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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[FV94–948–3FR]

Irish Potatoes Grown in Colorado; Reestablishment of Area No. 2 and Area No. 3 Regulatory Boundaries, and Redistribution of Area No. 2 Committee Representation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule reestablishes regulatory area boundaries by moving Chaffee County from Area No. 3 to Area No. 2, and combines Chaffee County with Saguache County for the purpose of providing Chaffee County with producer representation on the Area No. 2, rather than the Area No. 3, Committee. This rule will provide for more effective administration of the marketing order and more effective compliance efforts. This rule was unanimously recommended by the Area No.2 and Area No. 3 Committees, the administrative agencies established for these regulatory areas under the marketing order for Colorado potatoes.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Dennis L.West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724; or Mark A. Slupek, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 205–2830.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 (7 CFR part 948), as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

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

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

There are approximately 120 handlers of Colorado potatoes who are subject to regulation under the marketing order and approximately 400 producers of Colorado potatoes in the regulatory areas. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of potato producers and handlers regulated under the marketing agreement and order may be classified as small entities.

The production area under Marketing Order No. 948 is divided into three regulatory areas. Area No. 1 (Area 1), also called the Western Slope, consists of 17 counties in the western portion of the State of Colorado. Marketing order regulations are not currently in effect in Area 1 because of limited potato production. Area No. 2 (Area 2), known as the San Luis Valley, consists of 9 counties and is located in the southern part of the State. Area No. 3 (Area 3), the Greeley area, consists of 37 counties covering most of the eastern part of the State. Producers in Areas 2 and 3 produce significant quantities of potatoes, and, thus, have active committees and regulations.

Section 948.150, reestablished area committees as administrative agencies for both of the active areas.

Section 948.53 provides authority for areas, subdivisions of areas, or distribution of representation among the subdivision of areas, to be reestablished by the Secretary upon area committee recommendations.

This final rule (1) reestablishes area boundaries by removing Chaffee County from Area 3 and adding it to Area 2, and (2) combines Chaffee County with Saguache County for the purpose of providing Chaffee County with producer representation on the Area 2 Committee.

The Area 2 and Area 3 Committees met on October 13, 1994, and October 18, 1994, respectively, and each unanimously recommended this reestablishment of boundaries between Area 2 and Area 3. The Colorado Potato Committee, which consists of representatives from both of the area Committees, ratified the recommendation on November 2, 1994. The Area 2 Committee also unanimously recommended that Chaffee County be combined with Saguache County for the purpose of providing Chaffee County with producer

representation on the Area 2 Committee, rather than the Area 3 Committee.

The Committees made their recommendations to reestablish boundaries after reviewing a request from a producer/handler located near Salida, Colorado, a relatively new potato production area in Chaffee County. Salida is approximately 250 miles from the administrative headquarters of the Area 3 Committee in Greeley, Colorado, but only 65 miles from the administrative headquarters of the Area 2 Committee in Monte Vista, Colorado.

There are approximately 115 acres of potatoes grown in Chaffee County. Arable land in Chaffee County is generally limited to the area around Salida. Industry estimates place the potential for additional potato production at about 500 acres.

The Chaffee County production area is geographically separated from the rest of Area 3 potato production and is much closer to that of Area 2. Potatoes produced in Chaffee County are marketed similarly to those in Area 2. Potatoes grown in Chaffee County are, for example, often marketed through handlers from Area 2, but seldom marketed by Area 3 handlers located outside of Chafee County.

The rule increases the opportunity for the producers or handlers to serve on an area committee by greatly decreasing travel time and cost to attend area Committee meetings. This rule also enable any Chaffeee County producers to be in the same committee area with handlers who most often handle their production.

The rule also modifies the distribution of producer membership of the Area 2 Committee to accommodate the addition of Chaffee County to Area 2. Saguache County, immediately to the south of Chaffee County, currently has one producer representative on the Area 2 Committee. The rule combines Chaffee and Saguache Counties as one district for the purpose of nominating a producer member to the Area 2 Committee. The change will continue to provide balanced representation on the Area 2 Committee, consistent with acreage and production. Chaffee County handlers also will be represented as the Area 2 Committee has five handler member positions, two representing bulk handlers.

The close proximity of the Area 2 administrative office to Chaffee County will improve the efficiency of marketing order administration. Marketing order compliance in Chaffee County will be more efficiently administered by the Area 2 Administrative Committee office because of its proximity to Chaffee County.

Although this final rule removes Chaffee County from Area 3, regulatory language in the newly created section 948.153 only references the addition of Chaffee County to Area 2. Section 948.4 currently states that Area 3 includes and consists of all the remaining counties in the State of Colorado which are not included in Area 1 or Area 2. Therefore, the addition of Chaffee County to Area 2 automatically removes Chaffee County from Area 3, with no other corresponding change needed.

The proposed rule concerning this action was published in the January 30, 1995, **Federal Register** (60 FR 5597), with a 30-day comment period ending March 1, 1995. No comments were received.

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

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

Pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) the Area 2 committee is planning to conduct its annual nomination meeting on March 31, 1995; and (2) producers and handlers are aware of this action, which was recommended at open committee meetings, and need no additional time to prepare for operation under this rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 948.150, paragraph (a) is revised to read as follows:

§ 948.150 Reestablishment of committee membership.

* * * * *

(a) Area No. 2 (San Luis Valley): Seven producers and five handlers selected as follows:

Two (2) producers from Rio Grande County;

One (1) producer from Chaffee County and Saguache County;

One (1) producer from Conejos County;

Two (2) producers from Alamosa County;

One (1) producer from all other counties in Area No. 2;

Two (2) handlers representing bulk handlers in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than bulk handlers.

* * * * *

3. A new § 948.153 is added to read as follows:

§ 948.153 Reestablishment of area.

Pursuant to § 948.53, Area No. 2 is reestablished as follows:

Area No. 2 (San Luis Valley) includes and consists of the counties of Chaffee, Saguache, Huerfano, Las Animas, Mineral, Archuleta, Rio Grande, Conejos, Costilla, and Alamosa, in the State of Colorado.

Dated: March 27, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–7961 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–1]

Amendment of Class D Airspace; Redding, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace area at Redding, CA. This action is necessary due the recent closures of Enterprise Skypark, CA and Redding Sky Ranch Airport, CA. This amendment will delete the Redding Sky Ranch Airport and Enterprise Skypark from the Class D airspace area at Redding, CA.

EFFECTIVE DATE: 0901 UTC, July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

History

On January 6, 1995, the FAA proposed to amend part 71 of the

Federal Aviation Regulations (14 CFR part 71) by amending the Class D airspace area at Redding, CA (60 FR 3777). The proposed action was necessary due to the closures of Enterprise Skypark, and Redding Sky Ranch Airport, CA. These locations will be deleted from the Class D airspace area at Redding, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class D airspace area at Redding, CA by deleting the Redding Sky Ranch Airport and Enterprise Skypark from the Class D airspace area at Redding, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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 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

Aviation safety, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 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 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class D Airspace

* * * * *

AWP CA D Redding, CA [Revised]

Redding Municipal Airport, CA
(lat. 40°30′32″ N, Long. 122°17′36″ W)

That airspace extending upward from the surface to and including 3000 feet MSL within a 4.3-mile radius of the Redding Municipal Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on March 15, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–7983 Filed 3–30–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM92–12–000]

Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978; Correction to Order No. 575

March 24, 1995.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: On January 13, 1995 (60 FR 4831, January 25, 1995), the Federal Energy Regulatory Commission issued a final rule amending its regulations to streamline the processing the Commission's workload and to reduce regulatory burdens on the electric utility and qualifying facility industries. This document corrects an error in an amendment to the Commission's Rules of Practice and Procedure which was intended to remove the phrase ''or revised initial'' in Rule 713.

EFFECTIVE DATE: February 24, 1995.

FOR FURTHER INFORMATION CONTACT: Lois D. Cashell, Secretary of the Commission (202) 208–0400.

SUPPLEMENTARY INFORMATION: Accordingly, the final rule published January 25, 1995, in the **Federal Register** at 60 FR 4831 (FR Doc. 95–1449), is corrected as follows:

§ 385.713 [Corrected]

On page 4860, in the third column, the amendatory instruction for § 385.713 should be corrected to read as follows:

32. In § 385.713, in paragraph (a)(2)(i), the phrase ''or, if appropriate under Rules 717 and 711, to a revised initial decision'' is removed; in paragraph (a)(2)(iv), the phrase ''or revised initial'' is removed; and in paragraph (a)(3), the phrase ''or any revised initial decision under Rule 717'' is removed.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7899 Filed 3–30–95; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations to set forth the current organizational structure of the agency as well as the current addresses for headquarters and field offices. This action is necessary to ensure the accuracy of the regulations.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Edna Morgan, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The regulations are being amended in 21 CFR 5.100 and 5.115 to reflect the current organizational structure of the agency and to provide current addresses for headquarters and for field and district offices.

Notice and comment on these revisions is not necessary under the Administrative Procedure Act because this is a rule of agency organization (5 U.S.C. 553(b)).

List of Subjects in 21 CFR Part 5

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

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

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354, 361, 362, 1701–1706; 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b, 264, 265, 300u–300u–5, 300aa–1–300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314 of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.100 is revised to read as follows:

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

Office of the Commissioner [1]

Immediate Office

Office of the Administrative Law Judge.
Office of Executive Operations.
Office of Equal Employment Opportunity and Civil Rights.
Office of Chief Counsel.
Office of Internal Affairs.

Office of External Affairs

Office of AIDS and Special Health Issues.
Office of Consumer Affairs.
Office of Health Affairs.
Office of Legislative Affairs.
Office of Public Affairs.
Office of Women's Health.

Office of Management and Systems

Office of Planning and Evaluation.
Office of Management.
Office of Information Resources Management.

