory Bird Management (room 634), Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act; Executive Order (E.O.) 12866 and the Paperwork Reduction Act

In the **Federal Register** dated April 7, 1994 (59 FR 16762), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing an Analysis of Regulatory Effects and an updated Final Regulatory Impact Analysis, under the Regulatory Flexibility Act (5 U.S.C. 601 et seq), and publication of a summary of the latter. This information is included in the present document by reference. This action was not subject to review by the Office of Management and Budget under E.O. 12866. This rule does not contain any information collection requiring

approval by the Office of Management and Budget under 44 U.S.C. 3504.

Authorship

The primary author of this proposed rulemaking is Robert J. Blohm, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1994–95 hunting season are authorized under the Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703–711); the Fish and Wildlife Improvement Act (November 8, 1978), as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a—d and e—j).

Dated: June 30, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 1994–95 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Director approved the following proposed frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select seasons for certain migratory game birds between September 1, 1994, and March 10, 1995.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Area, Zone, and Unit Descriptions: Geographic descriptions that differ from those published in the August 23, 1993, **Federal Register** (58 FR 44576) are contained in a later portion of this document.

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by Alabama, Arkansas, Colorado (Central Flyway portion only), Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico (Central Flyway portion only), Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days, with a daily bag limit of 4 teal.

Shooting Hours: One-half hour before sunrise to sunset, except in Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida: An experimental 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate.

Kentucky and Tennessee: In lieu of a special September teal season, an experimental 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 17, 1994), with daily bag and possession limits being the same as those in effect during the 1994 regular duck season. The remainder of the regular duck season may not begin before October 15.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and must be included in the regular duck season daily bag and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

Hunting Seasons: Experimental Canada goose seasons may be selected by Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Virginia, and West Virginia. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Outside Dates: Between September 1 and September 10, except that the closing date is September 15 in Maryland, Massachusetts, New Jersey, New York, southeastern Pennsylvania, Virginia, and West Virginia and September 30 in North Carolina.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

Hunting Seasons: Experimental Canada goose seasons may be selected by Indiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Outside Dates: September 1–10 in the North and Middle Zones in Michigan; September 1–13 in Wisconsin; September 1–15 in Indiana, Ohio, and the South Zone in Michigan; September 1–16 in Minnesota; September 1–30 in Tennessee; and October 1–15 in Missouri.

Season Length: Not to exceed 10 days except in Indiana, Ohio, and the South Zone in Michigan, where the season may extend for 15 days.

Daily Bag Limits: Not to exceed 5 Canada geese.

Pacific Flyway

Wyoming may select a September season on Canada geese subject to the following conditions:

1. The season must be concurrent with the September portion of the sandhill crane season.
2. Hunting will be by State permit.
3. No more than 150 permits, in total, may be issued.

4. Each permittee may take no more than 2 Canada geese per season.

Oregon, in the Lower Columbia River Zone, may select a season on Canada geese subject to the following conditions:

1. The season length is 12 days during September 1–12.
2. The daily bag limit is 3 Canada geese.

Oregon, in the Northwest Zone, may select an experimental season on Canada geese subject to the following conditions:

1. The season length is 12 days during September 1–12.
2. Hunting will be by State permit.
3. Each permittee may take no more than 2 Canada geese per day.

Washington may select a season on Canada geese, subject to the following conditions, in the Lower Columbia River Zone:

1. The season length is 12 days during September 1–12.
2. The daily bag limit is 3 Canada geese.

Regular Goose Seasons

Regular goose seasons in Wisconsin and the Upper Peninsula of Michigan may open as early as September 24. Season lengths and bag and possession limits will be established during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit in his possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils. All hunts except those in Arizona, New Mexico, Utah, and Wyoming will be experimental.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into two segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into two segments.

Daily Bag Limits:

Clapper and King Rails - In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails - In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28. Except, in Maine,Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

American Woodcock

Outside Dates: States in the Atlantic Flyway may select hunting seasons between October 1 and January 31. States in the Central and Mississippi Flyways may select hunting seasons between September 1 and January 31.

Hunting Seasons and Daily Bag Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with a daily bag limit of 3; in the Central and Mississippi Flyways, seasons may not exceed 65 days, with a daily bag limit of 5. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 35 days.

Band-tailed Pigeons

Pacific Coast States: California, Oregon, Washington, and Nevada.

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with bag and possession limits of 2 and 2 band-tailed pigeons, respectively.

Permit Requirement: The appropriate State agency must issue permits, and report on harvest and hunter participation to the Service by June 1 of the following year, or participate in the Migratory Bird Harvest Information Program.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 7.

Four-Corners States: Arizona, Colorado, New Mexico, and Utah.

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Permit Requirement: The appropriate State agency must issue permits, and report on harvest and hunter participation to the Service by June 1 of the following year, or participate in the Migratory Bird Harvest Information Program.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit (All States east of the Mississippi River, and Louisiana)

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, Louisiana, and Mississippi may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming)

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Each zone may have a daily bag limit of 12 doves (15 under the alternative) in the aggregate, no more than 6 of which may be white-winged doves and no more than 2 of which may be white-tipped doves, except that during the special white-winged dove season, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington)

Hunting Seasons and Daily Bag Limits:

Idaho, Nevada, Oregon, Utah, and Washington - Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate).

Arizona and California - Not more than 60 days which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is restricted to 10 mourning doves. In California, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-winged and White-tipped Doves

Hunting Seasons and Daily Bag Limits:

Except as shown below, seasons in Arizona, California, Florida, Nevada, New Mexico, and Texas must be concurrent with mourning dove seasons.

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In New Mexico, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate.

In Texas, the daily bag limit may not exceed 12 mourning, white-winged, and white-tipped doves (15 under the alternative) in the aggregate, of which not more than 6 may be white-winged doves and not more than 2 may be white-tipped doves.

In addition, Texas may also select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on Aleutian Canada geese, emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession limits:

Ducks—Except as noted, a basic daily bag limit of 5 and a possession limit of 15 ducks. Daily bag and possession limits in the North Zone are 8 and 24, and in the Gulf Coast Zone they are 6 and 18, respectively. The basic limits may include no more than 2 pintails daily and 6 in possession, and 1 canvasback daily and 3 in possession.

In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, common and king eiders, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6, of which not more than 4 may be greater white-fronted or Canada geese, singly or in the aggregate of these species, except that the daily bag limit on Canada geese in Game Management Units 9E and 18 is 1.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—A daily bag limit of 3.

Tundra swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. No more than 300 permits may be issued in GMU 22, authorizing each permittee to take 1 tundra swan per season.

2. No more than 500 permits may be issued during the experimental season in GMU 18. No more than 1 tundra swan may be taken per permit.

3. The seasons must be concurrent with other migratory bird seasons.

4. The appropriate State agency must issue permits, obtain harvest and hunter-participation data, and report the results of this hunt to the Service by June 1 of the following year.

Hawaii

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days (70 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe:

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits:

Ducks—Not to exceed 3.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks:

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 3 ducks.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Central Flyway portion of the following States consists of:

Colorado: That area lying east of the Continental Divide.

Montana: That area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties.

New Mexico: That area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation.

Wyoming: That area lying east of the Continental Divide.

The remaining portions of these States are in the Pacific Flyway.

Mourning and White-winged Doves

Alabama:

South Zone - Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone - Remainder of the State.

California:

White-winged Dove Open Areas - Imperial, Riverside, and San Bernardino Counties.

Florida:

Northwest Zone - The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone - Remainder of State.

Georgia:

Zone 1 - That portion of the State lying north of U.S. 280 or east of I–75.

Zone 2 - That portion of the State lying south of U.S. 280 and west of I–75.

Louisiana:

North Zone - That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone - The remainder of the State.

Mississippi:

North Zone - That portion of the State lying north of U.S. Highway 84.

South Zone - The remainder of the State.

Nevada:

White-winged Dove Open Areas - Clark and Nye Counties.

Texas:

North Zone - That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20;

west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone - That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone - That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions - Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone - That portion of the State lying between the North and South Zones.

Band-tailed Pigeons

California:

North Zone - Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone - The remainder of the State.

New Mexico:

North Zone - North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone - Remainder of the State.

Washington:

Western Washington - The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone - That portion of the State north of NJ 70.

South Zone - The remainder of the State.

Special September Goose Seasons

Atlantic Flyway

Maryland

Open Area - Counties of Allegany, Anne Arundel, Baltimore, Calvert, Charles, Carroll, Dorchester, Frederick, Garret, Harford, Howard, Montgomery, Prince George's, St. Mary's, Somerset, Washington, Wicomico, and Worcester.

Massachusetts

Western Zone - That portion of the State west of a line extending from the Vermont line at I–91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

New Jersey

Open Area - That portion of New Jersey within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Parkway to its intersection with Route 70; then west on Route 70 to its intersection with Route 206; then south on Route 206 to its intersection with Route 54; then south on Route 54 to its intersection with Route 40; then west on Route 40 to its intersection with the New Jersey Turnpike; then south on the Turnpike to the Delaware State boundary line; then north on the Delaware State boundary line to its intersection with the Pennsylvania State boundary; then north on the Pennsylvania boundary in the Delaware River to its intersection with the New York State boundary.

New York

Northern Area - All or portions of St. Lawrence County; see State hunting regulations for area descriptions.

Western Area - Counties of Erie, Cattaraugus, Chautauqua, Niagara, Orleans, and Genesee, and portions of Wyoming, Livingston, Allegany and Steuben Counties.

Southeastern Area - All of Rockland, Westchester, Orange, Putnam, Dutchess, Columbia, and Rensselaer Counties, and portions of Sullivan, Delaware, Ulster, Greene, Albany, Schenectady, Saratoga, Warren, and Washington Counties.

North Carolina

Early-season Canada Goose Area - That portion of the State west and east of I–95; see State hunting regulations for area descriptions.

Pennsylvania

Northwestern Early-Season Goose Area - Counties of Allegheny, Armstrong, Beaver, Butler, Cambria, Crawford, Erie, Greene, Fayette, Indiana, Lawrence, Mercer, Somerset, Venango, Washington, and Westmoreland.

Southeastern Early-Season Goose Area - Counties of Berks, Bucks, Chester, Delaware, Lehigh, Monroe, Montgomery, Northampton, Pike and Wayne.

Virginia

Open Area - Counties of Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Augusta, Bath, Bedford, Buckingham, Caroline, Charles City, Chesterfield, Clarke, Culpepper, Cumberland, Fairfax, Fauquier, Frederick, Fluvanna, Goochland, Greene, Hanover, Henrico, Highland, Isle of Wight, James City, King William, Loudoun, Louisa, Madison, Nelson, New Kent, Northampton, Orange, Page, Powhatan, Prince George, Prince William, Rappahannock, Rockbridge, Rockingham, Shenandoah, Spotsylvania, Stafford, Surry, Warren and York.

West Virginia - Statewide.

Mississippi Flyway

Indiana - Change from one zone to Statewide.

Michigan

Upper Peninsula - That portion of the Upper Peninsula outside the AuTrain Basin Waterfowl Project in Alger County (described below) and east of a line described as follows: Beginning at the point where the meridian line 87°30′ intersects the United States-Canada border, then south along the 87°30′ meridian line to the 47°00′ parallel, west along the 47°00′ parallel to a point directly north of County Road 550 in the village of Big Bay in Marquette County, southerly along this line and County 550 through Big Bay to County 510, southerly along County 510 to Michigan Highway 28/U.S. Highway 41, westerly along M-28/U.S. 41 to M-35, southerly along M-35 to the Delta County line, westerly and southerly along the Delta County line to the Lake Michigan shoreline, then southeasterly along the Central-Eastern time zone boundary to the Wisconsin border in Green Bay. The AuTrain Basin Waterfowl Project is bounded on the north by M-94, on the south by Trout Lake Road, on the east by County 509 (Rapid River Truck Trail), and on the west by M-67.

Northern Lower Peninsula - Bay, Isabella, Mecosta, Midland, Newaygo, and Oceana Counties and all counties north thereof.

Southern Lower Peninsula - The remainder of the Lower Peninsula, excluding Huron, Saginaw, and Tuscola Counties.

Minnesota

Fergus Falls/Benson Zone - That area encompassed by a line beginning on State Trunk Highway (STH) 55 at the Minnesota border, then south along the Minnesota border to a point due south of the intersection of STH 7 and County State Aid Highway (CSAH) 7 in Big Stone County, north to the STH 7/CSAH 7 intersection and continuing north

along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. Highway 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to the Swift County border, east along the south border of Swift County and north along the east border of Swift County to the south border of Pope County, east along the south border of Pope County and north along the east border of Pope County to STH 28, west along STH 28 to CSAH 33 in Pope County, north along CSAH 33 to CSAH 3 in Douglas County, north along CSAH 3 to CSAH 69 in Otter Tail County, north along CSAH 69 to CSAH 46 in Otter Tail County, east along CSAH 46 to the east border of Otter Tail County, north along the east border of Otter Tail County to CSAH 40 in Otter Tail County, west along CSAH 40 to CSAH 75 in Otter Tail County, north along CSAH 75 to STH 210, west along STH 210 to STH 108, north along STH 108 to CSAH 1 in Otter Tail County, west along CSAH 1 to CSAH 14 in Otter Tail County, north along CSAH 14 to CSAH 44 in Otter Tail County, west along CSAH 44 to CSAH 35 in Otter Tail County, north along CSAH 35 to STH 108, west along STH 108 to CSAH 19 in Wilkin County, south along CSAH 19 to STH 55, then west along STH 55 to the point of beginning.

Ohio - Change from two zones to statewide.

Tennessee

Anderson, Blount, Campbell, Claiborne, Knox, Loudon, Monroe, Roane, and Union Counties and those portions of Meigs and Rhea Counties north of Highway 68.

Wisconsin

Early-Season Subzone - That area encompassed by a line beginning at the Illinois border on the Lake Michigan shore, then east to the Michigan border in Lake Michigan, north along the Michigan border in Lake Michigan to a point due east of Wisconsin State Highway 23, then due west to the Lake Michigan shore in Sheboygan and continuing west along State 23 to State 67, then southerly along State 67 to Sheboygan County Highway E, then southerly along County E to State 28, then south and west along State 28 to U.S. Highway 41, then southerly along U.S. 41 to State 33, then westerly along State 33 to State 26, then southerly along State 26 to U.S. 12, then southerly along U.S. 12 to State 89, then southerly along State 89 to U.S. 14, then southerly along U.S. 14 to the Illinois border.

Pacific Flyway

Oregon

Lower Columbia River Zone - Those portions of Clatsop, Columbia, and Multnomah Counties within the following boundary: beginning at Portland, Oregon, at the south end of the Interstate 5 Bridge; south on I–5 to Highway 30; west on Highway 30 to the town of Svensen; south from Svensen to Youngs River Falls; due west from Youngs River Falls to the Pacific Ocean coastline; north along the coastline to a point where Clatsop Spit and the South Jetty meet; due north to the Oregon-Washington border; east and south along the Oregon-Washington border to the I–5 Bridge; south on the I–5 Bridge to the point of beginning.

Northwest Oregon Zone - All of Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties; except for the Lower Columbia River Zone.

Utah

Early-season Canada Goose Area - Cache County

Washington

Lower Columbia River Zone - Beginning at the Washington-Oregon border on the I–5 Bridge near Vancouver, Washington; north on I–5 to Kelso; west on Highway 4 from Kelso to Highway 401; south and west on Highway 401 to Highway 101 at the Astoria-Megler Bridge; west on Highway 101 to Gray Drive in the City of Ilwaco; west on Gray Drive to Canby Road; southwest on Canby Road to the North Jetty; southwest on the North Jetty to its end; southeast to the Washington-Oregon border; upstream along the Washington-Oregon border to the point of origin.