Office of Policy

Regulations Policy and Management Staff.
Policy Development and Coordination Staff.
Policy Research Staff.
International Policy Staff.

Office of Operations

Office of Biotechnology

Office of Orphan Products Development

National Center for Toxicological Research [2]

Office of the Center Director

Environmental Health and Program Assurance Staff.
Scientific Coordination Staff.
Equal Employment Opportunity Staff.
Technology Advancement Staff.

Office of Planning and Resource Management

Planning Staff.
Financial Management Staff.
Evaluation Staff.

Office of Research

Division of Reproductive and Developmental Toxicology.
Division of Genetic Toxicology.
Division of Biochemical Toxicology.
Division of Nutritional Toxicology.
Division of Biometry and Risk Assessment.
Division of Chemistry.
Division of Microbiology.
Division of Neurotoxicology.

Office of Research Support

Veterinary Services Staff.
Information Technology Staff.
Division of Administrative Services.
Division of Facilities Engineering and Maintenance.

Office of Regulatory Affairs

Office of the Associate Commissioner

Contaminants Policy Coordination Staff.
Equal Employment Opportunity Staff.
Strategic Initiatives Staff.

Office of Resource Management

Division of Planning, Evaluation, and Management.
Division of Information Systems.
Division of Human Resource Development.
Division of Management Operations.

Office of Enforcement

Division of Compliance Management and Operations.
Division of Compliance Policy.
Division of Medical Products Quality Assurance.

Office of Regional Operations

Division of Federal-State Relations.
Division of Field Science.
Division of Field Investigations.
Division of Emergency and Epidemiological Operations.
Division of Import Operations and Policy.

Office of Criminal Investigations [3]

Northeast Area Office.[4]
Mid-Atlantic Area Office.[3]
Southeast Area Office.[5]
Midwest Area Office.[6]
Southwest Area Office.[7]
Pacific Area Office.[8]

Center for Biologics Evaluation and Research [9]

Office of the Center Director

Equal Employment and Minority Recruitment Staff.
Congressional and Public Affairs Staff.
Scientific Advisors and Consultants Staff.

Office of Management

Division of Management and Budget.
Division of Scientific and Management Information Systems.
Division of Administrative Management.

Office of Compliance

Division of Case Management.
Division of Bioresearch Monitoring and Regulations.
Division of Inspection and Surveillance.

Office of Therapeutics Research and Review

Division of Cytokine Biology.
Division of Cellular and Gene Therapies.
Division of Hematologic Products.
Division of Monoclonal Antibodies.
Division of Clinical Trial Design and Analysis.
Division of Application Review and Policy.

Office of Vaccines Research and Review

Division of Allergenic Products and Parasitology.
Division of Bacterial Products.
Division of Viral Products.
Division of Vaccines and Related Products Applications.

[1] Mailing address: 5600 Fishers Lane, Rockville, MD 20857.

[2] Mailing address: Jefferson, AR 72079–9502.

[3] Mailing address: 7500 Standish Pl., rm. 250N, Rockville, MD 20855.

[4] Mailing address: 10 Exchange Pl., 18th floor, Jersey City, NJ 07302.

[5] Mailing address: 8525 NW 53d Terrace, suite 204, Miami, FL 33166.

[6] Mailing address: 3 Arboretum 801 Warrenville Rd., suite 550, Lisle, IL 60532.

[7] Mailing address: 10901 West 84th Terrace, suite 201, Lenexa, KS 66214–3338.

[8] Mailing address: 4365 Executive Dr., suite 230, San Diego, CA 92122.

[9] Mailing address: 1401 Rockville Pike, suite 200S, Rockville, MD 20852–1448.

Office of Establishment Licensing and Product Surveillance

Division of Product Quality Control.
Division of Veterinary Services.
Division of Biostatistics and Epidemiology.
Division of Establishment Licensing.

Office of Blood Research and Review

Division of Blood Applications.
Division of Transfusion Transmitted Diseases.
Division of Hematology.

Center for Drug Evaluation and Research [1]

Office of the Center Director

Pilot Drug Evaluation Staff.
Advisors and Consultants Staff.
Professional Development Staff.
CDER Executive Secretariat Staff.
Equal Employment Opportunity Staff.

Office of Management

Division of Drug Information Resources.
Division of Information Systems Design.
Medical Library.
Division of Management and Budget.

Office of Compliance

Division of Drug Quality Evaluation.
Division of Drug Labeling Compliance.
Division of Manufacturing and Product Quality.
Division of Scientific Investigations.
Division of Regulatory Affairs.

Office of Drug Evaluation I

Division of Cardio-Renal Drug Products.
Division of Oncology and Pulmonary Drug Products.
Division of Neuropharmacological Drug Products.
Division of Medical Imaging, Surgical, and Dental Drug Products.
Division of Gastrointestinal and Coagulation Drug Products.

Office of Drug Evaluation II

Division of Anti-Infective Drug Products.
Division of Metabolism and Endocrine Drug Products.
Division of Anti-Viral Drug Products.
Division of Topical Drug Products.

Office of Drug Standards

Division of Drug Marketing, Advertising, and Communications.

Office of Epidemiology and Biostatistics

Division of Epidemiology and Surveillance.
Division of Biometrics.

Office of Generic Drugs [10]

Division of Chemistry I.
Division of Chemistry II.
Division of Bioequivalence.
Division of Labeling and Program Support.

Office of Over-the-Counter Drug Evaluation

Monograph Review Staff.
OTC Drug Policy Staff.
Medical Review Staff.

Office of Research Resources

Division of Research and Testing.
Division of Biopharmaceutics.
Division of Drug Analysis.
Division of Clinical Pharmacology.

Center for Devices and Radiological Health [11]

Office of the Center Director

Office of Management Services

Division of Planning, Evaluation, and Information Services.
Division of Resource Management.

Office of Health Physics [11]

Office of Health and Industry Programs [12]

Office of Standards and Regulations [11]

Office of Information Systems [13]

Division of Computer Services.
Division of Information Resources.

Office of Compliance [11]

Division of Program Operations.
Division of Bioresearch Monitoring.
Division of Enforcement 1.
Division of Enforcement 2.
Division of Enforcement 3.

Office of Device Evaluation [12]

Division of Cardiovascular, Respiratory and Neurological Devices.
Division of Reproductive, Abdominal, Ear, Nose, and Throat, and Radiological Devices.
Division of General and Restorative Devices.
Division of Clinical Laboratory Devices.
Division of Ophthalmic Devices.

Office of Science and Technology [1]

Division of Mechanics and Materials Science.
Division of Life Sciences.
Division of Physical Sciences.
Division of Electronics and Computer Science.
Division of Management, Information, and Support Services.

Office of Health and Industry Programs

Division of Device User Programs and Systems Analysis.
Division of Small Manufacturers Assistance.
Division of Mammography Quality and Radiation Programs.
Division of Communication Media.

Office of Surveillance and Biometrics [12]

Division of Biostatistics.[14]
Division of Postmarket Surveillance.
Division of Surveillance Systems.

Center for Food Safety and Applied Nutrition [15]

Office of the Center Director

Office of Policy, Planning, and Strategic Initiatives.

Office of Programs

Office of Cosmetics and Colors

Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Food Labeling

Division of Programs and Enforcement Policy.
Division of Technical Evaluation.
Division of Science and Applied Technology.

Office of Pre-Market Approval

Division of Product Policy.
Division of Petition Control.
Division of Health Effects Evaluation.
Division of Molecular Biological Research and Evaluation.
Division of Product Manufacture and Use.

Office of Plant and Dairy Foods and Beverages

Division of Programs and Enforcement Policy.
Division of Microanalytical Evaluations.
Division of Virulence Assessment.
Division of Pesticides and Industrial Chemicals.
Division of Natural Products.
Division of Food Processing and Packaging.

Office of Seafood

Division of Special Programs.
Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Special Nutritionals

Division of Programs and Enforcement Policy.

[10] Mailing address: 7500 Standish Pl., rm. 150, Rockville, MD 20855.

[11] Mailing address: 2094 Gaither Rd., Rockville, MD 20850.

[12] Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[13] Mailing address: 2098 Gaither Rd., Rockville, MD 20850.

[14] Mailing address: 9200 Corporate Blvd., Rockville, MD 20850.

[15] Mailing address: 200 C St. SW., Washington, DC 20204.

Division of Science and Applied Technology.

Office of Special Research Skills

Division of Toxicological Research.
Division of Microbiological Studies.

Office of Systems and Support

Quality Assurance Staff.

Office of Constituent Operations

Consumer Education Staff.
Legislative Activities Staff.
Industry Activities Staff.
International Activities Staff.

Office of Field Programs

Division of Enforcement.
Division of HACCP Programs.
Division of Cooperative Programs.
Division of Field Program Planning and Evaluation.

Office of Management Systems

Division of Management Services and Policy.
Division of Planning and Financial Management.
Division of Information Resources Management.
Division of Administrative Services.

Office of Scientific Analysis and Support

Division of Mathematics.
Division of General Scientific Support.
Division of Market Studies.

Center for Veterinary Medicine [16]

Office of the Center Director

Office of Management

Division of Program and Information Systems.
Division of Program Communications and Administrative Management.

Office of Surveillance and Compliance

Division of Compliance.
Division of Animal Feeds.
Division of Surveillance.
Division of Voluntary Compliance and Hearings Development.

Office of New Animal Drug Evaluation

Division of Biometrics and Production Drugs.
Division of Chemistry.
Division of Therapeutic Drugs for Food Animals.
Division of Therapeutic Drugs for Non-Food Animals.
Division of Toxicology and Environmental Sciences.

Office of Science

Division of Residue Chemistry.
Division of Animal Research.

[16] Mailing address: 7500 Standish Pl., Rockville, MD 20855.

3. Section 5.115 is revised to read as follows:

§ 5.115 Field Structure.