Wyoming

Bear River Area - That portion of Lincoln County described in State regulations.

Salt River Area - That portion of Lincoln County described in State regulations.

Eden-Farson Area - Those portions of Sweetwater and Sublette Counties described in State regulations.

Sandhill Cranes

Central Flyway

Colorado

Regular-Season Open Area - The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Regular Season Open Area - That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area - Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area - The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Southwest Zone - Sierra, Luna, and Dona Ana Counties.

Oklahoma

Regular-Season Open Area - That portion of the State west of I–35.

Texas

Regular-Season Open Area - That portion of the State west of a line from the International Toll Bridge at Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Austin; I–35 to the Texas-Oklahoma border.

North Dakota

Regular-Season Open Area - That portion of the State west of U.S. 281.

South Dakota

Regular-Season Open Area - That portion of the State west of U.S. 281.

Montana

Regular-Season Open Area - The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area - Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit - Portions of Fremont County.

Pacific Flyway

Arizona

Special-Season Area - Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area - See State regulations.

Utah

Special-Season Area - Rich and Cache Counties.

Wyoming

Bear River Area - That portion of Lincoln County described in State regulations.

Salt River Area - That portion of Lincoln County described in State regulations.

Eden-Farson Area - Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone - State Game Management Units 11–13 and 17–26.

Gulf Coast Zone - State Game Management Units 5–7, 9, 14–16, and 10 - Unimak Island only.

Southeast Zone - State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone - State Game Management Unit 10 - except Unimak Island.

Kodiak Zone - State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area - The island of Ruth Cay, just south of St. Croix.

All Migratory Birds in Puerto Rico

Municipality of Culebra Closure Area - All of the Municipality of Culebra.

Desecheo Island Closure Area - All of Desecheo Island.

Mona Island Closure Area - All of Mona Island.

El Verde Closure Area - Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas - All of Cidra Municipality and portions of Aguas, Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of beginning.

[FR Doc. 94–16812 Filed 7–11–94; 8:45 am]

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federal register

Tuesday
July 12, 1994

Part III

Department of the Interior

Bureau of Indian Affairs

25 CFR Parts 164 and 165
Sale of Lumber and Other Forest Products by Indian Enterprises and Sale of Forest Products, Red Lake Indian Reservation, MN; Proposed Rules

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 164

RIN: 1076–AC77

Sale of Lumber and Other Forest Products Produced by Indian Enterprises From the Forests on Indian Reservations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to delete regulations which govern the terms and conditions under which forest products produced by Indian tribal forest enterprises from the forests of Indian Reservations may be sold. The BIA is proposing to delete these regulations because the "General Forest Regulations," prescribe a similar policy for sales of Indian forest products in the section, "Indian Tribal Forest Enterprise Operations." Therefore, the proposed deletion is necessary to eliminate redundancy and potential confusion in forestry program regulations.

DATES: Comments must be received on or before September 12, 1994.

ADDRESSES: Mail or hand deliver comments to: Mr. Jim Stires, Billings Area Office, BIA, Branch of Forestry, 316 North 26th Street, Billings, Montana; or Mr. Bill Downes, Division of Forestry, 1849 C Street NW., Mail Stop 4545 MIB, Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Stires, Billings Area Office, Bureau of Indian Affairs, Branch of Forestry at (406) 657–6358.

SUPPLEMENTARY INFORMATION: This action, deleting 25 CFR part 164, results from the BIA's need to eliminate the redundancy and potential confusion arising from having two regulations governing the same operation in the 25 CFR Indian forestry program regulations. The BIA recognizes that provisions in § 163.13 of the revision of 25 CFR part 163, "General Forest Regulations," are adequate to govern the sale of Indian forest products and, as a result, that 25 CFR part 164 is no longer needed.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the addresses section of this document.

This rule is not considered a significant regulatory action under the criteria of Executive Order 12866. Therefore, review by the Office of Management and Budget is not required prior to publication in the **Federal Register.**

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.) because the sale of lumber and forest products produced by Indian enterprises will be conducted as in the past.

The Department of the Interior has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

The Department has determined that this rule does not have significant federalism effects.

The deletion of 25 CFR part 164, "Sale of Lumber and Other Forest Products Produced by Indian Enterprises from Forests on Indian Reservations," will not create information collection or record keeping requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary author of this document is Mr. Jim Stires, Forester, in the Billings Area Office, BIA, Branch of Forestry, Billings, Montana.

List of Subjects in 25 CFR Part 164

Forests and forest products; Indian—lands.

For the reasons set forth in the preamble, Part 164 of Chapter I, Title 25 of the Code of Federal Regulations is proposed to be removed.

Dated: May 16, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–16815 Filed 7–11–94; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Indian Affairs

25 CFR Part 165

RIN: 1076–AC75

Sale of Forest Products, Red Lake Indian Reservation, Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to delete regulations which govern the terms and conditions under which forest products produced by the Red Lake Indian Mills may be sold. The BIA is proposing to delete these regulations because the Red Lake Indian Mills no longer exists and the revision of the "General Forest Regulations," prescribes policy for the sale of forest products produced by other Indian forest product enterprises on the Red Lake Indian Reservation. Therefore, this proposed deletion is necessary to eliminate redundancy and potential confusion in forestry program regulations.

DATES: Comments must be received on or before September 12, 1994.

ADDRESSES: Mail or hand deliver comments to: Mr. Jim Stires, Billings Area Office, BIA, Branch of Forestry, 316 North 26th Street, Billings, Montana; or Mr. Bill Downes, Division of Forestry, 1849 C Street NW., Mail Stop 4545 MIB, Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Stires, Billings Area Office, Bureau of Indian Affairs, Branch of Forestry, telephone (406) 657–6358.

SUPPLEMENTARY INFORMATION: Deletion of 25 CFR part 165 will eliminate potential confusion because the Red Lake Indian Mills, which are the subject of the regulation, no longer exist. This deletion also will eliminate a perceived redundancy because provisions in § 163.13 of the revision of 25 CFR part 163, "General Forest Regulations," are adequate to govern the sale of Indian forest products by Indian forest enterprises on the Red Lake Indian Reservation.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the ADDRESSES section of this document.

This rule is not considered a significant regulatory action under the criteria of Executive Order 12866. Therefore, review by the Office of Management and Budget is not required

prior to publication in the **Federal Register**.

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.) because the sale of lumber and forest products produced by Indian enterprises will be conducted as in the past.

The Department of the Interior has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

The Department has determined that this rule does not have significant federalism effects.

The deletion of 25 CFR part 165, "Sale of Forest Products, Red Lake Indian Reservation Minnesota," will not create information collection or record keeping requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary author of this document is Mr. Jim Stires, Forester, in the Billings Area Office, BIA, Branch of Forestry, Billings, Montana.

List of Subjects in 25 CFR Part 165

Forests and forest products; Indian—lands.

For the reasons set forth in the preamble, Part 165 of Chapter I, Title 25 of the Code of Federal Regulations is proposed to be removed.

Dated: May 16, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–16816 Filed 7–11–94; 8:45 am]

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federal register

Tuesday
July 12, 1994

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassify the Bald Eagle From Endangered to Threatened in Most of the Lower 48 States; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC48

Endangered and Threatened Wildlife and Plants; Reclassify the Bald Eagle From Endangered to Threatened in Most of the Lower 48 States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The bald eagle (*Haliaeetus leucocephalus*) is listed as endangered under the Endangered Species Act of 1973 (Act) in the lower 48 States, except Washington, Oregon, Minnesota, Wisconsin, and Michigan, where it is listed as threatened. The bald eagle also occurs in Alaska and Canada, where it is not at risk and is not protected under the Act, and exists in small numbers in northern Mexico. The Fish and Wildlife Service (Service) proposes to reclassify the bald eagle from endangered to threatened in the lower 48 States except in certain portions of the American Southwest and to classify those eagles in adjacent Mexico as endangered. The bald eagle would remain threatened in the five States where it is currently listed as threatened. The special rule for threatened bald eagles would be revised. This action would not alter those conservation measures already in force to protect the species and its habitats. The Service seeks comments from the public on this proposed reclassification.

DATES: Comments from all interested parties must be received by October 11, 1994. Public hearing requests must be received by August 26, 1994.

ADDRESSES: Comments and materials concerning this proposal should be sent to Chief, Division of Endangered Species, Fish and Wildlife Service, 1 Federal Drive, Whipple Federal Building, Fort Snelling, Minnesota 55111–4056. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jody Gustitus Millar, Bald Eagle Recovery Coordinator, Fish and Wildlife Service, 4469–48th Avenue Court, Rock Island, Illinois 61201 (309/793–5800).

SUPPLEMENTARY INFORMATION:

Background

Literally translated, *Haliaeetus leucocephalus* means white-headed sea eagle. This large, powerful brown bird with a white head and tail is well known as our Nation's symbol. Young bald eagles are mostly dark brown until they reach 4 to 6 years in age and may be confused with the golden eagle (*Aquila chrysaetos*). The bald eagle is the only sea eagle regularly occurring on the North American continent (American Ornithologists' Union 1983). Its range extends from central Alaska and Canada to northern Mexico.

The bald eagle is a bird of aquatic ecosystems (Marshall and Niekerson 1976). It frequents estuaries, large lakes, reservoirs, major rivers, and some seacoast habitats. However, such areas must have an adequate food base, perching areas, and nesting sites meeting certain requirements to support bald eagles. In winter, bald eagles often congregate at specific wintering sites that are generally close to open water and that offer good perch trees and night roosts. Bald eagle habitats encompass both public and private lands.

The bald eagle was first described in 1766 as *Falco leucocephalus* by Linnaeus. This South Carolina bird was later renamed as the southern bald eagle, subspecies *Haliaeetus leucocephalus leucocephalus* (Linnaeus), when, in 1897, Townsend identified the northern bald eagle as *Haliaeetus leucocephalus alascanus* (American Ornithologists' Union 1957). These two subspecific names were in use when the southern bald eagle (arbitrarily declared to occur south of the 40th parallel) was listed (March 11, 1967; 32 FR 4001) as endangered under the Endangered Species Protection Act of 1966 (16 U.S.C. 668aa–668cc). By the time the bald eagle was listed (February 14, 1978; 43 FR 6233) for the entire lower 48 States, the subspecies were no longer recognized by ornithologists.

The bald eagle historically ranged throughout North America except extreme northern Alaska and Canada and central and southern Mexico. Bald eagles nest on both coasts from Florida to Baja California, in the south, and from Labrador to the western Aleutian Islands, Alaska, in the north (formerly to the Commander Islands, western Bering Sea). In many of these areas they were abundant.

Gerrard and Bortolotti (1988) describe early population trends. When Europeans first arrived on the North American continent, there were an estimated quarter- to a half-million bald eagles. The first major decline in the bald eagle population probably began in the mid to late 1800's. It coincided with declines in numbers of waterfowl and shorebirds and other major prey species. Direct eagle killing was also prevalent, and, coupled with loss of nesting habitat, these factors reduced bald eagle numbers until the 1940's.

In 1940, the Bald Eagle Protection Act (16 U.S.C. 668) was passed. This law prohibits the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald eagle, alive or dead, including any part, nest, or egg, unless allowed by permit; "take" includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.

The Bald Eagle Protection Act and increased public awareness of the bald eagle resulted in a partial recovery or a slower decline of the species in most areas of the country. However, persecution continued, notably in Alaska, which was exempted from the Bald Eagle Protection Act and maintained a bounty on bald eagles. In 1952, after lengthy studies demonstrated that bald eagles were not affecting salmon numbers, Alaska was no longer exempted.

Shortly after World War II, the use of dichloro-diphenyl-trichloroethane (DDT) and other organochlorine compounds became widespread. Initially, DDT was sprayed extensively along coastal and other wetland areas to control mosquitos (Carson 1962). Later it was used as a general insecticide. As DDT accumulated in individual bald eagles from ingesting contaminated food, the species' reproduction plummeted. In the late 1960s and early 1970s, it was determined that dichlorophenyl-dichloroethylene (DDE), the principal metabolite of DDT, accumulated in the fatty tissues of the adult females and impaired calcium release for egg shell formation, thus inducing thin shells and reproductive failure.

In response to the decline following World War II, on March 11, 1967 (32 FR 4001), the Secretary of the Interior listed bald eagles south of the 40th parallel as endangered under the Endangered Species Preservation Act of 1966. The northern bald eagle was not included in that action primarily because the Alaskan and Canadian populations were not considered endangered in 1967. On December 31, 1972, DDT was banned from use in the United States.

In 1973, the Endangered Species Act (16 U.S.C. 1531 *et seq.*) was passed. Among other provisions, it allowed the listing of distinct populations of animal species and the addition of a new category, "threatened." The Act defines an endangered species as a species that is in danger of extinction throughout all or a significant portion of its range. A threatened species is defined as any species that is likely to become an endangered species (but is not in danger

of extinction) throughout all or a significant portion of its range.

A nationwide bald eagle survey by the Service and a number of other agencies and conservation groups in 1974 revealed that, in parts of the northern half of the lower 48 States, bald eagle populations and reproductive success were lower than in certain southern areas. Thus, in 1978, the Service listed the bald eagle, *Haliaeetus leucocephalus* (no subspecies referenced) throughout the lower 48 States as endangered except in Michigan, Minnesota, Wisconsin, Washington, and Oregon, where it was designated as threatened (February 14, 1978; 43 FR 6233).

Restoring endangered and threatened animals and plants to the point where they are again viable, self-sustaining members of their ecosystems is the main goal of the Endangered Species Act. Thus, the Act contains recovery as well as listing and protection provisions. To effect recovery, section 4(f) of the Act provides for the development and implementation of recovery plans for listed species. According to the Act, a recovery plan is a plan for the conservation and survival of the species. It identifies, describes, and schedules the actions necessary to restore endangered and threatened species to a more secure biological condition.

In establishing a recovery program for the species in the mid-1970s, the Service divided the bald eagles of the lower 48 States into five recovery populations, based on geographic location, termed Recovery Regions. A recovery plan was prepared for each population by separate recovery teams composed of species experts in each geographic area. The teams set forth goals for recovery and identified tasks to achieve those goals. Coordination meetings were held regularly among the five teams to exchange data and other information. The five recovery regions and the dates of their approved recovery plans are as follows: Chesapeake Bay (1982, revised 1990); Pacific (1986); Southeastern (1984, revised 1989); Northern States (1983); and Southwestern (1982). The last two plans are under active revision and expected to be available for public review within the next 12 months. Many of the tasks described within these recovery plans have been funded and carried out by the Service and other Federal, State, and private organizations. Annual expenditures for the recovery and protection of the bald eagle by public and private agencies have exceeded $1 million each year for the past decade (Service files).

In the 16 years since it was listed throughout the conterminous 48 States, the bald eagle population has clearly improved. The improvement is a direct result of the banning of DDT and other persistent organochlorines and from recovery efforts. In 1963, a National Audubon Society survey reported only 417 active nests in the lower 48 States, with an average of 0.59 young produced per active nest. In 1993, about 4,000 occupied breeding areas were reported by the States with an estimated average young per occupied territory of 0.93. Compared to 1974, for example, the number of occupied breeding areas in the lower 48 States has increased by 408 percent, and since 1990, there has been a 32 percent increase. The species is doubling its breeding population every 6–7 years since the late 1970s.

TABLE 1.—NUMBER OF BALD EAGLE PAIRS COUNTED IN LOWER 48 STATES, 1963–1993

[Incomplete data for missing years]

Year	Number
1963	417
1974	791
1981	1,188
1984	1,757
1986	1,875
1988	2,475
1989	2,680
1990	3,020
1991	3,391
1992	3,747
1993	4,016

The Act requires periodic review of the status of listed species. The Service has reviewed the status of the bald eagle and is proposing reclassification in all or portions of four Recovery Regions. The review recognized the achievement of specific recovery plan reclassification goals. The biological basis for the recovery goals is described in each recovery plan.

The recovery plans were first approved in the early 1980's. The five Recovery Regions are illustrated on the following map:

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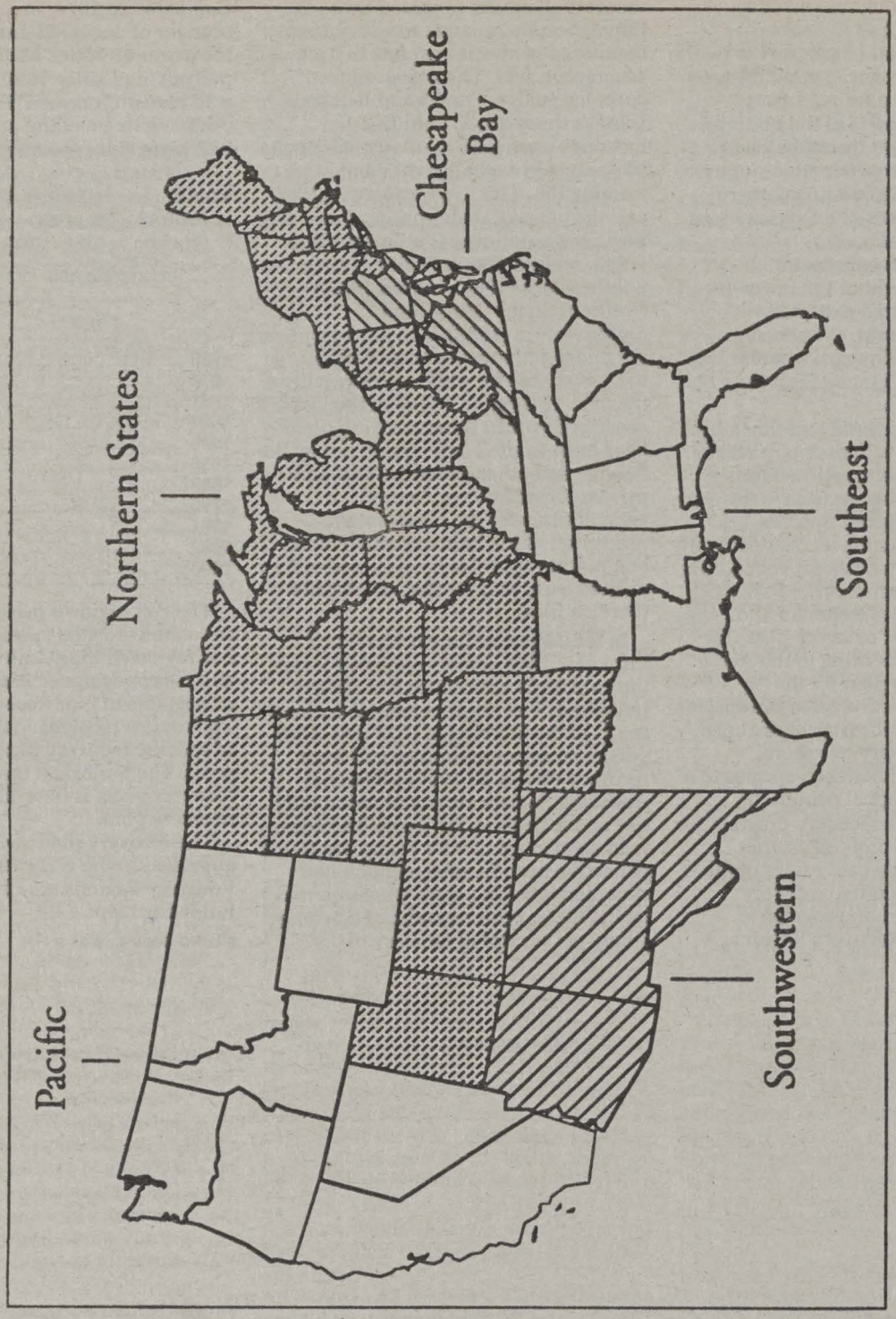

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A summary follows of each Recovery Region's reclassification and delisting goals, an estimation of progress to date in achieving those goals, and proposed Service action. The terms "occupied breeding areas" and "occupied territories" are used interchangeably. Either term indicates that a pair of bald eagles has established a breeding territory and a nest site but was not necessarily successful in producing young. All numbers are based upon known eagle nests and not estimates; surveys, particularly those before the late 1970s, miss some pairs, so all counts are considered minimums.

Chesapeake Recovery Region

Threatened Goals: Sustaining 175–250 breeding pairs with a productivity level of 1.1 young per active nest, concurrent with sustained progress in habitat protection measures.

Delisting Goals: Sustaining 300–400 pairs with an average productivity of 1.1 young per active nest over 5 years with permanent protection of sufficient habitat to support this nesting population and enough roosting and foraging habitat to support population levels commensurate with increases throughout the Atlantic coastal area.

Progress to Date: 329 reported occupied breeding areas and 1.12 young per occupied area in 1993. Progress in habitat protection has been sustained and additional habitat is being protected. There have been in excess of 175 known occupied breeding areas since 1988; 1992 was the first year in which there were more than 300. Threatened goals have been met, delisting goals have not.

Service Proposal: Reclassify to threatened.

Northern Recovery Region

Threatened Goals: No goal for reclassification to threatened status in present plan.

Delisting Goals: 1,200 occupied breeding areas over a minimum of 16 States with an average annual productivity of at least 1.0 young per occupied nest.

Progress to Date: In 1993, there were 1602 known occupied breeding areas distributed over 21 States with 0.95 young per occupied breeding area. Productivity was 1.00 in 1990, 0.97 in 1991, and 1.01 in 1992. (Productivity estimates exclude nest data from Minnesota and Wisconsin in 1992, and from Wisconsin in 1990 and 1991, because there were no productivity surveys done in these States during those years.) Delisting goals have been met for occupied breeding areas and are close to being met for productivity.

Service Proposal: Reclassify to threatened; the species would remain threatened where it now has that status. The recovery plan describes the delisting goals as initial and tentative. The Northern States Bald Eagle Recovery Team has reconvened for the purpose of reviewing the plan and revising the goals, if necessary.

Pacific Recovery Region

Threatened Goals: Nesting populations continue to increase annually for the 5 years beginning with 1986 nesting season.

Delisting Goals: A minimum of 800 nesting pairs with an average reproductive rate of 1.0 fledged young per pair with an average success rate per occupied site of not less than 65% over a 5-year period. Attainment of breeding population goals should be met in at least 80% of management zones. Wintering populations should be stable or increasing.

Progress to Date: In 1993, 1066 occupied breeding areas were reported with 0.86 young per occupied breeding area. The number of occupied breeding areas has consistently increased since 1986 and exceeded 800 for 4 of the 5 years beginning in 1990 when 861 were reported. Productivity has averaged about 1.0 since 1990. Threatened goals have been met. Should this trend continue, the delisting goals for number of nesting pairs and productivity may be met in the near future. At present, less than 80 percent of the 37 specified management zones have met their delisting goals. In 1993, 20 of those zones had met or exceeded their recovery goals, and four other zones in addition to the original 37 had nesting eagles that are not part of the recovery goals for this region.

Threatened goals have been met. Delisting goals are close to being met for all criteria except attainment of breeding population goals for 80 percent of the management zones. About 10 more zones need to meet their goals to fulfill this criterion.

Service Proposal: Reclassify to threatened in California (except the 10-mile strip along the Colorado River), Idaho, Montana, Nevada, and Wyoming; the species would remain threatened where it now has that status.

Southeastern Recovery Region

Threatened Goals: 600 occupied breeding areas distributed over at least 75 percent of the historic range contingent upon greater than 0.9 young per occupied nest, greater than 1.5 young per successful nest, and at least 50 percent of the nests successful in raising at least one young; based on a 3-year average and documentation of population vigor and adequate support habitat. Individual State goals are given.

Delisting Goals: Delisting may be considered if the recovery trend continues for 5 years after reclassification goals are met. The criteria for delisting will be developed when the species is reclassified from endangered to threatened.

Progress to Date: 982 occupied breeding areas were reported with an average of 1.02 young per occupied territory in 1993. Nesting is distributed over all 11 Southeastern States. The number of occupied breeding areas reached 601 in 1991 and has exceeded 600 for three successive years. Reproductive success for the years 1990–1993 averaged 1.53 young per successful nest (or 1.04 young per occupied territory), and 68 percent of the nests were successful in raising at least one young. Seven of eleven individual State goals have been met but these are considered guidelines rather than requirements. Existing habitat is deemed to be adequate to support and exceed overall recovery plan goals. Threatened goals have been met and delisting goals will be met in 5 years if the trend continues.

Service Proposal: Reclassify to threatened.

Southwestern Recovery Region

Threatened Goals: 10–12 young per year over a 5-year period; population range has to expand to include one or more river drainages in addition to the Salt and Verde Systems.

Delisting Goals: None given.

Progress to Date: 29 occupied breeding areas were reported for 1993 with 27 young produced. Since 1988, the number of occupied breeding areas has increased by about 26 percent (six occupied territories) in the Southwestern Region. Nationwide, occupied breeding areas have increased by 62 percent (1540 occupied territories) in the same time period. Some of the increase in the Southwestern Region is due to finding previously unrecorded nest sites. Ten or more young have been produced every year since 1981. Productivity has increased 10–20 percent through the assistance of the Arizona Nest Watch program (Hunt et al. 1992).

Information to date indicates that breeding has expanded beyond the Salt and Verde River systems. Eagles are now nesting in the Gila and Bill Williams river systems in Arizona and the Rio Grande in New Mexico. Thus, the threatened criteria have been fully met.

The population remains small, localized, with variable productivity, and low adult survival. This population faces numerous and increasing impacts from a rapidly growing human population. These impacts include continued loss and modification of riparian habitat, disturbance at nest sites, entanglement of nestlings in fish line, and other human-caused influences.

The Southwestern Recovery Plan is undergoing revision to incorporate new information gained from recent investigations by Hunt et al. (1992). This research indicates that birds dispersing into west Texas and Oklahoma are more likely to be bald eagles of the Southeastern Region population than those of the Southwestern Region. Thus, the revised recovery plan may propose the elimination of west Texas and the western panhandle of Oklahoma from the Southwestern Recovery Region. The plan revision will also consider the addition of southern Utah and Mexico.

For the purposes of this reclassification proposal, however, the boundaries for the Southwestern Recovery Region will remain as stated in the recovery plan (U.S. Fish and Wildlife Service 1982). That is, the Southwestern Region includes Arizona, New Mexico, and those portions of Texas and Oklahoma west of the 100th meridian, and southeast California within 10 miles of the Colorado River or its mainstem reservoirs.

Service Action: Retain as endangered. Despite attaining all recovery plan goals, current information indicates that the population is at risk and remains in danger of extinction due to excessively low survival rates and the need for intensive management, particularly at nest sites.

Mexico

There are a small number of eagles nesting in Baja California and Sonora, Mexico. In January 1994, a minimum of eight active pairs were known with additional adults reported that may represent more active pairs with undetected nests (Henny et al. 1993, Service files). Productivity has been relatively high with more than 1.0 young per nest for those years that data have been collected (Henny et al. 1993, Service files). Although this population appears to be relatively stable, such low numbers are clearly not sufficient to prevent any sudden adverse environmental change to cause the extirpation of these few pairs. These birds are presumed to be associated with the Southwestern population and are considered in danger of extinction. Threats to these birds include loss of habitat and disturbance from human encroachment with the increasing population (particularly tourists and recreational housing development) and potential for inbreeding from such low numbers of breeding birds.

In summary, the Service is proposing to reclassify the bald eagle from endangered to threatened in the Chesapeake and Southeastern Recovery Regions and those portions of the Northern States and Pacific Recovery Regions where it is currently classified as endangered. No changes are proposed for the Southwestern Recovery Region, where the bald eagle will remain classified as endangered. The Service is not proposing to delist the bald eagle anywhere in the lower 48 States at this time. The Service is also proposing to list those bald eagles in Mexico as endangered.

On February 7, 1990, the Service published (55 FR 4209) an Advance Notice of a Proposed Rule (ANPR) to announce that consideration was being given to the possible reclassification or delisting of the bald eagle in all or part of its range in the lower 48 States.

Summary of Comments and Recommendations Resulting From Advance Notice

The responses received to the ANPR generally reflected the Service's announcement that delisting, as well as reclassification, was under consideration for the entire lower 48-State area. Not all responses specifically addressed delisting or reclassification. Nevertheless, the responses were useful in the formulation of the present reclassification proposal.

Many responses reflected the writers' strong personal feelings and concerns for bald eagles. Many respondents related the importance and value of their personal bald eagle experiences. Further, they expressed their desire that bald eagles be properly cared for and that the opportunity to view wild eagles not be lost. The bald eagle's position as our national bird was frequently mentioned.

In response to the ANPR, the Service received 4 responses from other Federal government offices, 22 responses from State conservation agencies, 23 responses from citizen groups, and 140 responses from individuals.

Based on reclassification goals contained in the five regional Bald Eagle Recovery Plans, one Federal agency favored reclassification to threatened only in Florida and the development of State-by-State recovery plans/criteria, with subsequent State-by-State reclassification and delisting decisions.

Another Federal agency recommended reclassification to threatened in selected areas based on circumstances in the individual recovery regions, rather than for the nation as a whole, and recommended against delisting.

A third Federal agency recommended reclassification of the bald eagle to threatened in Arizona based on achievement of the Southwestern Recovery Plan reclassification goals and on protection and management measures presently in place.

The last Federal agency favored reclassification to threatened in those recovery regions where the recovery plans' reclassification goals have been met.

The Service received responses to the 1990 ANPR from 22 State natural resource agencies. Seven State agencies concurred with reclassification to or retention as threatened, including Michigan, Minnesota, and Wisconsin, the three Northern Region States where the bald eagle is presently designated as threatened. The remaining 15 responding States recommended against delisting and/or reclassification in their States.

Of the 140 individual responses (some signed by more than one individual), 135 opposed reclassification or delisting in some or all areas of the lower 48 States; of the 23 citizen group responses, 19 opposed reclassification or delisting in some or all areas of the lower 48 States.

Individuals and citizen groups suggested that it would be inappropriate to delist or reclassify the bald eagle to threatened while direct and indirect impacts such as contaminants and development on non-Federal lands remain a threat. The Service recognizes that habitat loss is a major challenge to the recovery of the bald eagle. The Service also recognizes that non-Federal, as well as Federal, habitat must be protected from contaminants, disturbance, and development or the secure population size will be diminished. However, reclassification to threatened would not reduce present Federal legal protection on non-Federal land nor would it allow habitat loss that could not otherwise occur.

A concern expressed by 62 individuals and 11 citizen groups was that bald eagle populations were below the higher levels of America's pre-settlement days or other former era, or that populations did not meet the abundance, distribution, or productivity goals for delisting or reclassification contained in the bald eagle recovery plans. The Act's designations of endangered and threatened are based on

the present or foreseeable threat of extinction of the species, not historical levels. Recovery plan goals for reclassification have been met at this time.

One individual suggested that the Service conduct a population viability analysis (PVA) of the bald eagle, including a determination of the minimum viable population (MVP). The Service recognizes PVA and MVP as analytical tools and has funded and participated in the production of PVA's for several endangered species. For the present reclassification decision, however, it is unnecessary because the bald eagles of the Chesapeake, Northern, Southeastern, and Pacific Recovery Regions have reached the recovery plans' reclassification goals. Those goals are conservative and meet the Act's definition of threatened.