NORTHEAST REGION

Regional Field Office: 830 Third Ave., Brooklyn, NY 11232.
Northeast Regional Laboratory: 850 Third Ave., Brooklyn , NY 11232.
New York District Office: 850 Third Ave., Brooklyn, NY 11232.
Boston District Office: One Montvale Ave., Stoneham, MA 02180.
Buffalo District Office: 599 Delaware Ave., Buffalo, NY 14202.

MID-ATLANTIC REGION

Regional Field Office: 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106.
Philadelphia District Office: 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106.
Baltimore District Office: 900 Madison Ave., Baltimore, MD 21201.
Cincinnati District Office: 1141 Central Pkwy., Cincinnati, OH 45202–1097.
Newark District Office: Waterview Corporate Center, 10 Waterview Blvd., 3d floor, Parsippany, NJ 07054.

SOUTHEAST REGION

Regional Field Office: 60 Eighth St. NE., Atlanta, GA 30309.
Southeast Regional Laboratory: 60 Eighth St. NE., Atlanta, GA 30309.
Atlanta District Office: 60 Eighth St. NE., Atlanta, GA 30309.
Nashville District Office: 297 Plus Park Blvd., Nashville, TN 37217.
New Orleans District Office: 4296 Elysian Fields Ave., New Orleans, LA 70122.
Orlando District Office: 7200 Lake Ellenor Dr., suite 120, Orlando, FL 32809.
San Juan District Office: 466 Fernandez Juncos Ave., San Juan, PR 00901–3223.

MIDWEST REGION

Regional Field Office: 20 North Michigan Ave., rm. 510, Chicago, IL 60602.
Chicago District Office: 300 South Riverside Plaza, suite 550, South Chicago, IL 60606.
Detroit District Office: 1560 East Jefferson Ave., Detroit, MI 48207.
Minneapolis District Office: 240 Hennepin Ave., Minneapolis, MN 55401.

SOUTHWEST REGION

Regional Field Office: 3032 Bryan St., Dallas, TX 75204.
Dallas District Office: 3032 Bryan St., Dallas, TX 75204.
Denver District Office: Bldg. 20, Denver Federal Center, Sixth and Kipling Sts., P.O. Box 25087, Denver, CO 80225–0087.
Kansas City District Office: 11630 West 80th St., Lenexa, KS 66214–3340.
St. Louis Branch: 808 North Collins Alley, St. Louis, MO 63102.

PACIFIC REGION

Regional Field Office: Federal Office Bldg., rm. 568, 50 U.N. Plaza, San Francisco, CA 94102.
San Francisco District Office: Federal Office Bldg., rm. 526, 50 U.N. Plaza, San Francisco, CA 94102.
Los Angeles District Office: 1521 West Pico Blvd., Los Angeles, CA 90015–2486.
Seattle District Office: 22201 23d Dr. SE., Bothell, WA 98021–4421.

Dated: March 27, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–7934 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name and Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address from Kabi Pharmacia, Inc., to Pharmacia, Inc.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1646.

SUPPLEMENTARY INFORMATION: Kabi Pharmacia, Inc., 800 Centennial Ave., Piscataway, NJ 08854, has informed FDA of a change of sponsor name and address from Kabi Pharmacia, Inc., to Pharmacia Inc., P.O. Box 16529, Columbus, OH 43216–6529. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name and address.

List of Subjects in 21 CFR Part 510

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

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

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for ''Kabi Pharmacia, Inc.,'' and alphabetically adding a new entry for ''Pharmacia, Inc.,'' and in the table in paragraph (c)(2) in the entry for ''000016'' by revising the sponsor name and address to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Pharmacia, Inc., P.O. Box 16529, Columbus, OH 43216–6529	000016
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000016	Pharmacia, Inc., P.O. Box 16529, Columbus, OH 43216–6529
* * * * *	

Dated: March 21, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–7865 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 92–15]

RIN 2125–AD53

Truck Size and Weight; Restrictions on Longer Combination Vehicles and Vehicles With Two or More Cargo-Carrying Units

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical corrections.

SUMMARY: This document corrects the amendatory language for appendices A and C and the entry for the State of Kentucky in appendix A of Part 658 in the issue of March 22, 1995, in FR Doc. 95–7074 on pages 15214–15216. The March 22 document contained corrections to the FHWA's final rule imposing a freeze on the operation of longer combination vehicles (LCVs) on the Interstate System and vehicles with two or more cargo-carrying units on the National Network (NN), which was published on June 13, 1994.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Klimek, Office of Motor Carrier Information Management, (202)366–2212 or Mr. Charles Medalen, Office of the Chief Counsel, (202)366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

The FHWA hereby corrects 23 CFR 658 as published on March 22, 1995, in FR Doc. 95–7074 on page 15214–15216 as follows:

1. On page 15214, in the amendatory language of item number 4, the second sentence should read ''The entry for the State of Kentucky is revised and the entry for the State of Virginia is amended by revising the second entry for U.S. 360.'' ;

2. On pages 15214–15215, in appendix A to Part 658 the entry for the State of Kentucky in the first entry of U.S. 23, in the third column under ''to'' should read ''US 119 near Jenkins''; the second entry of U.S. 23, in the third column under ''to'' should read ''S. end U.S. Grant Bridge South Portsmouth''; the first entry of US 68, in the third column under ''to'' should read ''I–24 Exit 16''; the second entry of US 68, in the third column under ''to'' should read ''Green River Parkway Exit 5 Bowling Green''; the second entry of KY 15, in the first column under ''Route'' should read ''KY 15 Spur''; and in the first column under ''Route'' the entry for Pennyrile should read ''Pennyrile Parkway''; and

3. On page 15216, the amendatory language of item number 5.D. for appendix C to Part 658 should read ''In the listing for the State of Oregon, adding at the end a new vehicle 'Truck-trailer—LCV', and revising the *first* reference to US 20 route for a 'Truck tractor and 3 trailing units—LCV';''.

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111–31115; 49 CFR 1.48(b)(19) and (c)(19).

Issued on: March 28, 1995.

Theodore A. McConnell,

Chief Counsel.

[FR Doc. 95–8103 Filed 3–29–95; 3:20 pm]

BILLING CODE 4910–22–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 204 and 267

[Docket No. R–95–1626; FR–3027–C–03]

RIN 2502–AF25

Appraisals and Property Valuation; Corrections

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

ACTION: Final rule; Corrections.

SUMMARY: On October 3, 1994 (59 FR 50456), the Department published in the **Federal Register**, a final rule that established minimum standards for real estate appraisals made by staff, fee panel and contract appraisers in determining the maximum insurable mortgage amount in most HUD/FHA single family (one-to-four family) and multifamily transactions; and established criteria for the selection of appraisers by mortgagees. That rule erroneously revised a nonexistent § 204.3(b), which had previously been removed by the complete revision of 24 CFR part 204 on August 5, 1994 (59 FR 39956). To avoid further confusion, this document removes § 204.3(b).

The October 3 final rule also added a new part 267 to title 24 of the Code of Federal Regulations. This document clarifies and corrects cross-references contained in §§ 267.3(c)(1) and (c)(2).

EFFECTIVE DATE: December 2, 1994.

FOR FURTHER INFORMATION CONTACT: For single family programs: Morris Carter,

Director of the Single Family Development Division, Room 9270, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone, voice: (202) 708–2720; (TDD) (202) 708–4594. (These are not toll-free numbers.)

For multifamily programs: Linda Cheatham, Director, Office of Insured Multifamily Development, Room 6134, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000,, telephone, voice: (202) 708–3000; (TDD) 708–4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: On August 5, 1994 (59 FR 39956), the Department published in the **Federal Register** a final rule that revised, in its entirety, 24 CFR Part 204. With that revision, only one section (§ 204.1) remained in Part 204.

On October 3, 1994 (59 FR 50456), the Department published a final rule establishing minimum standards for real estate appraisals made by staff, fee panel and contract appraisers in determining the maximum insurable mortgage amount in most HUD/FHA single family (one-to-four family) and multifamily transactions; and establishing criteria for the selection of appraisers by mortgagees. The October 3 rule erroneously revised a nonexistent 24 CFR 204.3(b). It also added a new part 267 to title 24 of the Code of Federal Regulations.

In addition, on December 2, 1994 (59 FR 61800), the Department published a correction document to the October 3 final rule. In the December 2 document, § 267.3 was corrected by removing the paragraph designations for paragraphs (c)(3)(i), (ii), and (iii) of that section, and by running the text together to form a single paragraph (c)(3). The document failed, however, to remove two cross-references to paragraph (c)(3)(iii), which were contained in §§ 267.3(c)(1) and (c)(2).

The purpose of this document is to correct errors made in the October 3, 1994 final rule by removing the revision to § 204.3(b), and by amending § 267.3 to remove cross-references contained in §§ 267.3(c)(1) and (c)(2).

Accordingly, FR Doc. 94–24327, a final rule published in the **Federal Register** on October 3, 1994 (59 FR 50456), is corrected as follows:

§ 204.3 [Amended]

1. On page 50464, in column one, amendatory instruction 6. and § 204.3(b) are removed.

§ 267.3 [Amended]

2. On page 50465, in column one, in § 267.3, paragraph (c)(1) is corrected by removing the phrase ''paragraph (c)(3)(iii) of this section.'', and by adding in its place ''paragraph (c)(3) of this section.''

3. On page 50465, in column one, in § 267.3, paragraph (c)(2) is corrected by removing the phrase ''paragraph (c)(3)(iii) of this section.'', and by adding in its place ''paragraph (c)(3) of this section.''

Dated: March 28, 1995.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 95–8053 Filed 3–30–95; 8:45 am]

BILLING CODE 4210–27–P

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 246 and 266

[Docket No. R–95–1685; FR–3383–F–04]

Housing Finance Agency Risk-Sharing Program for Insured Affordable Multifamily Project Loans: Conforming Amendment

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

ACTION: Final rule; Conforming Amendment.