The appearance of a lowered level of Federal legal protection was a concern in 26 individual responses and in one citizen group response. The prohibitions of section 9 of the Act are the same for threatened and endangered species, with the exception that with reclassification to threatened, the Service could issue permits for limited exhibition and educational purposes, for selected research work not directly related to the conservation of the species, and for other special purposes consistent with the Act (50 CFR 17.32, 17.41). All requirements of the Act under section 7 still apply. No changes in other protective provisions of the Act would result, nor would any other Federal law protecting bald eagles be affected.

Thirteen of the 135 individuals and 2 of the 19 citizen groups recommending against reclassification or delisting were concerned that the Service's own efforts for bald eagle recovery, habitat management, habitat protection, and law enforcement might be diminished. The Service's obligations to protect bald eagles under the Endangered Species Act, the Migratory Bird Treaty Act, the Bald Eagle Protection Act, and all other applicable laws will remain undiminished by the proposed reclassification.

Seven individuals and one citizen group recommending against reclassification or delisting suggested that the Service might be either collaborating with or yielding to economic interests who want development restrictions relaxed in areas presently used by bald eagles. The proposed reclassification eases no restrictions on the development of bald eagle habitat because the Act and regulations adopted under it make no distinction in the protection given to habitats of threatened and endangered species.

Seven individual and two citizen group respondents suggested that the Service might be delisting or reclassifying the bald eagle to enhance its reputation or for other self-serving purposes. This proposal to reclassify the bald eagle from endangered to threatened is undertaken in fulfillment of section 4(c) of the Act, which requires the Service to periodically review each listed species and to change classifications when appropriate, to maintain the integrity of the Act's endangered and threatened categories. Since the bald eagle has met its recovery plan goals, the Service is now taking this action.

One individual and two citizen groups, in addition to the Maine and New Hampshire State conservation agencies, suggested that the northeastern part of the Northern States Recovery Region be separated and considered distinct. The Northern States Recovery Team, which has representation from the Northeast, has also considered this question and does not recommend separating the northeastern States from the present Northern States Recovery Region. The Service concurs with the Northern States Recovery Team.

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 reclassifying species on the Federal lists. A species may be listed or reclassified as threatened or endangered due to one or more of the five factors described in section 4(a)(1). These five factors and their application to the bald eagle are as follows.

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

The bald eagle is associated with aquatic ecosystems throughout most of its range. Nesting almost never occurs farther than 3 km (2 miles) from water (Gerrard and Bortolotti 1988). Fish predominate in the typical diet of eagles. Many other types of prey are also taken, including waterfowl and small mammals depending on location, time of year, and population cycles of prey species. Dead animals or carrion, especially in the wintering areas, are also taken when readily available (Lincer et al. 1979).

Nest sites are usually in large trees along shorelines in relatively remote areas. The trees must be sturdy and open to support a nest that is often 2–3 m (6–9 ft) across and more than a meter (3 ft) thick (Bent 1938). Bald eagles also select cliffs or rock outcrops for nest sites where large trees are not available. This dependence upon very large trees associated with water makes the eagle vulnerable to water-associated development pressures.

One of the two major threats to the bald eagle at present and for the foreseeable future is destruction and degradation of its habitat (the other major threat is environmental contaminants—see Factor E below). This occurs through direct cutting of trees for shoreline development, human disturbance associated with recreational use of shorelines and waterways, and contamination of waterways from point and non-point sources of pollution. Contamination enters bald eagles through the food chain and may impair individual birds' reproductive success and health. It may also reduce the abundance of preferred prey.

Steps to reduce these threats are underway at all levels of government and public organizations nationwide. Increased protection of nesting habitat and winter roost sites have occurred in many areas throughout the country. Guidelines to minimize human disturbance around nesting and winter roost sites have been developed in all parts of the country. Areas of contamination continue to be identified and reduced. Rehabilitation, captive propagation reintroduction, and transplanting programs have all worked toward increasing the viability of the U.S. bald eagle population.

Current threats to the bald eagle's habitat and range in the United States by Recovery Region are as follows:

Chesapeake Bay Region: Buehler et al. (1991) reported that the bald eagle feeding and resting use of Chesapeake Bay shoreline was directly related to the distance of development from the shoreline. Eagles tended to avoid shorelines with nearby pedestrian or boat traffic. With human activity and development increasing, preferred bald eagle habitat is diminishing. Associated land clearing reduces bald eagle nesting and perching sites.

To offset these impacts, the Service has expanded its National Wildlife Refuge System around the Chesapeake Bay area to protect bald eagle habitat. For example, the Service acquired 3,500 acres of nesting and roosting habitat in the James River area of Chesapeake Bay in 1991 to be protected and managed for bald eagles. Acquisition of an additional 600 acres is planned. The Blackwater National Wildlife Refuge, which

provides important eagle habitat on Chesapeake Bay, is also proposing to acquire more land. Nickerson (1989) estimates that enough suitable unoccupied nesting habitat remains that, if unaltered, it could sustain continued growth of the bald eagle population through the remainder of the 20th century.

Northern States Recovery Region: Development, particularly near urban areas, remain as a primary threat. In spite of these localized problems, bald eagle nesting activity in the Northern States Recovery Region has more than doubled in the past 10 years from fewer than 700 to over 1600 territories known to be occupied. There also is ample unoccupied habitat still available throughout this region.

In the Great Plains States, loss of wintering habitat is a major concern. Wintering areas have been lost through development of riparian areas for recreational, agricultural, and urban uses. Loss of wintering habitat also occurs due to lack of cottonwood regeneration. This results from changes in floodplain hydrology from construction of reservoirs and dam operations. Grazing also inhibits regeneration. A threat to some wintering populations of eagles in the Great Plains States is the destruction of prairie dog colonies and other important foraging areas (U.S. Fish and Wildlife Service 1992).

However, management measures, reforestation, improved water quality, and a reduction in pesticide contamination (see factor E below) have enabled the Northern States populations to increase substantially overall. Much eagle nesting and wintering habitat is on publicly owned lands. Many of these lands are protected by habitat management plans and strict eagle nest protection and management guidelines.

Pacific Recovery Region: Development-related habitat loss continues to be the single greatest factor limiting the abundance and distribution of the species in the Pacific Recovery Region (U.S. Fish and Wildlife Service 1986). Habitat conservation efforts, including laws and management practices by Federal and State agencies and efforts by private organizations, have helped to facilitate bald eagle population increases in the Pacific Recovery Region since the 1960's. For example, interagency working teams in six of the seven Pacific Recovery Region States have developed implementation plans to address local issues more specifically than the recovery plan. Bald eagle habitat guidelines have also been incorporated into development covenants and land use. California and Washington have rules relating to bald eagles on private lands to encourage landowners to maintain nesting territory habitat.

Southeastern Recovery Region: The accelerated pace of development activities within eagle habitat and the extensive area involved are the most significant limiting factors in the Southeastern Region. The cumulative effects of many water development projects impinge on the ability to maintain current nesting populations and ultimately may limit the extent to which recovery may occur.

To reduce these threats, habitat management guidelines are used to minimize development disturbance in and around nests. Several counties and municipalities have adopted the guidelines in their land use and zoning policies. In addition, a significant amount of new habitat has been created in the form of manmade reservoirs. Reservoirs primarily provide wintering and non-nesting habitat, but are used by nesting eagles as well (U.S. Fish and Wildlife Service 1984, 1989).

In addition, many of the States have or have had active hacking/reintroduction programs. Rehabilitation and release of injured eagles occurs throughout the Southeastern Region (U.S. Fish and Wildlife Service 1984, 1989). As a result of these and other efforts, the bald eagle nesting population in the Southeastern Region has more than doubled in the past 10 years.

Southwestern Recovery Region: In addition to threats common with other Recovery Regions, such as human disturbance and availability of adequate nesting and feeding habitat, the bald eagles of the Southwestern Recovery Region are subjected to a high adult rate of mortality, isolation, heat stress, and nest parasites. The Arizona Bald Eagle Nestwatch Program has significantly increased survival of young by minimizing human disturbance during important incubation periods, and by removing harmful material such as parasites and fishing line debris from nests. However, the high death rate of adults and nestlings and the lack of gene exchange with any adjacent nesting populations, which may cause inbreeding to adversely affect the population's long-term survival, remain limiting; this population continues to require intensive management, particularly around each nest site.

Hunt et al. (1992) estimate a minimum annual mortality rate of 16 to 22 percent of adult breeding birds and believe it to be much higher. Bald eagles commonly live 20 years in the wild and up to 50 years in captivity (Stalmaster 1987). In the Southwestern Region, adult life expectancy may not exceed 10–12 years (Hunt et al. 1992).

Historically, the bald eagle in Arizona was more widely distributed but probably was never abundant (Hunt et al. 1992). Prior to 1970, records can be found for 19 pairs of nesting bald eagles in Arizona (Hunt et al. 1992). In 1993, 27 occupied territories were reported for Arizona and 2 for New Mexico totalling 29 for the Southwestern Recovery Region.

Research to date indicates there has been no immigration to this population of bald eagles. According to Hunt et al., this small population is isolated and thus is subject to the genetic, demographic, and environmental threats known to be associated with small populations. For these reasons, the population is in continued need of strict protection and intensive management.

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

There is no legal commercial or recreational use of bald eagles. The Service considers present legal and enforcement measures sufficient to prevent bald eagle extinction or a need to reclassify as endangered. The Service exercises very strict control over scientific, educational, and Native American religious activities involving bald eagles or their parts. With reclassification to threatened, the Service could issue permits for limited exhibition and educational purposes, for selected research work not directly related to the conservation of the species, and for other special purposes consistent with the Act (50 CFR 17.32 and 17.41(a)).

C. Disease or Predation

Predation is not a significant problem for bald eagle populations. Incidents of mortality due to territory disputes between bald eagles have been reported. Diseases such as avian cholera, avian pox, aspergillosis, tuberculosis, and botulism may affect individual eagles, but are not considered to be a significant threat to the population. In the Southwestern population, the Mexican chicken bug, when abundant, is known to occasionally kill young. According to the National Wildlife Health Research Center, National Biological Survey, Wisconsin, only 2.7 percent of bald eagles submitted to the Center between 1985 and 1990 died from infectious disease.

D. The Inadequacy of Existing Regulatory Mechanisms

The bald eagle is protected by the following Federal wildlife laws in the U.S.:

* Sections 7 and 9 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) protect individual bald eagles (threatened or endangered) and their active nests on public and private land.

* The Bald Eagle Protection Act (16 U.S.C. 668) prohibits without specific authorization the possession, transport, or take of any bald or golden eagle, their parts, nests or eggs.

* The Migratory Bird Treaty Act (16 U.S.C. 703) prohibits without specific authorization the possession, transport, or take of any migratory bird (including bald eagles), their parts, nests or eggs.

* The Lacey Act (16 U.S.C. 3372 and 18 U.S.C. 42–44) among other provisions, makes it unlawful to export, import, transport, sell, receive, acquire, or purchase any bald eagle, (1) taken or possessed in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law or (2) to be taken, sold, or transported in interstate or foreign commerce, in violation of any law or regulation of any state or in violation of any foreign law.

This species is afforded uncommonly comprehensive statutory and regulatory protection under Federal and State authorities.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Contaminants may affect the survival as well as the reproductive success and health of the bald eagle. The abundance, and potentially more important, the quality of prey may be seriously affected by environmental contamination. Although many of the compounds implicated in reduced reproductive rates and direct mortality are no longer used, contaminants continue to be a major problem. Pesticides in recent times have not impacted the bald eagle on a population level; however, individual poisonings still occur.

Carcasses baited with poison may attract bald eagles as well as target animals such as coyotes. Poisonings may occur secondarily when predatory animals are poisoned and subsequently eaten by eagles. Crop insecticides may be taken up by prey animals and may also result in eagle mortality. Organophosphates and carbamates are sometimes used illegally for animal poison. The National Wildlife Health Research Center has diagnosed over 100 cases of pesticide poisonings in bald eagles in the past 15 years.

The western plains and Rocky Mountain States are reported to have 300–600 bald eagle deaths each year in the past decade on western rangelands due, in part, to illegal use of pesticides such as famphur, phorate, and carbofuran, and highly restricted chemicals, such as strychnine, Compound 1080 and others (Tom Jackson, Fish and Wildlife Service, Denver, pers. comm.). This mortality on western rangelands corresponds with the primary wintering areas for most western bald eagles (other than Pacific coast birds). Some illegal uses of pesticides are targeted at bald and golden eagles. Cases of suspected intentional mortality through baiting of carcasses with pesticides has occurred in all western States and may occur in other States. Reducing this level of illegal mortality is important for the complete recovery of the species.

Chronic long-term exposure to contaminants is a much more extensive problem than direct mortality. Lifetime exposure to contaminants may limit the eagles' reproductive capabilities, alter their behavior and foraging abilities, and increase their susceptibility to diseases. (Organochlorines, such as DDT, are no longer legally used in the United States. Their presence in bald eagles is generally a consequence of their long persistence in the environment. Consequently, residues of such compounds from historic uses can still contaminate prey animals and be passed to eagles). Exposure to these compounds is also occurring at an early age. For example, approximately 90% of the eaglets sampled in Maine in 1992 had detectable levels of DDE in their blood.

In the Chesapeake Bay Region, Delaware Bay and the James River below Richmond continue to be a source of organochlorine and heavy metal contaminants that may impact eagle reproduction (U.S. Fish and Wildlife Service 1990). However, DDE concentrations in addled bald eagle eggs in Chesapeake Bay have declined significantly from 1969–84 (Wiemeyer et al. 1993).

In parts of the Northern States Region, contamination is depressing bald eagle productivity. This occurs notably in the coastal areas of the Great Lakes, those rivers accessible by anadromous fishes of the Great Lakes, and in parts of Maine. Research on bald eagle productivity in the vicinity of Great Lakes shorelines indicates significantly lower productivity than for inland breeding birds. The reduced productivity is correlated with concentrations of PCB's, DDE, dieldrin, and other organochlorine compounds in addled eggs (Best et al. in press).

Bald eagles of the Pacific Recovery Region nesting near the Columbia River estuary and Hood Canal, which is adjacent to Puget Sound, repeatedly have low reproductive success. DDE and PCB's have had a deleterious effect on the reproduction of bald eagles in the Columbia River estuary (Anthony et al. 1993). Wiemeyer et al. (1993) found addled bald eagle eggs collected from Oregon ranked second (behind Maine) in DDE concentrations among the fifteen States sampled. However, concentrations of other contaminants in the Oregon eggs were low. In spite of localized reproductive impairment, the Pacific Recovery Region population has increased by about 68 percent in the past 10 years. Contaminants are not known to be a significant problem for eagles in the Southwestern Recovery Region or Mexico.

Lead poisoning has also contributed to bald eagle mortality. The National Wildlife Health Research Center has diagnosed lead poisoning in more than 225 bald eagles during the last 15 years. Lead can poison bald eagles when they ingest prey items that contain lead shot or lead fragments or where the prey has assimilated lead into its own tissues. In winter, eagles frequently feed on waterfowl that are dead or dying from lead poisoning or upon waterfowl crippled in the hunting season. Lead poisoning of eagles was a primary reason the Service required the nationwide use of non-toxic shot for waterfowl hunting. The requirement for use of non-toxic shot was phased in over a period of 5 years, and its use became mandatory for all waterfowl hunting in 1991. Use of lead shot is still permitted in many parts of Canada.