SUMMARY: On December 5, 1994, HUD published a final rule that finalized the standards and procedures of the Housing Finance Agency Risk-Sharing Program for Insured Affordable Multifamily Project Loans, first implemented by a December 3, 1993 interim rule.

The purpose of this final rule is to make a conforming amendment to the December 5, 1994 final rule that will reflect the assumption of environmental review responsibilities by States and units of general local government as provided in an interim rule published by HUD on March 13, 1995.

DATES: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jane Luton, Acting Director, Policies and Procedures Division, Office of Insured Multifamily Housing Development, Room 6116, (202) 708–2556. Hearing- and speech-impaired persons may call (202) 708–4594. (The above listed telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On December 5, 1994 (59 FR 52514), HUD published a final rule that finalized the standards and procedures of the Housing Finance Agency Risk-Sharing Program for Insured Affordable Multifamily Project Loans, a program that was implemented by a December 3, 1993 interim rule (58 FR 64032). The preamble to the December 5, 1994 final rule stated that 24 CFR part 266 would be amended upon publication of the changes made to 24 CFR part 58 (See 59 FR 62517, column one).

On March 13, 1995 (60 FR 13518) HUD published an interim rule amending 24 CFR part 58, entitled ''Environmental Review Procedures for Recipients Assuming HUD Responsibilities.'' Section 58.1(c)(8) of the March 13, 1995 interim rule adds the FHA Multifamily Housing Finance Agency Risk Sharing Pilot Program under section 542(c) of the Housing and Community Development Act of 1992 as one of the programs and activities for which States and units of general local government are authorized to assume responsibility of environmental review (in lieu of HUD).

Accordingly, § 266.210(b) of the December 5, 1994 final rule, which identifies environmental reviews as a HUD-retained review function, is amended by this final rule to be consistent with § 58.1(c)(8) of the March 13, 1995 interim rule.

II. Justification for Final Rule

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied with prior public procedure is ''impracticable, unnecessary, or contrary to the public interest.'' (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary and contrary to the public interest. In the December 5, 1994 final rule, the public was advised that this amendment would be made to the HFA Risk Sharing rule as soon as the changes to part 58 were made. This rule is also technical in nature, since it makes a conforming amendment to part 266 to make it consistent with the recently issued changes to part 58. Additionally, it is contrary to public interest to first seek public comment before issuing this rule for effect because it is in the interest of the HFA Risk Sharing Program, and the participants and beneficiaries thereof, to be able to utilize as soon as possible the amended environmental review procedures of part 58.

III. Other Matters

Impact on the Environment

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, in connection with the HFA Risk Sharing final rule. That Finding of No Significant Impact remains applicable to this technical confirming rule, and is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have significant impact on States or their political subdivisions since the requirements of the rule are limited to technical amendments necessary to carry out accurately the provisions of programs whose regulations were not amended in the original Consolidated Plan rule.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus is not subject to review under the Order since it is only a technical, confirming rule.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities, because it imposes no new burdens on jurisdictions.

Regulatory Agenda

This rule was not listed in the Department's Semiannual Regulatory Agenda published on November 14, 1994 (59 FR 57632, 57641), under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 266

Aged, Fair housing, Intergovernmental relations, Mortgage insurance, Low and moderate income housing, Reporting and recordkeeping requirements.

In accordance with the reasons set forth in the preamble, 24 CFR part 266 is amended as follows:

PART 266—HOUSING FINANCE AGENCY RISK–SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

1. The authority citation for part 266 continues to read as follows:

Authority: 12 U.S.C. 1707; 42 U.S.C. 3535(d).

2. In § 266.201, paragraph (b) is revised to read as follows:

§ 266.210 HUD-retained review functions.

* * * * *

(b) *Environmental review requirements.* To determine compliance with the requirements of the National Environmental Policy Act of 1969 and related laws and authorities, the HUD Field Office (or other responsible entity through such delegation as may be in effect by regulation hereafter) will visit each project site proposed for insurance under this part and prepare the applicable environmental reviews as set forth in 24 CFR part 50 (or as set forth in 24 CFR part 58 for the other responsible entity). These requirements must be completed before HUD may issue the firm approval letter.

* * * * *

Dated: March 28, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–8054 Filed 3–30–95; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8584]

RIN 1545–AK03

Capitalization of Interest; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations [TD 8584] which were published in the **Federal Register** for Thursday, December 29, 1994 (59 FR 67187). The final regulations relate to the requirement to capitalize interest with respect to the production of property.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jan L. Skelton, (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 263A(f) of the Internal Revenue Code.

Need for Correction

As published, the final regulations contains errors that are misleading and in need of correction.

Correction of Publication

Accordingly, the publication of final regulations which is the subject of FR Doc. 94–31431, is corrected as follows:

1. On page 67190, column 1, in the preamble following the paragraph heading ''In General'', second full paragraph, eighth line from the bottom of the paragraph, the word ''that'' is corrected to read ''than''.

2. On page 67190, column 1, in the preamble following the paragraph heading ''In General'', second full paragraph, sixth line from the bottom of the paragraph, the word ''for'' is corrected to read ''under''.

3. On page 67190, column 2, in the preamble following the paragraph heading ''Accounts Payable and Simplification Rule for Tracing'', third full paragraph, line 8, the language ''expenditures for all property. IRS and'' is corrected to read ''expenditures for all property. The IRS and''.

4. On page 67191, column 1, in the preamble following the paragraph heading ''Notional Principal Contracts'', line 1, the word ''principle'' is corrected to read ''principal''.

5. On page 67192, in the preamble following the paragraph heading ''Land Attributable to Benefitted Property'', line 11 from the top of column 1, the word ''on'' is corrected to read ''of''.

6. On page 67192, column 3, in the preamble following the paragraph heading ''Utilities—Construction Work in Process'', paragraph 2, line 7, the language ''FAS'' is corrected to read ''SFAS''.

7. On page 67195, column 1, in the preamble following the paragraph heading ''In General'', paragraph 2, line 1, the date ''August 17, 1998'' is corrected to read ''August 17, 1988''.

8. On page 67195, column 2, in the preamble following the paragraph heading ''Consolidated Return Interest Rule'', first full paragraph, line 5 from the bottom of the paragraph, the language ''interest intragroup debt, but at the same'' is corrected to read

''interest on intragroup debt, but at the same''.

9. On page 67195, in the preamble following the paragraph heading ''Comments on Related Person Rules'', line 4 from the top of column 3, the language ''Rev. Proc.'' is corrected to read ''Notice''.

§ 1.263A–0 [Corrected]

10. On page 67197, column 1, § 1.263A–0, the contents entry for § 1.263A–9(g)(6) is corrected to read as follows:

§ 1.263A–0 Outline of regulations under section 263A.

* * * * *

§ 1.263A–9 The avoided cost method.

* * * * *

(g) * * *

(6) Notional principal contracts and other derivatives. [Reserved]

* * * * *

§ 1.263A–8 [Corrected]

11. On page 67198, column 2, § 1.263A–8, paragraph (b)(2)(iii), line 3, the language ''the thresholds under paragraphs'' is corrected to read ''the classification thresholds under paragraphs''.

12. On page 67198, column 3, § 1.263A–8, paragraph (c)(1), last line of the paragraph, the language ''windowpanes.)'' is corrected to read ''windowpanes).''.

13. On page 67199, column 3, § 1.263A–8, paragraph (d)(2)(v)(B), line 3, the language ''meaning of section 460(e)(6)(A) with'' is corrected to read ''meaning of section 460(e)(6)(A)) with''.

14. On page 67199, column 3, § 1.263A–8, paragraph (d)(2)(v)(B), line 5, section ''460(d)(1)(B)(i)'' is corrected to read ''460(e)(1)(B)(i)''.

§ 1.263A–9 [Corrected]

15. On page 67200, column 3, § 1.263A–9, paragraph (b)(2), line 7 from the bottom of the paragraph, the language ''the rules of § 1.163–8T Traced debt also'' is corrected to read ''the rules of § 1.63–8T. Traced debt also''.

16. On page 67200, column 3, § 1.263A–9, in the paragraph heading of paragraph (c)(1), line 2, the word ''*Rule*'' is corrected to read ''*rule*''.

17. On page 67200, column 3, § 1.263A–9, paragraph (c)(1) introductory text, last line in the column, the word ''production'' is corrected to read ''product''.

18. On page 67201, column 1, § 1.263A–9, paragraph (c)(3), paragraph (i) of *Example.*, line 12, the language ''$1,000,000 (loan #). The loan is nontraced'' is corrected to read ''$1,000,000 (loan #1). The loan is nontraced''.

19. On page 67201, column 2, § 1.263A–9, paragraph (c)(5)(i)(B), in the *Example.*, line 6, the figure ''$2,500,00'' is corrected to read ''$2,500,000''.

20. On page 67202, column 1, § 1.263A–9, in paragraph (c)(5)(iii)(D), line 2, the language ''*nontraced debt or rate is contingent*—If'' is corrected to read ''*nontraced debt or rate is contingent.* If''.

21. On page 67202, column 2, § 1.263A–9, paragraph (c)(6), paragraph (ii) of *Example 2.*, line 9, the language ''([$1,400,000 − $1,000,000)+'' is corrected to read ''([($1,400,000 − $1,000,000)+''

22. On page 67202, column 2, § 1.263A–9, in the paragraph heading of paragraph (c)(7), line 3, the period is removed.

23. On page 67202, column 3, § 1.263A–9, paragraph (c)(7)(ii)(A), line 3, the word ''expenditures'' is corrected to read ''expenditure''.

24–25. On page 67203, column 1, § 1.263A–9, paragraph (e)(1), line 11, the word ''trade'' is corrected to read ''trace''.

26. On page 67203, column 1, § 1.263A–9, paragraph (e)(2), line 7, the language ''$10,000,000 gross receipts test for all'' is corrected to read ''$10,000,000 gross receipts test) and the taxpayer has met the $10,000,000 gross receipts for all''.

27. On page 67203, column 1, § 1.263A–9, in the paragraph heading of paragraph (f), line 3, the period is removed.

28. On page 67204, § 1.263A–9, paragraph (f)(3), paragraph (i) of *Example 3.*, line 2 of the table is corrected to read as follows:

No.	Principal	Annual rate (percent)	Period outstanding	Use of proceeds
* * * *	*		*	*
2	2,000,000	11	6/01–12/31	Nontraced.

29. On page 67204, column 1, § 1.263A–9, paragraph (f)(3), paragraph (v) of *Example 3.*, last line, the language ''$500,000+$1,000,000+$1,600,000+4).'' is corrected to read ''$500,000+$1,000,000+ $1,600,000]+4).''.

30. On page 67205, column 2, § 1.263A–9, the paragraph designated (g)(2)(iv)(c) is correctly designated paragraph (g)(2)(iv)(C).

31. On page 67205, column 2, § 1.263A–9, paragraph (g)(2)(v), line 4, the word ''provisions'' is corrected to read ''provision''.

32. On page 67205, column 3, § 1.263A–9, paragraph (g)(2)(v), paragraph (i) of *Example 1.*, line 2 from the bottom of the paragraph, the language ''[$135,000×$108,000]), $75,000 is deferred'' is corrected to read ''[$135,000+$108,000]), $75,000 is deferred''.

33. On page 67205, column 3, § 1.263A–9, paragraph (g)(2)(v), paragraph (ii) of *Example 1.*, line 6, the language ''is 11.6 percent ([$135,000×$108,000]÷'' is corrected to read ''is 11.6 percent ([$135,000+$108,000]÷''.

34. On page 67206, column 3, § 1.263A–9, paragraph (g)(3)(iii)(E), in the *Example.*, line 7 from the bottom of the column, the letter ''S'' is corrected to read ''X''.

35. On page 67206, column 3, § 1.263A–9, paragraph (g)(3)(iii)(E), in the *Example.*, line 3 from the bottom of the column, the language ''segment is 3-year inventory. Under paragraph'' is corrected to read ''segment is 3-year old inventory. Under paragraph''.

36. On page 67207, column 2, § 1.263A–9, paragraph (g)(5)(iii), paragraph (i) of *Example.*, the last line of the paragraph, the language ''([$600,000÷$6,000,000]×5,000,000).'' is corrected to read ''($600,000÷$6,000,000×$5,000,000).''.

§ 1.263A–10 [Corrected]

37. On page 67207, column 3, the section heading designated ''§ 1.263–10'' is correctly designated ''§ 1.263A–10''.

38. On page 67209, column 1, § 1.263A–10, paragraph (b)(5)(iv), the first line of column 1, the word ''period'' is corrected to read ''periods''.

39. On page 67209, column 2, § 1.263A–10, paragraph (b)(6), paragraph (ii) of *Example 3.*, line 7, the word ''lost'' is corrected to read ''lot''.

40. On page 67209, column 2, § 1.263A–10, paragraph (b)(6), paragraph (ii) of *Example 3.*, line 8, the word ''paragraph'' is corrected to read ''paragraphs''.

41. On page 67209, column 2, § 1.263A–10, paragraph (b)(6), paragraph (ii) of *Example 3.*, line 6 from the bottom of the paragraph, the language ''paragraph (b)(5) of this section. Under'' is corrected to read ''paragraph (b)(5) of this section). Under''.

42. On page 67210, column 1, § 1.263A–10, paragraph (b)(6), in *Example 6.*, line 7, the language ''the costs of the allocable share of swimming'' is corrected to read ''the costs of the allocable share of the swimming''.

§ 1.263A–11 [Corrected]

43. On page 67211, column 1, § 1.263A–11, paragraph (c)(2), line 3, the regulation section ''§ 1,263A–8(d)(2)(ii)'' is corrected to read ''1.263A–8(d)(2)(ii)''.

44. On page 67211, column 1, § 1.263A–11, paragraph (d)(1), line 23, the language ''or units of production, If an asset used'' is corrected to read ''or units of production. If an asset used''.

45. On page 67211, column 2, § 1.263A–11, paragraph (e)(1)(ii) introductory text, line 2, the language ''a unit of real property'' is corrected to read ''a unit of real property—''.

46. On page 67211, column 3, § 1.263A–11, paragraph (e)(1)(iii), line 4, the word ''the'' is corrected to read ''that''.

47. On page 67211, column 3, § 1.263A–11, paragraph (e)(2), line 5, the language ''property costs are excluded from the'' is corrected to read ''property costs) are excluded from the''.

§ 1.263A–12 [Corrected]

48. On page 67212, column 3, § 1.263A–12, paragraph (d)(4), line 3, the word ''example'' is corrected to read ''examples''.

49. On page 67212, column 3, § 1.263A–12, paragraph (e)(2) introductory text, line 1, the word ''THe'' is corrected to read ''The''.

§ 1.263A–13 [Corrected]

50. On page 67213, column 3, § 1.263A–13, paragraph (a), line 2 from the bottom of the paragraph, the language ''and costs of features based on the'' is corrected to read ''and costs of common features based on the''.

51. On page 67214, column 3, § 1.263A–13, paragraph (c)(7), paragraph (ii) of *Example.*, line 2, the language ''the meaning of paragraph (c)(2)(i)) of this'' is corrected to read ''the meaning of paragraph (c)(2)(i) of this''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Corporate).

[FR Doc. 95–7857 Filed 3–30–95; 8:45 am]

BILLING CODE 4830–01–P

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26 CFR Part 1

[TD 7837]

Income Tax; Taxable Years Beginning After December 31, 1953; Treatment of Losses on Small Business Stock; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to final regulations [TD 7837] which were published in the **Federal Register** for Wednesday, September 29, 1982 (47 FR 42728). The final regulations restate and clarify a formula relating to the computation of the amount received for designated stock by a small business corporation.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez, (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these correcting amendments are under section 1244 of the Internal Revenue Code of 1954.

Need for Correction

As published, the final regulations contains an error that is misleading and in need of correction.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.1244(c)–2(b)(2)(i) is amended by revising the last sentence as follows:

§ 1.1244(c)–2 Small business corporation defined.

* * * * *

(b) * * *

(2) * * *

(i) * * * The amount received for designated stock shall not exceed $1,000,000 less amounts received—

(A) In exchange for stock in years prior to the transitional year;

(B) As contributions to capital in years prior to the transitional year; and

(C) As paid-in surplus in years prior to the transitional year.

* * * * *

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–7969 Filed 3–30–95; 8:45 am]

BILLING CODE 4830–01–P

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26 CFR Part 18

[TD 7976]

Certain Elections Under the Deficit Reduction Act of 1984; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the temporary regulations (TD 7976), which were published in the **Federal Register** on Monday, September 10, 1984 (49 FR 35486), relating to the time and manner of making certain elections under the Deficit Reduction Act of 1984.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Cynthia Grigsby, (202) 622–7180 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction are under various sections of the Internal Revenue Code of 1954 and the Deficit Reduction Act of 1984 (98 Stat. 494).

Need for Correction

As published, TD 7976 contains an error which may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 18

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 18 is corrected by making the following correcting amendment:

PART 18—TEMPORARY INCOME TAX REGULATIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Paragraph 1. The authority citation for part 18 continues to read in part as follows:

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

Par. 2. Section 18.0 is revised to read as follows:

§ 18.0 Effective date of temporary regulations under the Subchapter S Revision Act of 1982.

The temporary regulations provided under §§ 18.1361–1, 18.1377–1, 18.1379–1, and 18.1379–2 are effective with respect to taxable years beginning after 1982, and the temporary regulations provided under § 18.1378–1 are effective with respect to elections made after October 19, 1982.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–7970 Filed 3–30–95; 8:45 am]

BILLING CODE 4830–01–P

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[TD ATF–362; Re: Notice No. 802]

RIN 1512–AA07

Cucamonga Valley Viticultural Area (94F–011P)

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in San Bernardino and Riverside Counties, California, to be known as ''Cucamonga Valley.'' The petition was filed by Gino L. Filippi of J. Filippi Vintage Co. on behalf of himself and other growers and wineries in the area.

ATF believes that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

EFFECTIVE DATE: May 1, 1995.

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

SUPPLEMENTARY INFORMATION:

Background

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

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

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF received a petition from Gino L. Filippi of J. Filippi Vintage Co. proposing to establish a viticultural area in San Bernardino and Riverside Counties, California, to be known as ''Cucamonga Valley.'' The viticultural area is located in southern California, about 45 miles east of the city of Los Angeles. It contains approximately 109,400 acres. The petitioner states that wine grapes, probably the mission variety, were first planted in the Cucamonga Valley in 1839 or 1840, ''undoubtedly one of the first large plantings of grapes in California.'' According to the petitioner the wine industry in the Cucamonga Valley grew during the late nineteenth and early twentieth centuries, reaching ''its peak in the 1940's and 1950's with over 60 wineries producing from approximately 35,000 acres.'' Today, there are five bonded wineries within the proposed area, and approximately 2,000 acres are planted to wine grapes. The petitioner notes ''the area's great history and heritage of wine growing and winemaking is truly more impressive than the number of acres currently farmed.''

The petition was also signed by Philo Biane of Rancho de Philo Winery, René Biane of Guasti Plaza, Don Galleano of Galleano Winery, Paul Hofer III of Hofer Ranch, LeAnn Smothers of the City of Rancho Cucamonga, and Jeff Wilson, of Inland Empire West Resource Conservation District.