Of particular concern for bald eagles in the Southeastern Region and in Maine are the toxic effects of mercury (Wiemeyer et al. 1993, C. Facmire, pers. comm.). High levels of mercury affect eagles with a variety of neurological problems, where flight and other motor skills can be significantly altered, and with reduced hatching rates of eggs. Mercury has entered the waterways as air emissions from solid waste incineration sites and other point and non-point sources. Impacts from mercury to bald eagles are currently under investigation in the Southeastern Region.

Illegal shooting still poses threats to individual birds. Improved law enforcement and public awareness has reduced shooting impacts from a cause of large scale mortality in the first half of this century to the deaths of occasional individuals at present. From 1985 to 1990, the National Wildlife Health Research Center has diagnosed over 150 bald eagle deaths due to gunshot. Hunter education courses

routinely include bald eagle identification material to educate hunters about bald eagles and the protections that the species is afforded.

Electrocutions occur on power poles and lines that are not yet configured for the protection of raptors. Much research has been done in this area, and generally new poles and lines are configured to reduce raptor electrocutions.

Human disturbance also remains a long-term threat. Significant declines in eagle use of the Skagit River, Washington, were noted in response to recreational activity (Stalmaster 1989). Human disturbance can be harmful during egg incubation and young brooding periods because disturbance can flush adults from nests.

Land management practices can reduce or eliminate these disturbance problems. Management of bald eagle nesting sites has progressed in some areas to include zones of protection extending up to 2.5 miles (U.S. Fish and Wildlife Service 1986). In the Bear Valley National Wildlife Refuge, Oregon, for example, public access is restricted from November 1 through March 30 to prevent human disturbance to wintering bald eagles.

Despite these various threats to the bald eagle in the area proposed for reclassification, none are of sufficient magnitude, individually or collectively, to place the species at risk of extinction. Over most of the 48 States, the population is doubling every 6 or 7 years.

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 reclassify the bald eagle from endangered to threatened in the lower 48 States except the southwestern population in Arizona, New Mexico, the southeast corner of California within 10 miles of the Colorado River or the river's mainstem reservoirs, and those portions of Texas and the panhandle of Oklahoma that are west of the 100th meridian. The latter population appears to be isolated, to suffer from lower survival rates, and to require intensive management to ensure nesting success. The bald eagle would remain threatened in the five States where it is currently listed as threatened and be listed as endangered in Mexico under this proposal.

Recognition of Distinct Population of the Southwestern Recovery Region

In 1978, the Service recognized distinct population segments of this species on the basis of State boundaries, with bald eagles in five northern States listed as threatened, and those in the remainder of the lower 48 States listed as endangered. The distinctness of these population segments is questionable, given the dispersal capabilities of the species across State lines.

In this proposal, the recognition of the southwest bald eagle population as distinct from eagles elsewhere in the lower 48 States is based on evidence that it appears to be reproductively isolated. Thus, for purposes of this proposed rule, the Service still recognizes two populations of bald eagles in the lower 48 States. Should this proposed rule become final, the southwest population segment would remain endangered, the adjacent Mexico population segment would be included in the Southwestern population as endangered, and the remaining population segment in the lower 48 States would be reclassified to threatened.

Special Rule

The Act allows special rules to be adopted for threatened species as needed for the species' conservation; such special rules are typically provided to reduce those protections afforded to endangered species under the Act. Section 17.41(a) is a special rule adopted at the time of the 1978 reclassification of the bald eagle. The original intent was to reduce the number of permits required for researchers working on threatened eagles (i.e., Oregon, Washington, Minnesota, Wisconsin, and Michigan) under both § 17.32 and 50 CFR parts 21 and 22 (bird banding and eagle permits). The present special rule at § 17.41(a) reads as follows:

(a) Bald eagles (*Haliaeetus leucocephalus*) found in Washington, Oregon, Minnesota, Wisconsin, and Michigan.

(1) *Applicable provisions.* The provisions of §§ 17.31 and 17.32 shall apply to bald eagles specified in paragraph (a) of this section to the extent such provisions are consistent with the Bald Eagle Act (16 U.S.C. 668–668d), the Migratory Bird Treaty Act (16 U.S.C. 703–711), and the regulations issued thereunder.

The Service proposes to clarify the language of this special rule for threatened bald eagles. If the proposed special rule is adopted, only a permit issued under the authority of 50 CFR 21.22 or 50 CFR part 22 (subpart C) would be needed for such purposes as banding (§ 21.22); scientific study or exhibition (§ 22.21), which includes taking, possession, rehabilitation, and transport; native American religious (§ 22.22); and depredation (§ 22.23). A permit under § 17.32 would only be required when a permit under parts 21 and 22 do not provide for an otherwise lawful activity. The issuance of all such permits would remain subject to section 7 of the Act and part 402 of this title.

Effects of This Rule

As a result of the proposed reclassification, prohibitions outlined under 50 CFR 17.41(a) would apply to bald eagles of the population reclassified as threatened. Prohibitions under §§ 17.21 and 17.22 would continue to apply to the endangered population. The Service could issue permits for exhibition and educational purposes, for selected research work (including banding and marking) not directly related to the conservation of the species, and for other special purposes. In allowing for a single permit, the Service seeks to foster further research and other uses of bald eagles consistent with the Act and the purposes of the Migratory Bird Treaty Act and the Bald Eagle Act (50 CFR 17.32, 17.41(a), 21.22, 22.21–22.23).

Requirements of the Act under section 7 still apply to all Federal agencies. There are no distinctions made in the Act or supporting regulations (part 402) between endangered and threatened species. The consultation and other requirements under section 7 apply equally to species with either classification.

Public Comments Solicited

The Service intends that the proposed reclassification correctly reflect the bald eagle's status according to the Act's definition of endangered and threatened and based upon the reclassification guidelines for each bald eagle recovery region. Therefore, information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments are sought concerning:

(1) biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) the location of any additional nests or roosting sites of this species, especially in the Southwestern Recovery Region;

(3) the appropriateness of the proposed limits and status of the endangered population in the American Southwest and Mexico;

(4) additional information concerning the past and present range, distribution, and population size of this species; and

(5) current or planned activities within the lower 48 States and Mexico that might have possible long-term impacts on this species.

Final promulgation of the regulation(s) 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, including the possible complete reclassification to threatened for all eagles south of Canada.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to Chief, Division of Endangered Species, Fish and Wildlife Service, 1 Federal Drive, Whipple Federal Building, Fort Snelling, Minnesota 55111–4056 (FAX: 612–725–3526).

National Environmental Policy Act

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

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Author

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List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

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

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by revising the entries for "Eagle, bald" under BIRDS, to read as follows:

§ 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							
*	*	*	*	*	*		*
Eagle, bald	*Haliaeetus leucocephalus.*	North America south to Mexico.	U.S.A. (AZ, NM, TX and OK west of 100° W, and CA within 10 mi. Colorado R. or mainstem reservoirs), Mexico.	E	1, 34	NA	NA
Do	....do	....do	U.S.A. (conterminous 48 States, except where endangered).	T	1, 34	NA	17.41(a)

3. Section 17.41(a) is revised to read as follows:

§ 17.41 Special rules—birds.

(a) Bald eagles (*Haliaeetus leucocephalus*) wherever listed as threatened under § 17.11(h).

(1) *Applicable provisions.* All prohibitions and measures of §§ 17.31 and 17.32 shall apply to any threatened bald eagle, *except* that any permit issued under § 21.22 or part 22 of this chapter shall be deemed to satisfy all requirements of §§ 17.31 and 17.32 for that authorized activity, and a second permit shall not be required under § 17.32. A permit would still be required under § 17.32 for any activity not covered by any permit issued under § 21.22 or part 22 of this chapter.

(2) [Reserved]

* * * * *

Dated: June 27, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

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Federal Register

Tuesday
July 12, 1994

Part V

Department of the Interior

Bureau of Land Management

43 CFR Parts 2800, et al.
Rights-of-Way, Rental Schedule for Communication Uses; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2800, 2810, 2880

[WO-260-4210-02-24 1A]

RIN 1004-AC12

Rights-of-Way, Rental Schedule for Communication Uses

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) requests comments on proposed amendments of right-of-way regulations containing procedures for setting fair market rent for communication uses located on public lands. The proposed rule would establish rental schedules and procedures for 11 categories of communication service for which fair market value is required for the use of public lands. The proposed schedule has been developed in cooperation with the Forest Service (FS).

The proposed schedule is an attempt to improve the processing of right-of-way authorizations for communications use of public lands and reduce agency appraisal costs associated with setting and updating rental payments on approximately 1,500 authorized communications uses for which rent is currently required.

DATES: Comments should be submitted by September 12, 1994. Comments received or postmarked after the above date may not be considered in the decisionmaking process on issuance of a final rule.

ADDRESSES: Comments should be submitted to: Director (140), Bureau of Land Management, Room 5555 MIB, 1849 C Street, NW., Washington, DC 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David Cavanaugh (202) 452-7774.

SUPPLEMENTARY INFORMATION: The proposed rental schedule is applicable to commercial and private communication uses authorized by a BLM right-of-way authorization. The uses include television broadcast, FM radio broadcast, rebroadcast devices, cable television, commercial mobile radio service, private mobile communication, cellular telephone, common carrier microwave, private microwave, facility manager, and miscellaneous uses. The proposed rule also would require payment of a percentage of the sublease rent collected by the holder from its tenants. Rental payments are waived for applicants or holders who provide public telecommunication services and are licensed by the Federal Communications Commission (FCC) as a noncommercial, educational radio or television station.

The following objectives have been adopted to guide development of the rental schedule and implementation of procedures to balance carefully the public's interest in obtaining fair market rent: (1) Allow the continued growth of communication markets and services, especially in rural areas; (2) design a process that is cost effective, sets rental payments that are predictable and can be easily updated; (3) provide incentive for improved management of communication sites.

The proposed rule takes into consideration recommendations of the Radio and Television Broadcast Use Fee Advisory Committee, information provided by users, industry groups, private appraisers, and comments received by the FS in response to their proposed policy published in the **Federal Register** on July 13, 1993.

Comparative information provided by BLM and private appraisers was screened carefully only to include examples of land rent. The rent paid does not include any payment for services such as power, access, building and/or tower space, or maintenance. Information used was provided by the principals in those transactions.

The proposed procedures will provide a consistent approach for the administration and assessment of rental payments for communication uses on public lands. The schedule provides incentives for co-locating single users within existing facilities under a multiple use right-of-way authorization. The rule also outlines a process for setting and updating rental payments and phasing in substantial increases in rental payments.

Background

The BLM's process for setting fair market rent for communication uses has been directly influenced by FS efforts to set a rental payment schedule. In a 1983 administrative appeal decision, the FS determined that the formula used to determine fair market rental for communication site use was not in compliance with the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*). The formula used at that time was two-tenths (0.2) of 1 percent of the permittee's investment plus 5 percent of the rental fees received by the FS permittee.

The formula has remained unchanged for about 40 years, as have FS rental payments.

In 1985, the FS adopted a new policy for setting rental payments. Under that policy, communication use rental fees were to be based on (1) a fee schedule, (2) individual site appraisals, or (3) competitive bidding. In 1989, the FS implemented regional schedules under that policy. Proposed rentals generated opposition from industry groups—primarily television and radio broadcasters—and complaints to Congress. At the same time, efforts by certain BLM State Offices to increase rental payments caused similar complaints to Congress.

To forestall significant increases in rental payments, Congress enacted a moratorium prohibiting any increases in rental fees above those in effect on January 1, 1989. This affected both agencies. The FS was also asked to review the schedules, with particular emphasis on their impact on rural communities in the Western United States, and to report their findings to the congressional Appropriations Committees. The report was submitted to Congress in 1991.

The BLM and FS entered into a Memorandum of Understanding (MOU) in April 1991. The MOU provides for cooperation to develop and implement similar methods for determining rental fees.

In November 1991, the Department of the Interior and Related Agencies Appropriations Act limited increases in communication site fees in Fiscal Year 1992 to 15 percent over the levels in effect on January 1, 1989. The conference report also directed both the FS and BLM jointly to establish a broad-based advisory group.

Pursuant to that direction, an advisory group, the Radio and Television Broadcast Use Fee Advisory Committee, was established, which included BLM, FS, and representatives from the broadcast industry (users of both public and private communication sites). The advisory committee prepared and submitted a report to the Secretaries of the Interior and Agriculture in December 1992.

The advisory committee report made several recommendations. These included use of rental schedules instead of individual appraisals for setting rental payments, acceptance of industry-recognized market ranking systems, a phase-in period for rent increases greater than $1,000, a provision for charging 25 percent of the gross sublease income, and annual increases

based on the Consumer Price Index (Urban Consumer, U.S. City Average).

The advisory committee also recommended a specific rental schedule. The schedule included a discount of 30 percent from estimated rental value to account for perceived difficulties in obtaining use authorizations on Federal lands. The advisory committee report indicated that the rental schedule did not reflect fair market value, and it was required to be amended by BLM.

On July 13, 1993, the FS published a Federal Register notice of proposed policy ("Fee Schedule for Communication Uses") and invited comments. The FS proposed to adopt a revised rental schedule for television broadcast, FM radio broadcast, commercial mobile radio, and cellular telephone uses on National Forest System lands. The proposed schedule would supplement individual FS regional schedules adopted in 1989 and modified in 1992. The regional schedules of the FS recognize 13 types of communication uses. They include (1) radio broadcast, (2) television broadcast, (3) broadcast translator, (4) cable and subscription television, (5) mobile radio-commercial communications, (6) cellular telephone, (7) common carrier microwave relay, (8) industrial microwave relay, (9) mobile radio-internal communications, (10) natural resource/environmental monitoring, (11) passive reflector, (12) amateur radio, and (13) personal/private receive only.

In August 1993, the Omnibus Budget Reconciliation Act (Act) was signed into law. The Act directed the BLM and FS to assess and collect in 1994 an annual rental payment 10 percent above the rent paid in 1993. For most right-of-way holders required to pay rent, this was the first increase since 1989.

Summary of Comments Received by the Forest Service

The FS received 84 letters providing suggestions and comments regarding the proposed schedule. In general, the comments reflected confusion over the definition of uses covered, how geographic areas would be determined, and rents calculated. Comments also suggested that the proposed rents were excessive, that the information relied upon was not representative, and that provisions regarding indexing and revenue sharing (25 percent of the gross sublease income) were not commonplace in the private rental market. Many comments expressed concern that adoption of the schedule would have an adverse impact on small businesses.

Comments provided several suggestions. Several suggested that additional price levels be added to improve fairness and reduce impact on permit holders in rural areas. Several comments suggested that commercial mobile radio users should not be subject to paying 25 percent of the gross sublease income when their primary business, or only use of the facility, is to rent space to other customers. With respect to television and FM radio, most of the comments suggested that the advisory committee report be the basis for setting rental payments. Several comments provided information on rents currently being paid and suggested what are considered to be reasonable rental payments.

The BLM proposed schedule has been developed considering comments received by the FS, and the comments have been adopted or incorporated as appropriate.

Statutory Requirements

43 U.S.C. 1701(a)(9) states that it is the policy of the United States to receive the fair market value of the use of the public lands and their resources unless otherwise provided by statute.

43 U.S.C. 1761(a) gives the Secretary of the Interior authority to grant, issue, or renew rights-of-way for communication uses, including systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals.

43 U.S.C. 1764(g) requires the payment of a rental. The holder is required to pay in advance the fair market value as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary may waive part or all of the payment when it is found to be equitable and in the public interest. Rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The regulations implementing right-of-way provisions of FLPMA are found in 43 CFR part 2800. Provisions regarding rental payments are found in 43 CFR subpart 2803, and state in part that the holder of a right-of-way grant or temporary use permit is required to pay annually, in advance, with certain exceptions, the fair market value rental. This is determined by the authorized officer, applying sound business management principles and, so far as practicable and feasible, using comparable commercial practices.