Notice of Proposed Rulemaking

In response to Mr. Filippi's petition, ATF published a notice of proposed rulemaking, Notice No. 802, in the **Federal Register** on December 2, 1994 (59 FR 61853), proposing the establishment of the Cucamonga Valley viticultural area. The notice requested comments from all interested persons by January 31, 1995.

Comments on Notice of Proposed Rulemaking

ATF received 15 letters of comment and copies of several newspaper articles and a newspaper editorial concerning the proposal to establish the Cucamonga Valley viticultural area. All commenters expressed their support for establishing the Cucamonga Valley viticultural area as proposed in Notice No. 802. Commenters included growers and other local business owners, consumers, and government officials.

The Honorable James L. Brulte, State Assembly Republican Leader, wrote to support recognition of Cucamonga Valley as a viticultural area. The Honorable Fred Aguiar, State Assemblyman for the Sixty-first assembly district, endorsed the establishment of Cucamonga Valley viticultural area and wrote further:

> Our region has a long and distinguished history in the winegrowing industry and it is highly appropriate that this area be recognized for such a distinction.

The San Bernardino County Board of Supervisors adopted a resolution which read, in part, as follows:

> * * * RESOLVED that the Board of Supervisors of the County of San Bernardino, State of California, hereby recognizes the efforts of the local wineries and supports the designation of ''CUCAMONGA VALLEY'' in advertising and on the labels of wines produced in this vicinity.

The Honorable William J. Alexander, Mayor of Rancho Cucamonga, wrote:

> I would like to express our support in establishing the Cucamonga Valley as a

viticulture area. The City of Rancho Cucamonga takes great pride in the fact that the grape vineyards and the wineries of our area contributed so much to the early history of the region. For this reason, a grape cluster has a prominent focus in both the City's seal and logo.

Allyn B. Scheu of Scheu Manufacturing Company wrote that the designation ''will help consumers to identify the origins of the wines they buy and will recognize the Cucamonga area's rich heritage of wine production.'' Charles L. Keagle, a restauranteur, also supported the designation and wrote that ''the history of the area, America's first, goes back over 100 years.''

Columnist Garry Greenberg of the Victorville, California *Daily Press*, sent in a copy of his September 15, 1994 column which reported on the filing of the petition, and described the Cucamonga Valley area as ''the home of the largest winemaking industry in the world a century ago.'' Mr. Greenberg also sent in the text of a column which he planned to publish in January 1995, encouraging readers to write in support of the proposed area.

The petitioner mailed in a clipping of an editorial from the Inland Valley *Daily Bulletin* of December 30, 1994, which concluded:

> There are 122 viticultural regions in the United States, and 69 of them are in California. The next one should be in California also, in the ''Cucamonga Valley.''

Evidence of Name

Evidence that the name Cucamonga Valley is locally and/or nationally known as referring to the viticultural area includes:

(a) Leon D. Adams, in *The Wines of America*, describes the Cucamonga Valley as follows:

> The Cucamonga Valley, forty-five miles east of Los Angeles, has grown the bulk of Southern California wine during the present century. The vineyard area extends from Ontario east to Fontana and from the base of the San Gabriel Mountains southward to the Jurupa Hills in Riverside County. The climate, though tempered by winds from the ocean, is as warm as the northern San Joaquin Valley and is classed as Region IV.

(b) An article published in *The Sun*, a San Bernardino, California, newspaper, on March 30, 1994, titled ''Fontana winery soaks up more awards,'' described awards won by two wines from J. Filippi Vintage Co. at a recent competition and stated that the ''Ruby Port is produced from Cucamonga Valley grapes, renown for sherry and port wines.''

(c) A letter dated August 20, 1991, from the San Bernardino County Archives to the Riverside County Historical Commission discussed designation of the Galleano Winery as a landmark. The letter makes several references to the Cucamonga Valley, mentioning locations within the proposed area such as Rancho Cucamonga, Fontana, Ontario and Mira Loma.

Evidence of Boundaries

As evidence that the boundaries for the area are as specified in the petition, the previously cited excerpt from *The Wines of America*, by Leon D. Adams, states that the vineyard area of the Cucamonga Valley ''extends from Ontario east to Fontana and from the base of the San Gabriel Mountains southward to the Jurupa Hills in Riverside County.'' The San Gabriel Mountains form the northern boundary of the proposed area, and the Jurupa Hills form the eastern part of the southern boundary. The towns of Fontana and Ontario are both within the area.

The petitioner used the 560′ elevation line as the western portion of the southern boundary. He states the area south of that elevation has poor drainage and is mainly used for dairy farming.

In support of Euclid Avenue as the western boundary for the viticultural area, the petitioner gave historical information. He stated that the area west of Euclid Avenue ''was subjected to flooding from the San Antonio Canyon. In the 1940's several flood control construction projects began to solve the problem. Historically, agriculture in this area (Upland, CA) was citrus (lemons and oranges).'' He stated that citrus trees were grown there because there was a good water source and better drainage than within the viticultural area to the east of Euclid Avenue.

The eastern boundary, made up of Lytle Creek Wash, Warm River, and the Santa Ana River, marks a shift in the type of soil and the ability of the soils to drain. These characteristics will be discussed in detail in the background material on soils.

Geographical Features

The petitioner describes the viticultural area as follows:

> Cucamonga Valley is an east-west oriented valley. The San Gabriel mountains form the valley's northern boundary. The San Antonio Creek, Cucamonga Creek, Deer Creek, Day Creek, San Sevaine Creeks, from west to east respectively, spread out to form alluvial fans as they descend the foothills and emerge in the Cucamonga Plain. These fans contain sand and silt deposits that create a rich mixture of fertile soil.

The viticultural area includes the area described above and the valley drained by the Cucamonga Creek to the south of this alluvial fan. These areas share characteristics of topography, soil composition and climate which distinguish the viticultural area from the surrounding areas. The petitioner provided the following evidence of the area's distinctiveness:

Topography

The U.S.G.S. topographic maps submitted by the petitioner show the viticultural area slopes gradually from 2,000 feet at the northern boundary to 560 feet at the southern boundary. The petitioner describes the San Gabriel mountains to the north of the proposed area as ''a great wall, from 8,000 to 10,000 feet high.'' The Jurupa Mountains to the southeast of the area offer another contrast as they rise steeply from the valley floor to form part of the southern boundary. The balance of the southern boundary, the 560 foot contour line, was chosen because the area at lower elevations was poorly drained and was traditionally used for dairy farming; furthermore, the nearby Prado Dam is scheduled to be raised, so the area to the south of the 560 foot contour line will be flooded.

Soil

According to the petitioner, the soil in the viticultural area is ''alluvial valley floors, fans and terraces * * * derived from granitic rock from the San Gabriel formation in the north.'' He further states that the wine grape vineyards in the region are ''found to be located on Delhi, Hanford, Tujunga, Gorgonio and Hilmar soil series'' and ''most vineyards are nearly level to moderately sloping (0–15°).''

The General Soil Map for southwestern San Bernardino County describes these associations as very deep, ''dominantly brownish soils that are coarse textured throughout'' and ''somewhat excessively drained to excessively drained.'' On this map, the eastern boundary in particular is distinguished by a change in the soil composition to the Hanford-Greenfield-San Emigdio association, finer textured and less well drained than the soils within the proposed area. The mountainous areas to the north and southeast of the viticultural area have shallower soils over granite, schist and sandstone.

Climate

The petitioner states that the climate in the area is ''well-suited for viticulture * * *. There are relatively few nights below freezing in the winter and

summer days can be very hot, reaching temperatures over 100 degrees Fahrenheit.'' The climate is classed as Region IV, with a heat summation in the 3,501 to 4,000 degree F. range. The petitioner states this corresponds to the Ukiah, Davis and Lodi areas of California, and is warmer than the Santa Barbara, Santa Rosa and Santa Maria areas to the north and the Temecula and Rancho California areas to the south.

Boundary

The boundary of the Cucamonga Valley viticultural area may be found on ten United States Geological Survey (U.S.G.S.) maps with a scale of 1:24000. The boundary is described in § 9.150.

Miscellaneous

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

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because:

(1) It will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new recordkeeping or reporting requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

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

Drafting Information

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

List of Subjects in 27 CFR Part 9

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

Authority and Issuance

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

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.150 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.150 Cucamonga Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Cucamonga Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Cucamonga Valley viticultural area are the following ten U.S.G.S. topographical maps (7.5 minute series 1:24000 scale):

(1) ''Mt. Baldy, Calif.,'' 1967, photorevised 1988.

(2) ''Cucamonga Peak, Calif.,'' 1966, photorevised 1988.

(3) ''Devore, Calif.,'' 1966, photorevised 1988.

(4) ''San Bernardino North, Calif.,'' 1967, photorevised 1988.

(5) ''Ontario, Calif.,'' 1967, photorevised 1981.

(6) ''Guasti, Calif.,'' 1966, photorevised 1981.

(7) ''Fontana, Calif.,'' 1967, photorevised 1980.

(8) ''San Bernardino South, Calif.,'' 1967, photorevised 1980.

(9) ''Prado Dam, Calif.,'' 1967, photorevised 1981.

(10) ''Corona North, Calif.,'' 1967, photorevised 1981.

(c) *Boundary.* The Cucamonga Valley viticultural area is located in San Bernardino and Riverside Counties, California. The boundary is as follows:

(1) The beginning point is the intersection of Euclid Avenue and 24th Street on the Mt. Baldy, Calif. U.S.G.S. map;

(2) From the beginning point, the boundary follows 24th Street east for approximately 0.3 mile, until it reaches the intersection of 24th Street with two unnamed light-duty streets to the north;

(3) The boundary then diverges from 24th Street and goes straight north for approximately 0.3 mile, until it reaches the 2,000 foot contour line;

(4) The boundary then follows the 2,000 foot contour line in a generally easterly direction across the Cucamonga Peak, Calif., U.S.G.S. map and onto the Devore, Calif., U.S.G.S. map until it reaches Lytle Creek Wash;

(5) The boundary follows the intermittent stream in Lytle Creek Wash in a southeasterly direction to the end of the intermittent stream on the Devore, Calif., U.S.G.S. map;

(6) The boundary then continues through Lytle Creek Wash, proceeding southeast in a straight line from the end of the intermittent stream, across the southwest corner of the San Bernardino North, Calif., U.S.G.S. map and onto the San Bernardino, South, Calif., U.S.G.S. map, to the northernmost point of the flood control basin at the end of the Lytle Creek Wash, a distance of approximately 4.3 miles;

(7) The boundary then proceeds in a straight line south-southeast across the flood control basin to the point where Lytle Creek Channel exits the basin;

(8) The boundary continues along Lytle Creek Channel until it empties into Warm Creek;

(9) The boundary then follows Warm Creek until it meets the Santa Ana River;

(10) The boundary then follows the western edge of the Santa Ana River in a generally southwesterly direction until it meets the San Bernardino—Riverside County line;

(11) The boundary follows the county line west, crossing onto the Guasti, Calif., U.S.G.S. map, until it reaches the unnamed channel between Etiwanda and Mulberry Avenues (identified by the petitioner as Etiwanda Creek Channel);

(12) The boundary then follows Etiwanda Creek Channel in a southerly direction until it parallels Bain Street;

(13) The boundary then diverges from Etiwanda Creek Channel and follows Bain Street south until it ends at

Limonite Avenue in the northeast corner of the Corona North, Calif., U.S.G.S. map;

(14) The boundary then continues south in a straight line until it reaches the northern shore of the Santa Ana River;

(15) The boundary then follows the north shore of the Santa Ana River until it intersects the 560 foot contour line in Section 1 T3S/R7W;

(16) The boundary then follows the 560′ contour line to the north of the Santa Ana River in a generally westerly direction until it reaches Euclid Avenue on the Prado Dam, Calif., U.S.G.S. map;

(17) The boundary then follows Euclid Avenue north to the point of beginning.

Signed: March 1, 1995.

Daniel R. Black,

Acting Director.

Approved: March 9, 1995.

Dennis M. O'Connell,

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

[FR Doc. 95–7893 Filed 3–30–95; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AC31

Denali National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Interim rule with request for comments.

SUMMARY: The National Park Service (NPS) is promulgating an interim rule to require mountain climbers to register a minimum of 60-days before any climb on Mount McKinley and Mount Foraker in Denali National Park. Mountaineering in the park has increased dramatically over the last ten years. The number of climbers on Mount McKinley has risen from 695 in 1984 to 1,277 in 1994. Climbing-related injuries and deaths have correspondingly increased. By requiring advance registration, the Denali park staff will be able to provide information to prospective mountaineers in advance of their climb. This may include information on the specific dangers they may face, how to prepare and equip, other safety related issues, and requirements concerning resource protection issues such as litter removal and human waste disposal. Currently, climbers are required to register, but may do so as late as the day they depart for the mountain.

DATES: This rule is effective March 31, 1995. *Expiration date:* Section 13.63(f) will expire on March 31, 1997, unless amended or revised by future rulemaking. However, written comments will be accepted until May 30, 1995.

ADDRESSES: Comments should be directed to: Superintendent, PO Box 9, Denali National Park, AK 99755.

FOR FURTHER INFORMATION CONTACT: Steve Martin, Acting Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali National Park, AK 99755.

SUPPLEMENTARY INFORMATION:

Background

Denali National Park was first established as Mt. McKinley National Park on February 26, 1917. A separate Denali National Monument was proclaimed on December 1, 1978. These two were combined, reconfigured and established as Denali National Park and Preserve on December 2, 1980, encompassing 6.5 million acres. Prior to achieving its current configuration, the land the park now encompasses was recognized for its unique ecological value and designated an International Biosphere Reserve in 1976. That designation has since been expanded to encompass the entire 6.5 million acre park and preserve. The park contains North America's highest mountain, 20,320 foot Mount McKinley. Mount Foraker, at 17,400 feet, and numerous large glaciers of the Alaska Range are also a part of this park's subarctic ecosystem. Wildlife includes caribou, Dall sheep, moose, grizzly bears and wolves.

The first ascent of Mount McKinley occurred in 1913. Climbing continued to be a popular activity, although on a small scale, after the park was established. However, during the last ten years mountaineering in the park has increased dramatically. The number of Mount McKinley climbers has risen from 695 in 1984 to 1,277 in 1994. With the numbers of climbers increasing, the number of accidents, rescues, and resource related problems have also increased. Since 1932 a total of 79 mountaineers have perished on the slopes of Mount McKinley; 23 percent of these deaths (18 people) have occurred since 1990. Recent years have also seen an increase in climbing related deaths on Mount Foraker and the other Alaska Range peaks located in the park. In 1990, eight mountaineers were rescued on Mount McKinley. In sharp contrast, the number of mountaineers rescued increased to 28 in 1992, and 27 in 1994. Studies by the NPS showed that the major reason climbers got into trouble on the mountain and required rescue was their unfamiliarity with the hazards unique to Mount McKinley. Specifically, extreme weather conditions, their changeability, and the other hazards associated with climbing in such northerly latitudes caught the climbers unprepared. The NPS determined that climbers need better education and information prior to their climbs and that an appropriate time frame was necessary to convey this information to the climbing community. Climbers from 22 countries registered to climb Mount McKinley in 1990. With so many climbers seeking permits, adequate lead time required to fulfill the requests lengthens. The 60 day pre-registration period will provide sufficient opportunity for the Denali park staff to provide the necessary information to prospective mountaineers on the dangers they may face climbing in the park, how to prepare and equip themselves for the climb, other safety related issues, and requirements concerning resource protection issues such as litter removal and human waste disposal.

Authority

This regulation is promulgated pursuant to the Secretary of the Interior's authority to make and publish necessary and proper rules and regulations for the use and management of parks, monuments and reservations under the jurisdiction of the National Park Service (16 U.S.C. 3).

Interim Rulemaking

The purpose of this rulemaking is to allow the park enough time to provide climbers with better general and safety related information in order to reduce the number of climbing accidents and the attendant injuries and deaths, the occurrence of which have recently and dramatically increased. In order for the NPS to implement these safeguards prior to the 1995 climbing season, which begins in April 1995, the interim rule will need to be effective upon the date of publication. The park is already receiving requests for information about the 1995 climbing season; allowing for notice and comment or delaying the effective date of the rule will not allow the NPS adequate time to implement these safeguards. The interim rule has a two-year ''sunset clause''. Notice and comment rulemaking will be conducted with full public involvement during this two-year time period. The intended result of this action is to immediately increase the safety of mountain climbers by allowing sufficient time for the park

to provide the necessary information to all climbers concerning the hazards associated with climbing in Denali National Park.

The NPS is promulgating this interim rule under the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(b)(B) from general notice and comment rulemaking. As discussed above, the NPS believes that this exception is warranted because of the time constraints involved. Based upon this discussion, the NPS finds pursuant to 5 U.S.C. 533(b)(B) that it would be contrary to the public interest to publish a notice of proposed rulemaking. The NPS is, however, soliciting comments and will review comments and consider making changes to the rule based upon an analysis of comments.

In accordance with the Administrative Procedure Act (5 U.S.C. 531 *et seq.*), the NPS has further determined that publishing this interim rule 30 days prior to the rule becoming effective could further delay the dissemination of safety and resource related information to climbers. This also would be contrary to the public interest and the intended purpose of the rule. Therefore, under the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), and as discussed above, the NPS has been determined that this interim rulemaking is excepted from the 30-day delay of effective date, and shall therefore become effective upon the date published in the **Federal Register**.

Because the NPS is soliciting comments as discussed above, the NPS plans to analyze comments received and prepare further rulemaking, as appropriate.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, in accordance with the above discussion, the urgent need to disseminate the information concerning the 60-day pre-registration notice and to ensure the safety of the mountain climbers, it has been determined that it is contrary to the public interest to delay the effective date of this interim rule pending public comment.

Nevertheless, interested persons are invited to submit written comments or suggestions regarding the proposed regulations to the address noted at the beginning of this rulemaking. Comments must be received on or before May 30, 1995. The NPS will review comments and consider making changes to the rule based upon an analysis of comments.

Drafting Information

The primary authors of this rule are Dennis Burnett, Washington Office of Ranger Activities and Brenda Bussard of Denali National Park and Preserve, National Park Service.

Paperwork Reduction Act

This rule does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the NPS has determined that this interim rule will not have a significant economic effect on a substantial number of small entities, nor does it require a preparation of a regulatory analysis.

This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;
(b) Introduce non-compatible uses which compromise the nature and characteristics of the area, or cause physical damage to it;
(c) Conflict with adjacent ownerships or land uses; or
(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this interim rule is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 13

Alaska, National Parks; Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR part 13 is amended as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

Subpart C—Special Regulations—Specific Park areas in Alaska

1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

§ 13.63 [Amended]

2. Section 13.63 is amended by revising paragraph (f) to read as follows:

* * * * *

(f) *Mountain climbing.* Climbing on Mount McKinley or Mount Foraker without registering, on a form provided by the Superintendent, at least 60 days in advance of the climb is prohibited.

Dated: March 23, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–7906 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1003

RIN 0991–AA65

Civil Money Penalties for Referrals to Entities and for Prohibited Arrangements and Schemes

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule implements the civil money penalty (CMP) provisions established through sections 1877(g)(3) and 1877(g)(4) of the Social Security Act. Specifically, in accordance with section 1877(g)(3), these regulations set forth CMPs, assessments and an exclusion against any person who presents, or causes to be presented, a bill or claim the person knows or should know is for a service unlawfully referred under section 1877(a)(1)(A) of the Act, or has not refunded amounts inappropriately collected for a prohibited referral. In addition, in accordance with section 1877(g)(4), these regulations set forth CMPs, assessments and an exclusion in cases where a physician or entity enters into an arrangement or scheme in which the physician or entity knows, or should have known, that the principal purpose is to assure referrals by the physician which, if made directly to a particular entity, would violate the prohibition on referrals described in section 1877(a) of the Act.