Factors Considered in Developing the Proposed Rental Schedule

The proposed schedule takes into consideration a variety of factors. These factors include (1) recommendations of the Radio and Television Broadcast Use Fee Advisory Committee, (2) market information provided by users, industry groups, private and Government appraisers, and (3) practical considerations associated with developing a cost-effective method for setting and collecting fair market value for communication site use of public lands.

The BLM has incorporated many of the recommendations of the Radio and Television Broadcast Use Fee Advisory Committee regarding use of a schedule instead of individual appraisals to set rental payments, a phase-in period, use of an index to update annual rental payments, and a provision for charging 25 percent of the gross sublease rent. However, the BLM amended the recommended rental schedule.

The television schedule recommended by the advisory committee was based on a market ranking system that is no longer published, and the rental payments did not represent fair market value. The advisory committee schedules were based on setting the highest rent for the largest market and for each smaller market dividing the rent in half. The rent suggested by the advisory committee was further reduced by 30 percent to reflect what a majority of members of the advisory committee believed to be the difference between a private lease and BLM or FS authorization. The advisory committee schedule would have resulted in a reduction in current revenues from radio and television use on public lands.

The proposed rental schedule for television and radio is higher for certain markets, and lower for others, than the schedule recommended by the advisory committee. This reflects comparable market information, elimination of the suggested 30 percent discount, and an effort to develop a reasonable schedule that covers markets ranging from small rural ones in Montana and Wyoming to larger ones serving Phoenix, Las Vegas, and Reno. To increase fairness, the proposed schedule includes 9 rent levels instead of 6 as recommended by the advisory committee.

Market information was obtained from industry groups, individual users, appraisers, and other persons responding to the FS notice. Market information compiled by BLM and FS appraisers was carefully screened to exclude from the rents reported any payment for services such as power, access, building and/or tower space, or maintenance. This information has been compiled by each BLM State Office for

purposes of preparing individual appraisals. Since very few appraisals have been prepared over the last 5 years, some of the information is outdated. Therefore, BLM considered more than market information. The public is requested to provide information as to communication site rentals on private land established within the last 3 years. This information would be considered in adjusting the rental schedules proposed in this rule.

A representative sampling of reliable market information to develop a national schedule for a variety of communication uses is difficult to obtain. The information is not readily available, the number of recent transactions is relatively small, and often the information is incomplete or conflicting. Generally, information provided by appraisers is the most complete and has supplemented information provided by various industry groups. This variety of information has been used to establish relative values for various communication uses, depending on population or location criteria.

Comparable private leases reflect several factors relevant to market value. One, strategically located mountaintops are valuable for communication purposes. Mountaintop sites allow users to send signals from point to point or deliver a signal that covers a geographical area. Mountaintop communication sites often provide better coverage, and are less expensive to develop, than other alternatives for reaching the same size population.

Two, rental payments for broadcast uses are related to the population served by the television or radio transmitter. Strategically located mountaintops serving larger populated areas are generally more valuable than those serving smaller markets. Locations within the same market that provide the best coverage will also rent for more than secondary locations. It should be noted that not all mountaintops have value for broadcast use. The proposed schedule attempts to reflect the rent for typical locations on BLM administered lands, rather than rentals set for specific authorizations and established by appraisals.

Three, there is competition for strategically located mountain sites. Private or public mountain locations close to populated areas that have access and power are preferred by broadcast users. There are few places where there is direct competition between private and public sites. The sites used are those that provide the best coverage. However, in many areas rents charged on private lands are higher than rents charged for similarly located sites on public land.

Four, mountaintops generally are intensively developed and often command premium rental payments when compared to single use sites. The multiple user sites provide a mixture of high and low power communication uses, including radio, television, and mobile radio and cellular. These sites often include large buildings, a variety of towers, and well maintained public or private roads.

Five, various nonbroadcast uses are not dependent upon the population served. These uses include microwave, cellular, and mobile radio facilities in rural areas. Rental payments for these uses are related to general real estate values in the immediate area of the site.

Six, there is little difference in the rental payment for single use sites in small rural markets. Often rent paid in the private rural market does not vary significantly among the various communication uses. This is due to local economic conditions and forces within the market to provide a basic level of communication service.

In developing the schedule, consideration was given to current assessed rent. Since current BLM rentals are based on individual appraisals, rental payments established in the last 5 years were considered to reflect fair market value. This information was used as a benchmark for assessing reasonableness and providing a measure of consistency in areas where there was little direct market information.

Industry groups have objected to use of market information for setting rental payments on public lands. They argue that the rights authorized under terms of a BLM or FS grant are different than those provided under a private lease, and that private landowners provide more service and do not require compliance with stringent environmental requirements. They also argue that television and radio broadcasters provide a public service and, therefore, that rental payments should be partially or totally waived. The few cases in which there has been competitive bidding for communication uses on Federal or State lands do not support these contentions.

Practical considerations also contributed to development of a rental schedule. The FS has been engaged in a 10-year effort, which BLM joined in 1990, to determine fair market rent for communication site uses. In addition, both the BLM and the FS have supported the use of a regulatory schedule to reduce the costs and delays associated with obtaining individual appraisals. It is estimated that the annual costs of updating and appraising BLM right-of-way grants for communication use would be $3–4 million. This is approximately double the current annual revenues from communication site rights-of-way. Use of a schedule would be more cost effective.

Rents charged in the private market are not based upon schedules. Instead, rents are based upon negotiations between the landowner and the prospective user. The rent is set on a individual basis, depending on the use and the terms and conditions of the lease agreement.

To the extent practicable, the schedules proposed attempt to approximate a reasonable rent for the authorized use. They do not attempt to replicate site-specific appraisal values. Instead, the schedule merely establishes a reasonable amount of rent to be assessed for the type of authorized use based on location or population criteria. Therefore, the BLM believes the proposed rental schedule reflects fair market value.

Bureau of Land Management Communication Use Program

The BLM currently administers approximately 3,200 communication use authorizations. In accordance with agency regulations, approximately 50 percent of the authorizations pay no rent. Right-of-way holders not required to pay annual rent include Federal, State, and local government agencies. The remaining communication use right-of-way holders pay an annual rental based upon agency-approved appraisals. Generally, communication use authorizations are reappraised every 5 years and new rental payments are established. However, for a variety of reasons, most of the communication use rental fees are currently out of date.

Section 2803.1–2(c)(3)(i) of 43 CFR states that the rental shall be based on either a market survey of comparable rentals, or on a value determination for specific parcels or groups of parcels. Most communication use rental fees are based upon individual appraisals prepared by agency staff appraisers. Some BLM State Offices have instituted market surveys or administrative schedules for setting rental payments. Current regulations also allow use of competitive bidding for purposes of determining rental for the use of public lands. Bids less than fair market rental value of the lands are not considered.

The proposed rule would establish a rental payment schedule for various communication uses for which fair market rental is required. However, with the concurrence of the BLM State

Director, the authorized officer may reduce or waive the rental when it is determined that the rental will cause undue hardship on the holder/applicant and that it is in the public interest to waive the rental payment. Current right-of-way rental waiver policy is not affected by this proposed schedule.

The proposed schedule reflects rental values for BLM-authorized communication uses. The BLM right-of-way authorization is similar to a private lease for communication purposes. The authorization is for 30 years or the life of the project, and contains provisions regarding renewal, termination, assignment, and liability. Other provisions may include subleasing and bonding. New applicants for use of public lands are subject to application and processing fees associated with complying with environmental requirements. New and existing users may be subject to reimbursement of reasonable costs associated with agency monitoring of use. Therefore, the proposed schedule reflects a reasonable estimate of the fair market rental value for communication uses on public lands.

Impacts on industry and users paying rental vary. Television and radio broadcasters in large markets, or users whose rent has not been adjusted for 5, 10, or more years, may experience a significant increase. However, there are several situations where rental payments will decline. The best estimate is that total revenues from BLM-authorized communication uses will be approximately the same. However, costs associated with individual billing and preparing and updating appraisals will be significantly reduced. Although rental increases may be significant in some cases, they will be phased in over a 5-year period. In addition, the current regulations include a provision (43 CFR 2803.1–2(b)(2)(iv)) allowing partial waiver or deferral of rental by the authorized officer based on a claim of hardship.

Finally, the provision for rounding of right-of-way rental payments would be removed in the proposed rule. This would simplify the calculation of rental payments by BLM and their payment by right-of-way holders. The rounding provision has unnecessarily complicated the calculation of rental fees, and increased billing errors, with little or no benefit to the customer. The rounding provision and its removal are revenue neutral. Revenues would be neither enhanced nor diminished.

Communication Uses Covered by Proposed Schedule

The proposed schedule is applicable to the communication uses described below. The proposed rental schedule is not applicable to holders of facilities authorized under terms of a right-of-way grant to public telecommunications service operators providing public television or radio broadcast service. However, such holders would be responsible for paying a percentage of the gross sublease rent received from tenants in the facility that do not qualify as nonprofit entities. The term "primary use" is the predominant use of the facility by the holder authorized under terms of the right-of-way authorization. The term "facility" is defined as the building, tower, and other related incidental improvements authorized under terms of the right-of-way authorization.

Television Broadcast

This category includes right-of-way holders that operate facilities authorized by the Federal Communication Commission (FCC) that primarily broadcast UHF and VHF audio and video signals for general public reception. The schedule is applicable to primary transmitters that principally serve a community (city, cities, metro area, or county) reached by the transmitter. Principal communities covered do not include outlying areas served by translators. This category does not include stations licensed by the FCC as a Low Power Television (LPTV) or rebroadcast devices such as translators, or transmitting devices such as microwave relays serving broadcast translators.

FM Radio Broadcast

This category includes right-of-way holders that operate FCC licensed facilities primarily used to broadcast frequency modulation (FM) audio signals for general public reception. The schedule is applicable to primary transmitters that principally serve communities reached by the primary transmitter. Principal communities covered do not include areas reached by broadcast translators. This category is not applicable to stations licensed by the FCC as low power FM radio, and does not include rebroadcast devices such as translators, boosters or AM synchronous transmitters or microwave relays serving broadcast translators.

Rebroadcast Devices

This category includes right-of-way holders that operate FCC licensed facilities primarily used to rebroadcast a signal from its point of origin. This category includes translators and low power television, low power FM radio, and microwave relays. Microwave as used in conjunction with LPTV and broadcast translators are included in this category.

A translator is a rebroadcast device that transmits signals of a primary TV or FM station to another location that would not otherwise receive the original signal. The schedule is applicable to rebroadcast devices licensed to the principal community or other political subdivision which it primarily serves. Translators are generally located in the same service area and are inherently low power in nature.

LPTV refers to television translator stations that are permitted to originate programming for broadcast to the general public. They are limited to 10 watts VHF and 1000 watts UHF.

Cable Television

This category includes right-of-way holders that operate FCC licensed facilities that primarily transmit video programming to multiple subscribers in a community over a wired network. Cable television includes head-end microwave or satellite antennas and receiver systems used for television reception that retransmit by cable or microwave (wireless cable) methods. These systems usually operate as a commercial entity within an authorized franchise area, providing their services to subscribers who pay a periodic fee. This category does not include rebroadcast devices that retransmit television signals of one or more television broadcast stations, or personal or internal antenna systems such as private systems serving hotels or residences.

Commercial Mobile Radio Service (CMRS)

This category includes right-of-way holders that operate an FCC-licensed commercial mobile radio facility providing primarily mobile communication service to individual customers. The right-of-way holder owns the facility (building and tower) and operates, maintains, rents, or sells commercial mobile radio equipment in the facility. Although the primary use of the building is to provide communication service to customers for a fee, a portion of the income to the owner may be derived from renting space for other communication uses unrelated to the primary use of the facility. Primary services generally include two-way voice and paging services such as community repeaters, trunked radio (specialized mobile radio), two-way radio dispatch, and

public switched network (telephone/data) interconnect service.

Private Mobile Communications

This category includes right-of-way holders that operate FCC licensed private mobile radio systems primarily used by a single entity for the purposes of internal communications. This use is not sold and is exclusively limited to the user in support of business, community activities, or other organizational communication needs. Services generally include private local radio dispatch and private paging services.

Cellular Telephone

This category includes right-of-way holders that operate FCC-licensed systems primarily used for mobile communications, using a blend of radio and telephone switching technology. They provide public switched network services to fixed and mobile users within a tightly defined geographic area. The system consists of cell sites containing transmitting and receiving antennas, cellular base station radios, telephone equipment, and often microwave communications link equipment. The cell sites are linked to a mobile telephone switching office, often via microwave, and at that point into the Public Switched Network. This category includes Personal Communication Systems, a digital mobile telephone service, and enhanced specialized mobile radio.

Common Carrier Microwave

This category includes right-of-way holders who operate FCC-licensed facilities primarily used for long-line intrastate and interstate telephone, television, information, and data transmissions. These uses are regulated by State public utility commissions and are required to provide service to any consumer with the ability to pay according to published rate schedules. The microwave system is an integral part of the company's primary business of providing communication service.

Private Microwave

This category includes right-of-way holders that operate FCC-licensed facilities primarily used by pipeline and power companies, railroads, and land resource management companies. Communication services associated with this category may include private mobile service, private two-way dispatch service, private paging, supervisory remote control/sensing, and microwave voice/video/data services. This use is solely in support of the holder's primary business activity. The use is not regulated by the State public utilities commission because the service is not for sale and is used solely for internal purposes.

Facility Manager

This category includes right-of-way holders that operate a facility primarily owned, operated, and maintained by a holder who may or may not have an FCC license, but does not operate telecommunications equipment. The primary purpose of the facility is to rent or sublease space to a variety of tenants for telecommunication purposes. The building owner generally provides space in the building and/or tower, and utilities, access, security, and backup generator services.

Communication services provided by the tenants of a facility manager may include TV or FM radio broadcast, cable television, microwave, cellular telephone, amateur radio operators, and mobile radio. Mobile radio uses include two-way voice and paging services such as community repeaters, trunked radio, and two-way radio dispatch, and Public Switched Network (telephone/data) interconnect service. Tenants hold lease agreements with the facility manager. Microwave facilities used in conjunction with broadcast uses and mobile radio are included in this category.

Other Communication Uses

This category includes other FCC-licensed private communication uses such as amateur radio, personal/private receive-only antennas, passive reflectors, and natural resource and environmental monitoring equipment.

Amateur radio includes equipment used by individuals or groups licensed as amateur radio operators.

Personal/private receive-only includes radio and TV receiving antennas, satellite dishes, and other equipment and/or facilities designed for the reception of electronic signals, to serve private homes, including recreation residences. These facilities are personally owned and are not operated for profit.

Passive reflectors include devices used to bend or ricochet electronic signals between active relay stations or a relay station and a terminal.

Natural resource and environmental monitoring includes the transmission of telemetry data from a remote site to a central receiving station. Uses may include weather stations, streamflow gauges, seismic stations, wildlife monitoring, and snow measurement devices.

General Application of Proposed Schedule

The proposed rental schedule applies to right-of-way holders who are authorized to operate and maintain communication facilities on public lands. The proposed base rent charged is for the primary use of the building. The primary use is defined as the predominant use of the facility by the holder and authorized under terms of the right-of-way authorization. The use may be classified as television broadcast, FM radio broadcast, rebroadcast devices, cable television, cellular telephone, commercial mobile radio, private mobile radio, private microwave, common carrier microwave, facility manager, or be included under the miscellaneous category. Tenants occupying space in the facility under terms of the authorization will not be required to have a separate BLM authorization.

The proposed rental schedules will be applicable to new and existing communication use authorizations requiring annual payment of fair market rental as of the date of publication of the final rule. However, the authorized officer may use other methods including individual appraisals or competitive bidding for new sites, or existing sites where it is shown that the rental schedule does not represent fair market value. Rental payments covering portions of calendar years will be prorated.

There are three major categories of use: broadcast, nonbroadcast, and other.

Broadcast includes television, FM radio, rebroadcast devices, and cable television. The proposed rent for broadcast categories will be based on the following procedures:

1. The right-of-way holder will provide a 1-millivolt contour map or statement to BLM identifying the principal community (city, cities, metro area, or county) served by the transmitter. Communities served do not include areas served by translators.

2. Rent for television, FM radio, and rebroadcast devices (translators and low power television) will be based on the population of the principal community or communities the transmitter primarily serves. The population of the principal community will be based on the most recent United States census information.

3. Rent for cable television will be based on total basic subscribers as reported by the holder.

4. Rent for rebroadcast devices will be based on the U.S. census population of the principal community identified in the FCC license that is served by the transmitter.

The following examples are provided to illustrate how the base rent for a broadcast use would be calculated.

A television facility in Clark County, Nevada, principally serving the communities of Las Vegas (pop. 258,259), North Las Vegas (pop. 47,707), Henderson (pop. 64,942), and Boulder City (pop. 12,567) would pay a proposed annual rental of $16,000 per year. This is based on total population of the principal communities of 370,908.

An FM radio facility in Imperial County, California, principally serves El Centro (pop. 31,384), Yuma, Arizona (pop. 106,895), and San Luis Rio Colorado, Mexico (pop. 76,684). The annual rent would be calculated based on the total population of the communities. The proposed annual rent would be $4,000 per year, based on the population of its principal communities of 214,983.

The rent for nonbroadcast uses—commercial mobile radio service, private mobile communication, cellular telephone, common carrier microwave, private microwave, facility manager and miscellaneous uses—will be assessed on a different basis. Rent will be based on county population where the transmitter is located or the population of an adjacent or nearby county served by the transmitter, whichever is greater.

The following examples are provided to illustrate how the base rent for nonbroadcast uses would be calculated.

The proposed rent for a right-of-way holder owning a facility in Pershing County, Nevada, (pop. 4,436) primarily used for common carrier microwave would be assessed $1,500.

A commercial mobile radio service facility in Madison County, Idaho (23,674), serving the Idaho Falls community in Bonneville County, Idaho (72,207), would be assessed a proposed rent of $1,500. Since the transmitter serves a trade area that is predominately in the adjacent county, the Bonneville County population would be used to determine the rental payment.

A holder owning a commercial mobile radio service facility used primarily to provide mobile radio service in the San Diego County (pop. 2,498,016) market would pay a proposed rent of $12,000.

The third major category is miscellaneous communication uses. These uses include amateur radio, personal/private receive-only, passive reflectors, and natural resource and environmental monitoring equipment. These uses may be permanent or temporary and the rent is either a flat rent of $75 for a full year or a prorated rent if the term is less than a year.

Additional Users

The fair market rent depends on the type of communication use and the demand for it in a local market. Therefore, the market value may change if there is a significant change from a single use to a multiple use facility.

Authorized holders may allow other users in their building under terms of their right-of-way authorization. Additional users will not be required to have a separate right-of-way authorization.

It is proposed that all categories of use be subject to a provision regarding the payment of a percentage of gross rent received from the sublease rent of space in the facility. The facility owner will be responsible for paying the base rent for the authorized primary use of the facility, plus a percent of gross sublease rent for tenants within the facility. Gross sublease rent is defined as the rent received by the holder of the communication use right-of-way grant from tenants for space in the building or on the tower. Gross sublease rent does not include road or building maintenance or service fees for power and backup generators.

The BLM proposes to assess all users holding a right-of-way authorization a base rent plus 15 percent, for the first 5 years, of the annual gross receipts received from renting space in the facility. In the sixth year after the effective date of this rule, the percentage would be increased to 25 percent. This provision would apply to any use co-located in the facility for which the owner is receiving a sublease rental payment. The following procedures will be used to calculate the rent:

1. BLM will initiate a billing for the annual base rent calculated from the proposed schedule; and

2. When making the assessed annual base rent payment, the holder will submit a certified statement to the BLM regarding rent collected from tenants during the previous year, and include the required precentage of gross rental with the total payment.

The proposed rental payment required for the category of facility manager is also based on a base rent plus 15 percent of gross receipts from rental of space in the facility. In the sixth year after the effective date of this rule, the percentage would be increased to 25 percent. The percentage applies to all population strata for that category.

Annual Fee Updating

Under current procedures rental payments are updated every 5 years. During the 1980's, the increases were often fairly substantial and resulted in complaints and increased appeals. In many cases rental payments had not been updated for 10 to 15 years. Limitations on the agency's authority to increase rent over the last 4 years have exacerbated the problem.

The base rent proposed in the schedule will be updated annually based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers (CPI–U), U.S. City Average, published in July of each year. Calculating the amount of the annual adjustment involves changing the previous year's rental by the change in the level of the CPI–U for the current year. The following example illustrates the computation of percent change:

CPI–U, U.S. City Average	136.0
Less CPI for previous period	129.9
Equals index point change	6.1
Divide by previous period CPI	129.9
Equals	0.047
Result multiplied by 100	0.047×100
Equals percent change	4.7

Market information regarding use of an index was mixed. However, more recent transactions indicate that increases in annual rent are linked to changes in the Consumer Price Index instead of increases in land value. This reflects the desire of property owners to maintain the relative value of the annual payments in terms of annual inflation.

Comments received by the FS expressed concern that the Consumer Price Index may dramatically increase rents beyond the ability of right-of-way holders to pass on the increases to their customers. These correspondents also were concerned that the increases over time would be higher than normal increases in land rents in the private market. The BLM agrees with the comments and proposes to limit annual increases based on the CPI–U to no more than 5 percent.

Phase In

To reduce potential impact of large increases in rent, BLM proposes to phase in substantial increases in the base rent and percentage of gross rental receipts. Additional rent based upon a percentage of gross rent for space rental in the facility will not be phased in. Initial increases in the base rental payments in excess of $1,000 or 20 percent of the current rent, whichever is greater, will be phased in over a 5-year period. Subsequent increases in rent above the first year will be based on an equal annual installment, plus the inflation adjusted increase.

As an example, if the current base rent is $700 and the new rent based on the schedule is $2,700, the first year's rent would be $1,700 plus the inflation-adjusted increase, and the rent for years

2 through 5 would be increased $250 per year. Assuming a 2 percent increase in the CPI–U during the 5 year phase-in period, the base rents would be calculated as follows:

Year 1 ($700×1.02)+$1,000= $714+$1,000=$1,714
Year 2 ($1,714×1.02)+$250= $1,748+$250=$1,998
Year 3 ($1,998×1.02)+$250= $2,038+$250=$2,288
Year 4 ($2,288×1.02)+$250= $2,334+$250=$2,583
Year 5 ($2,583×1.02)+$250= $2,635+$250=$2,885
Year 6 $2,885×1.02=$2,943

Additional rent based on a percentage of gross rent received from tenants covered by the right-of-way authorization would also be phased in. The percentage would be set at 15 percent during the first 5 years after the effective date of this rule, and 25 percent thereafter.

Exceptions

The proposed rental payments only apply to those communication users that are required to pay a fair market rental. Current regulations exempt Federal, State, or local government agencies or instrumentalities thereof, except municipal utilities and cooperatives whose principal source of revenue is customer charges. Also exempt are rights-of-way authorized under a statute that explicitly does not require payment of a rental, and facilities constructed under the Rural Electrification Act of 1936, as amended.

The BLM proposes to close a loophole through which "exempt" agencies derive revenue from the rental of space within their facility or the area authorized. Section 2803.1–2(b)(1)(i) would be amended to require "exempt" agencies to pay fair market rent for those uses from which they derive revenue from the rental of space.

It is BLM's intent to use the rental fee schedule for all existing communication uses covered by the proposed rule. However, when it is determined by the authorized officer that the rental payment schedule does not reasonably reflect fair market rent, other reasonable means will be used to estimate the rental payment. The BLM reserves the right to use individual appraisals or other valuation procedures to calculate rental payments for communication uses.

Periodic Review of Rental Schedule

The communication use rental schedule will be re-evaluated, and if necessary, revised periodically to ensure that rentals are fair. Schedules based on county population will be re-evaluated after completion of the next census in 2000. The updated county population information will be substituted for 1990 county population figures.

Partial Waiver of Rent

43 U.S.C. 1764(g) provides authority to charge less than fair market value if the holder provides at reduced or no charge a valuable benefit to the public or to the programs of the Secretary concerned. Actions taken by the holder at no cost or reduced costs to the public may be considered in granting a temporary, partial, or full waiver. Any requirement placed on the applicant or holder as a condition of granting or renewing the authorization is required to be legal and not result in additional costs unrelated to the use authorized. Therefore, requirements that the building owner set aside 10 percent of its space for Government use or that Federal agencies be granted free use in the building should be considered in setting fair market rent.

Basis for Rental Schedule

In developing the schedule, the BLM has considered information from a variety of sources. This includes information provided by industry groups, existing BLM rents that are believed to reflect fair market value, data and information provided by BLM appraisers, and information gathered by the FS in preparing their schedule. The BLM has also taken into consideration the recommendations of the Radio and Television Broadcast Use Fee Advisory Committee. The rental schedules are included in the proposed regulatory text.

Public Comment

The BLM is requesting public comment on all aspects of this proposed rule as well as comments on specific questions. Specific comments are requested regarding the following questions:

1. Is the proposed schedule reasonable? If not, what information can you provide that would help in setting a fair and reasonable schedule?

2. Are the proposed phase-in methods for base rents and percentage of gross rental receipts reasonable? If not, please suggest a method that can be easily implemented.

3. Are the categories clearly defined? Would there be any potential problems in determining the category of use? Please provide suggestions to improve the description of each category of use.

4. Are there any potential problems in setting the base rent for commercial mobile radio services based on the population of the county in which the transmitter is located or the nearby or adjacent county predominantly served by the transmitter, whichever is greater? Please suggest alternative methods.

To conform with the format requirements of the Code of Federal Regulations, the Note at the beginning of Group 2800 is being removed, and the information provided there is being included in new sections 2800.0–9, 2810.0–9, and 2880.0–9. There is no substantive change involved.

The principal author of this final rule is David Cavanaugh of the Division of Lands, BLM, assisted by the staff of the Division of Legislation and Regulatory Management.

It is hereby determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The Bureau of Land Management has determined that this rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, and that the rule will not significantly affect the 10 criteria for exceptions listed in 516 DM 2, Appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

This rule has been reviewed under Executive Order 12866.

The rule will bring annual rental fees charged holders of authorizations for communications sites on public lands, which have been held to artificially low levels for many years, to fair market value as required by statute and administrative direction.

The fees that would be placed in effect by this proposed rule would bring existing rental charges for communications sites authorization holders on the public lands more into line with those who lease land from private landowners. The increased revenues resulting from this fee schedule will result in increased payments to States and counties in which the public lands containing the

authorized facilities are located under current statutory authorities.

Moreover, the Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the rule will not have a significant economic impact on a substantial number of small entities. The proposed rule, with its fee schedule, affects only that segment of the communications industry operating on the public lands. There are 57 FM radio broadcast sites, 26 television broadcasting facilities, and approximately 3,200 other permits in effect on these lands. Available records do not indicate how many of these permits are held by small entities. The phase-in of annual fees proposed in this rule will allow any small entities that may be affected to adjust to the new fees over a period of time and thereby minimize the risk of adverse impact due to the magnitude of some fee increases under the rule.

Because the rule will result in no taking of private property and no impairment of property rights, the Department certifies that this rule does not represent a governmental action capable of interference with constitutionally protected property rights, as required by Executive Order 12630.

The Department has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects

43 CFR Part 2800

Communications, Electric power, Highways and roads, Pipelines, Public lands—rights-of-way, Reporting and recordkeeping requirements.

43 CFR Parts 2810 and 2880

Public lands—rights-of-way, Reporting and recordkeeping requirements.

Under the authority of sections 303, 310, and 501–511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733, 1740, and 1760–1771), Part 2800, Group 2800, Subchapter B, of Chapter II of the Code of Federal Regulations, is proposed to be amended as follows:

PART 2800—RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

1. The Note at the beginning of Group 2800 is removed.

2. The authority citation for part 2800 continues to read as follows:

Authority: 43 U.S.C. 1733, 1740, and 1760–1771.

Subpart 2800—Rights-of-Way; General

3. Section 2800.0–5 is amended by revising paragraph (j) and adding paragraphs (aa) through (cc) to read as follows:

§ 2800.0–5 Definitions.

* * * * *

(j) *Facility* means an improvement constructed or to be constructed or used within a right-of-way pursuant to a right-of-way grant. For purposes of communication site rights-of-way, facility means the building, tower, and/or other related incidental improvements authorized under terms of the right-of-way grant.

* * * * *

(aa) *Base rent* means the amount required to be paid by the holder of a right-of-way on public lands for the primary use authorized under terms of the right-of-way grant.

(bb) *Gross rent* means the rent received by the holder from tenants for space in the building or on the tower. Gross rent does not include road or building maintenance or service fees for power and back-up generators.

(cc) *Primary use* means the predominant use of the facility by the holder authorized under terms of the right-of-way grant.

3. Section 2800.0–9 is added to read as follows:

§ 2800.0–9 Information collection.

(a) The information collection requirements contained in part 2800 of Group 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0102 and 1004–0107. The information is being collected to permit the authorized officer to determine if use of the public lands should be granted for rights-of-way grants or temporary use permits. The information will be used to make this determination. A response is required to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 41.8 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 the burden, to the Information Collection Clearance Officer (873), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004–0102 or 1004–0107, Washington, DC 20503.

Subpart 2803—Administration of Rights Granted [Amended]

4. Section 2803.1–2 is amended by revising paragraph (b)(1)(i), paragraph (c)(1)(iv), and the first and third sentences of paragraph (c)(3)(i), and adding paragraph (e), to read as follows:

§ 2803.1–2 Rental.

* * * * *

(b)(1) * * *

(i) The holder is a Federal, State, or local government or agency or instrumentality thereof, except government entities granting space to other parties who are using the space for commercial purposes, and municipal utilities and cooperatives whose principal source of revenue is customer charges:

* * * * *

(c)(1) * * *

(iv) Rental for the ensuing calendar year for any single right-of-way grant or temporary use permit shall be the rental per acre from the current schedule times the number of acres embraced in the grant or permit, unless such rental is reduced or waived as provided in paragraph (b)(2) of this section.

* * * * *

(3)(i) The rental for linear right-of-way grants and temporary use permits not covered by the linear right-of-way schedule set out above in this paragraph, including those determined by the authorized officer to require an individual appraisal under paragraph (c)(1)(v) of this section, and for communication uses covered by the schedule and nonlinear right-of-way grants and temporary use permits (e.g., reservoir sites, plants sites, and storage sites) shall be determined by the authorized officer and paid annually in advance. * * * All such rental determinations shall be documented, supported, and approved by the authorized officer. * * *

* * * * *

(e) The annual rental payment for communication uses listed below shall be based on rental payment schedules. The rental schedules apply to right-of-way holders authorized to operate and maintain communication facilities on public lands, and state the base rent charged for the primary use of the building. They do not apply to rights-of-way granted to public telecommunications service operators

providing public television or radio broadcast services. The schedules do not include the percentage of the gross rent required by paragraph (e)(6) to be paid by the holder.

(1) The schedules are applicable to communication uses providing the following services:

(i) Television broadcast includes facilities primarily used to broadcast UHF and VHF audio and video signals for general public reception. This category does not include stations licensed by the FCC as a Low Power Television (LPTV) or rebroadcast devices such as translators, or transmitting devices such as microwave relays serving broadcast translators.

(ii) FM radio broadcast includes right-of-way holders that operate FCC-licensed facilities primarily used to broadcast frequency modulation (FM) audio signals for general public reception. This category is not applicable to stations licensed by the FCC as a low power FM radio. This category does not include rebroadcast devices such as translators, boosters or AM synchronous transmitters or microwave relays serving broadcast translators.

(iii) Rebroadcast devices include FCC-licensed facilities primarily used to rebroadcast a signal from its point of origin. This category includes translators and low power television, low power FM radio, and microwave relays. Microwave facilities used in conjunction with LPTV and broadcast translators are included in this category.

(iv) Cable television includes FCC-licensed facilities that primarily transmit video programming to multiple subscribers in a community over a wired network. This category does not include rebroadcast devices that retransmit television signals of one or more television broadcast stations, personal or internal antenna systems such as private systems serving hotels or residences.

(v) Commercial mobile radio service includes FCC-licensed commercial mobile radio facilities primarily providing mobile communication service to individual customers. Such services generally include two-way voice and paging services such as community repeaters, trunked radio (specialized mobile radio), two-way radio dispatch, and public switched network (telephone/data) interconnect service.

(vi) Cellular telephone includes FCC-licensed systems primarily used for mobile communications using a blend of radio and telephone switching technology, and providing public switched network services to fixed and mobile users within a tightly defined geographic area. This category includes Personal Communication Systems, a digital mobile telephone service.

(vii) Common carrier microwave includes FCC-licensed facilities primarily used for long-line intrastate and interstate public telephone, television, information, and data transmissions.

(viii) Private microwave includes FCC-licensed facilities primarily used by pipeline and power companies, railroads, and land resource management companies. Communication services associated with this category may include private mobile service, private two-way dispatch service, private paging, supervisory remote control/sensing, and microwave voice/video/data services. This use is solely in support of the holder's primary business activity.

(ix) Facility manager includes holders who may or may not have FCC licenses, but do not operate telecommunications equipment. The primary purpose of their facilities is to lease or sublease space for a variety of tenants who engage in telecommunication activities. The building owner generally provides space in the building and/or tower, and utilities, access, security, and backup generator services.

(x) Other communication uses include FCC-licensed private communication uses such as amateur radio, personal/private receive-only antennas, passive reflectors, and natural resource and environmental monitoring equipment.

(2) The rental schedules will be updated annually based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers (CPI–U, U.S. City Average, published in July of each year).

(3) Increases in base rental payments over 1994 levels in excess of $1,000, or 20 percent of the 1994 rent, whichever is greater, will be phased in over a 5-year period. In 1995, the rental payment will be the 1994 rental, plus $1,000 or 20 percent of the 1994 rental, whichever is greater, plus the annual adjustment under paragraph (e)(2). The amount exceeding the above $1,000 or 20 percent threshold will be divided into 4 equal installments, and beginning in 1996 the installment, plus the annual adjustment in the total rent, will be added to the previous year's rent.

(4) With the concurrence of the BLM State Director, the authorized officer may use other reasonable measures to determine fair market rent when it is determined by the authorized officer that the estimated rental payment does not reasonably reflect fair market rent for the individual authorized use.

(5) Annual rental payments shall be calculated and submitted based on the following schedules:

BROADCAST ANNUAL BASE RENTAL SCHEDULE

Population[1]	Television[2]	FM radio[2]	Rebroadcast devices[3]	Examples of principal community & population served[4]
2,000,000+	$45,000	$34,000	$22,000	Los Angeles.
2,000,000–1,000,000	30,000	21,000	15,000	
999,999–500,000	24,000	18,000	12,000	Phoenix 983,403. Salt Lake 725,956.
499,999–250,000	16,000	11,000	7,000	Tucson 405,390. Albuquerque 384,736. Las Vegas 258,295.
249,999–100,000	6,000	4,000	3,000	Reno 133,850. Boise 125,738. Yuma 106,895.
99,999–60,000	4,000	3,000	2,000	Las Cruces 62,126.
59,999–30,000	2,500	2,000	1,000	Pocatello 46,080. Idaho Falls 43,828. Farmington 33,997.
29,999–15,000	2,000	1,500	500	Grand Junction 29,034.

BROADCAST ANNUAL BASE RENTAL SCHEDULE—Continued

Population [1]	Television [2]	FM radio [2]	Rebroadcast devices [3]	Examples of principal community & population served [4]
0–14,999	600	450	75	Twin Falls 27,591 Montrose 24,423 Dillon, MT 3,991. Forsyth, MT 2,178.

[1] Population is based on U.S. Census information for principal community (city, cities, metropolitan area, county, or counties) served by the transmitter.

[2] In addition to the base rent, the holder shall pay 15 percent of the gross rent received from space rented in the facility for the first 5 years, and 25 percent of the gross rent thereafter. The rental schedule for FM radio and television uses is applicable to primary transmitters that principally serve a community (city, cities, metro area, or county) reached by the transmitter. Principal communities covered do not include outlying areas served by translators.

[3] Base rent based on city of license.

[4] The population shown is for the principal community served. If the transmitter principally serves two cities such as Idaho Falls and Pocatello, the total population would be used. If the principal community served included the entire county, the county population would be used.

CABLE TELEVISION ANNUAL RENTAL SCHEDULE

Total basic subscribers	Base rent [1]
200 or less	$400
201–500	700
501–1500	1400
1501–2500	2000
2500+	2400

[1] In addition to the base rent, the holder shall pay 15 percent of the gross rent received from space rented in the facility for the first 5 years after the effective date of this rule, and 25 percent thereafter.

NONBROADCAST RENTAL SCHEDULE [1]

Population	Com. mobile radio service [2]	Private mobile use	Cellular telephone	Private microwave	Common carrier microwave	Facility manager	Examples of county served and population [3]
2,000,000+	$12,000	$10,000	$10,000	$10,000	$10,000	$9,000	• San Diego 2,498,016.
1,999,999–1,000,000	10,000	6,000	7,500	6,000	7,500	7,500	• Maricopa, AZ 2,122,101. • Riverside, CA 1,170,413.
999,999–500,000	7,000	4,000	5,000	4,000	5,000	5,000	• San Bernardino, CA. • Salt Lake, UT 725,996. • Pima, AZ 666,880.
499,999–250,000	5,000	2,400	5,000	2,000	2,500	3,500	• Kern, CA 543,981. • Bernalillo, NM 480,577. • Marion, OR 228,483.
249,999–100,000	4,000	1,800	2,500	1,500	2,500	2,500	• Washoe, NV 254,667. • Ada, ID 205,775. • Butte, CA 182,120. • Santa Fe 117,043.
99,999–60,000	1,500	1,200	2,500	1,500	1,500	1,200	• Yuma, AZ 106,895. • Mesa, CO 93,145. • San Juan, NM 91,605. • Bonneville, ID 72,207.
59,999–30,000	1,000	800	2,500	1,500	1,500	600	• Bannock, ID 66,026. • Flat Head, MT 59,218. • Chaves, NM 57,849. • Twin Falls, ID 53,580.
29,999–15,000	600	500	2,500	1,000	1,500	600	• Gila, AZ 40,216. • Garfield, CO 29974. • Malheur, OR 26038.
0–14,999	600	300	2,500	1,000	1,500	300	• Carbon, WY 16659. • Socorro, NM 14,764. • Mariposa, CA 14,302. • Big Horn, WY 10,525. • Harney, OR 7060.

[1] In addition to the base rent, the holder shall pay 15 percent of the gross rent received from space rented in the facility for the first 5 years, and 25 percent of the gross rent thereafter.

[2] Rental payments for commercial mobile radio is based on the population of the county in which the transmitter is located or the population of the adjacent or nearby county predominantly served by the transmitter, whichever is greater. As an example, Relay Ridge in Madison County, Idaho, principally serves the Idaho Falls area in Bonneville County. Although the transmitter is located in Madison County, the rent would be based on the base rent for Bonneville County.

[3] Population based on 1990 census.

RENTAL SCHEDULE—OTHER COMMUNICATION USES

Use	Base rent
Amateur Radio	$.75
Personal/Private Receive Only-Antenna.	75
Local Exchange Carriers [1]—Population Served:	
0–100	100
101–300	250
301–500	400
501–1000	600
6001+	Common Carrier Schedule
Passive Reflectors	75
Environmental Monitoring Equipment.	75

[1] A radio service that provides basic wireless telephone service, primarily to isolated private areas.

(6) In addition, the right-of-way holder shall submit a certified statement regarding rent collected from tenants during the previous year, and pay 15 percent of the gross rent received from the authorized rental of space within the facility each calendar year from 1995 through 1999, and 25 percent of such rent each calendar year thereafter. Tenants occupying space in the facility under terms of the authorization will not be required to have a separate BLM authorization.

(7) The television and FM radio broadcast right-of-way holder will provide a 1-millivolt contour map or statement to BLM identifying the principal community (city, cities, metro area, or county) served by the transmitter.

PART 2810—TRAMLOADS AND LOGGING ROADS

Subpart 2812—Over O. and C. and Coos Bay Revested Lands

5. Section 2812.0–9 is added to read as follows:

§ 2812.0–9 Information collection.

The information collection requirements contained in part 2810 of Group 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0102 and 1004–0107. The information is being collected to permit the authorized officer to determine if use of the public lands should be granted for rights-of-way grants or temporary use permits. The information will be used to make this determination. A response is required to obtain a benefit.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Subpart 2880—Oil and Natural Gas Pipelines and Related Facilities: General

6. Section 2880.0–9 is added to read as follows:

§ 2880.0–9 Information collection.

The information collection requirements contained in part 2880 of Group 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0102 and 1004–0107. The information is being collected to permit the authorized officer to determine if use of the public lands should be granted for rights-of-way grants or temporary use permits. The information will be used to make this determination. A response is required to obtain a benefit.

Dated: July 1, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–16934 Filed 7–8–94; 1:13 pm]

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Federal Register

Vol. 59, No. 132

Tuesday, July 12, 1994

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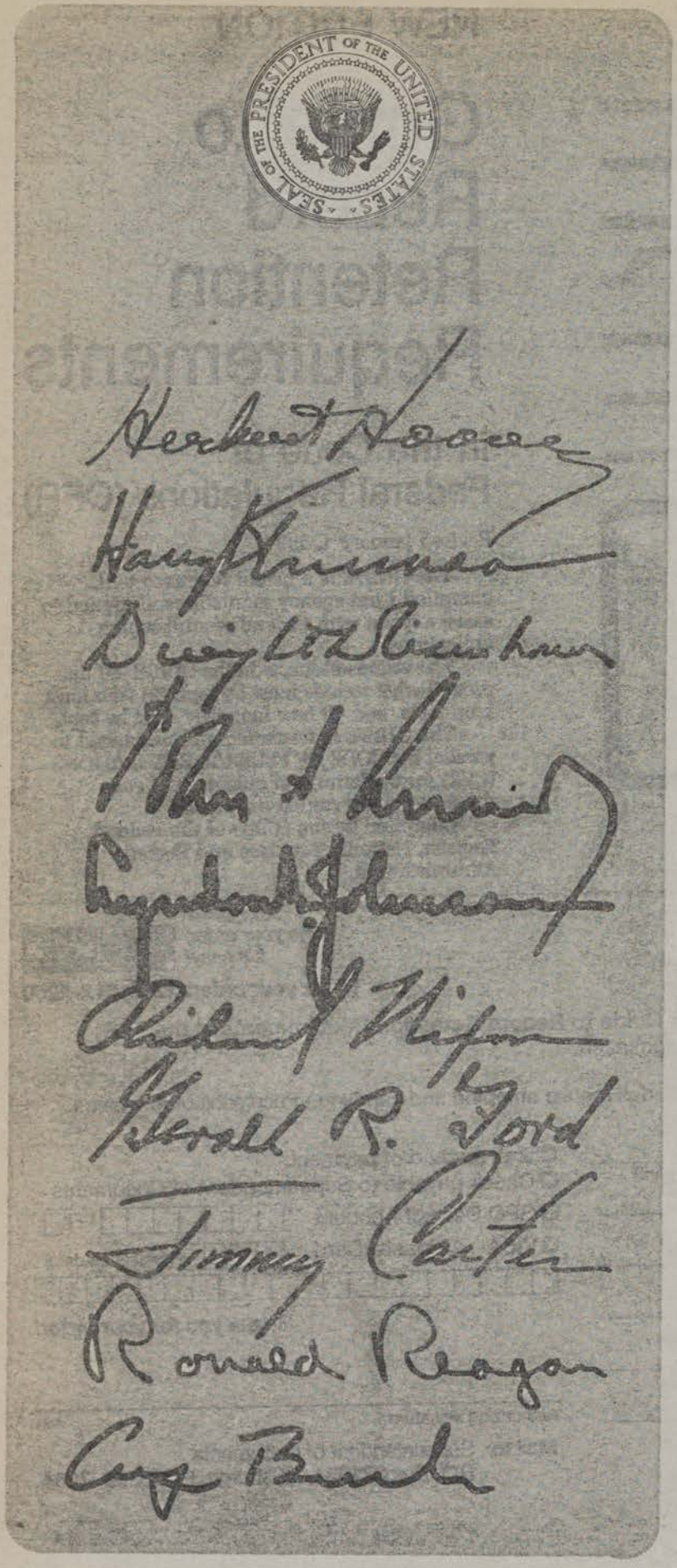

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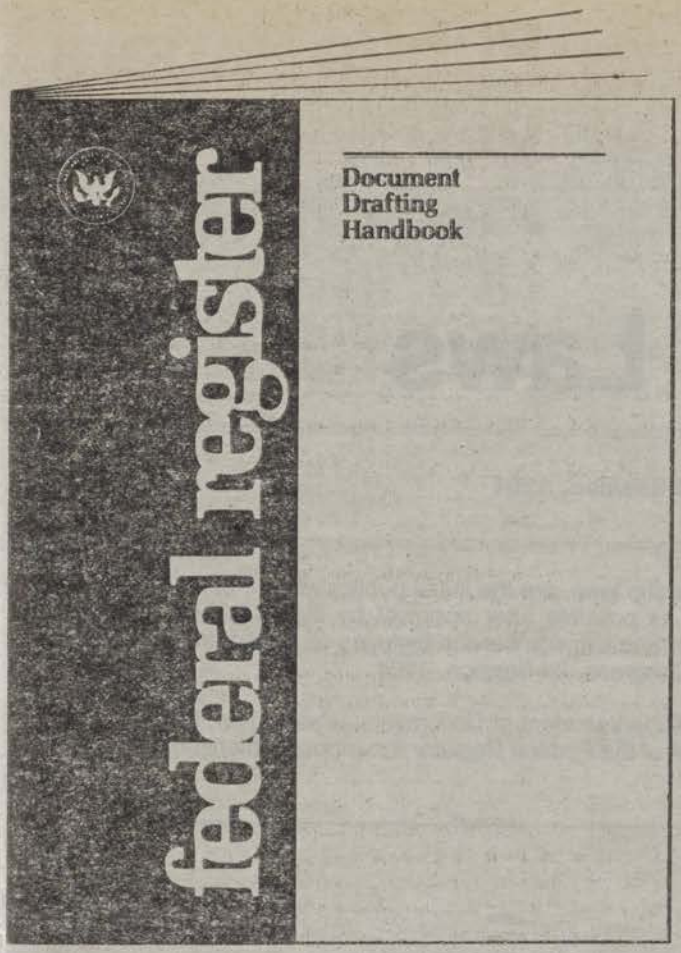

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