DATES: *Effective date:* This final rule with comment period is effective on March 31, 1995.

Comment period: Comments on the applicability of these CMPs for referrals to ''designated health services'' resulting from provisions in the Omnibus Budget Reconciliation Act (OBRA) of 1993 will

be considered if we receive them at the address specified below, no later than 5 p.m. on May 30, 1995. Broadening these CMPs to cover referrals to ''designated health services'' is discussed in sections I.C. and IV. of this preamble. We will not consider comments on provisions that remain unchanged from the October 20, 1993 proposed rule or on provisions that were changed based on public comments.

ADDRESSES: Mail comments to: Office of Inspector General, Department of Health and Human Services, Attention: LRR–30–FC, Room 5246, 330 Independence Avenue SW., Washington, DC 20201.

If you prefer, you may deliver your comments to Room 5551, 330 Independence Avenue, SW., Washington DC 20201. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code LRR–30–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of this document, in room 5551, 330 Independence Avenue SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m., (202) 619–3270.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, Legislation, Regulations and Public Affairs Staff, (202) 619–3270.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Omnibus Budget Reconciliation Acts of 1989 and 1990

In an effort to limit physician referrals involving laboratory services, section 6204 of Pub. L. 101–239, the Omnibus Budget Reconciliation Act (OBRA) of 1989, as amended by section 4207(e) of Pub. L. 101–508 (OBRA of 1990), added a new section 1877—Limitations on Certain Physician Referrals—to the Social Security Act.

As set forth by OBRA 1989 and 1990, section 1877, with certain exceptions, prohibited a physician from making a referral to an entity for the furnishing of clinical laboratory services for which Medicare would otherwise pay, if the physician or a member of the physician's immediate family had a financial relationship with that entity. (See the discussion in section I.C. below regarding expansion of this authority to ''designated health services'' as a result of amendments set forth in OBRA 1993.) This provision further prohibited an entity from presenting, or causing to be presented, a Medicare claim or bill to any individual, third party payer or other entity for laboratory services furnished in accordance with a prohibited referral. The authority for implementing these provisions is a bifurcated responsibility between the Health Care Financing Administration (HCFA) and the OIG. The HCFA has had the responsibility for developing regulations that set forth the specific policies by which such prohibited conduct is defined, while the OIG has maintained responsibility for imposing civil money penalties (CMPs), assessments and program exclusions for violations of this referral ban.

B. Proposed HCFA and OIG Regulations

On March 11, 1992, the HCFA issued proposed regulations (57 FR 8588) setting forth provisions that would—(1) with certain specified exceptions, prohibit a physician from making a referral to an entity for the furnishing of laboratory services for which Medicare would otherwise pay, if the physician or a member of his or her immediate family has a financial relationship with that entity; and (2) prohibit an entity from presenting or causing to be presented a Medicare claim or bill for such services furnished in accordance with that referral. Because the statute was quite detailed in scope, the HCFA proposed rule adhered closely to the statutory language and adopted—with little change—several definitions, such as the definition of prohibited financial relationships and compensation arrangements.

In addition, on October 20, 1993 the OIG issued a proposed rule (58 FR 54096) that was designed to codify the penalty provisions of the statute set forth in sections 1877 (g)(3) and (g)(4) of the Social Security Act. The proposed rule addressed the establishment of CMPs of not more than $15,000 for each violation of the ban on making claims for services resulting from prohibited referrals or failing to make a refund, and CMPs of not more than $100,000 for physicians and entities who engage in a circumvention scheme to avoid detection of prohibited referrals.

C. The Omnibus Budget Reconciliation Act of 1993

The Omnibus Budget Reconciliation Act of 1993 expanded the scope of section 1877 of the Act to extend the prohibition to Medicare *and Medicaid* referrals beyond clinical laboratory service to include various ''designated health services.'' Specifically, OBRA 1993 amended the Medicaid payment provisions by adding a new section 1903(s) to state that no payments are to be made to a State for services furnished by designated health services that violate the referral prohibitions of section 1877. The provision is also applicable to the reporting and penalty provisions under sections 1877(f) and (g)(5) of the Act. The designated health services cover both diagnostic services and therapeutic items and services, including physical and occupational therapy services; radiology services; radiation therapy services and supplies; durable medical equipment (DME) and supplies; parenteral and enteral nutrients, equipment and supplies; prosthetics, orthotics and prosthetic devices and supplies; home health services; outpatient prescription drugs; and inpatient and outpatient hospital services.

These expansions resulting from OBRA 1993—the expansion to Medicaid to be effective beginning on December 31, 1994, and the expansion to other designated health services to be effective for referrals made after December 31, 1994—were not incorporated into either the HCFA or OIG proposed rules summarized above. The HCFA intends to publish new proposed regulations—separate from the final rule addressing physician ownership of, and referrals to, entities that furnish clinical laboratory services—that will (1) cover how the referral prohibition applies to additional services now covered by section 1877 as the result of OBRA 1993, (2) explain various new exceptions added to the statute, and (3) define key terms such as financial relationship, inpatient/outpatient services, diagnostic services and DME.

However, because the penalty provisions set forth in sections 1877 (g)(3) and (g)(4) of the Act remain unchanged by these amendments, we are incorporating by reference the expansion to designated health services into our final rulemaking for sanctioning improper claims and circumvention schemes. Since the statutory changes associated with these penalty provisions are self-implementing, we believe that the regulatory revisions set forth in this rulemaking can be implemented without interpretation and that public comment would not substantially modify these regulations. We believe that affording additional proposed rulemaking under these circumstances is unnecessary and would delay the promulgation of regulations that correspond with the current statute. Therefore, we find good cause to waive proposed rulemaking for incorporating the statutory expansion to designated health services by reference into our final rulemaking. However, we are providing a 60-day comment period for

comments limited to the area of designated health services in order to give parties now covered by these CMP regulations as providers of designated health services an opportunity to make applicable comments. Although these regulations are being issued as a final rule, any additional comments will be considered for possible future amendments to the rulemaking, where appropriate.

II. Provisions of the OIG Proposed Rule

The OIG proposed regulations, published in the **Federal Register** on October 20, 1993, provided for a penalty against any person presenting a bill or claim to be paid by Medicare for services furnished under a ''self-referral'' arrangement prohibited under section 1877(a) of the Act, or any person failing to refund amounts that were inappropriately billed and collected as the result of a prohibited referral. The proposed regulations established—

- A CMP of no more than $15,000 for each service provided in accordance with a prohibited referral, for which a bill or claim was presented, or caused to be presented, or caused to be presented, or which was not properly refunded;
- An assessment of not more than twice the amount claimed for each service that was the basis for the CMP; and
- An exclusion of the individual from Medicare and State health care program participation.

In determining the amount of penalty and assessment for this violation, the proposed rule specified that the OIG would apply the five existing criteria set forth in § 1003.106(a) of the regulations, and proposed a sixth criterion to be applied to consider timeliness and completeness with respect to the appropriate refund(s).

In addition, the proposed regulations provided for a penalty against a physician or entity entering into an agreement or ''circumvention'' scheme to assure referrals which, if they were made directly, would violate the prohibition on referrals set out in section 1877(a) of the Act. One example of such a scheme would be a cross-referral arrangement where the physician owners of two different entities refer to each other. The proposed regulations established—

- A CMP of not more than $100,000 for each arrangement or circumvention scheme entered into by a physician or entity;
- An assessment of not more than twice the amount claimed by the physician or entity for each service billed under the prohibited arrangement; and
- An exclusion of the physician or entity form Medicare and State health care program participation.

In determining the amount of the penalty and assessment for this violation, the proposed rule specified that the OIG would apply the five existing criteria in § 1003.106(a) of the regulations, and proposed an additional criterion that would consider the amount of ownership interests involved.

III. Response to the Public Comments

In response to this proposed rule, the OIG received a total of five timely-filed public comments from associations and individuals. Set forth below is a summary of those comments received and our response to the various concerns they raised.

Definition of ''Timely Basis''

Comment: Proposed § 1003.102(b)(8) stated that the OIG may impose a penalty against any person ''who has not refunded on a *timely basis* amounts collected as a result of billing an individual, third party payer or other entity for a clinical laboratory service that was provided in accordance with a prohibited referral * * *'' (underlining added). The commenter believes that providers should be made aware of any time requirements to which they will be held accountable, and recommends that we define the term ''timely basis.''

Response: We agree with the commenter that this term should be clarified, and are defining ''timely basis'' in § 1003.101 of the regulations as the 60 day period from the time the prohibited amounts are collected. We believe that there is precedent for defining this time period.

Currently, the general government refund policy for *overpayments* is 30 days. For example, section 1815(d) of the Social Security Act—addressing payments to providers under part A of the Medicare program—requires a refund (or offset) of excess payments within 30 days of a final determination that the amount of payment was in excess of the amount due. However, the 30 days begins to run after a *final determination* is made that there was an overpayment, while § 1003.102(b)(8) of our regulations contemplates that the person who collected amounts for a service provided in accordance with a prohibited referral will take the initiative to refund those amounts on a timely basis without first being subject to a ''final determination.''

The HCFA regulations at 42 CFR 411.24(h) seem more analogous to the ''refund'' provision addressed in these penalty provisions than to the overpayment time periods. These HCFA Medicare secondary payer regulations require a beneficiary or other party who receives a third party payment to reimburse Medicare within 60 days. Under 411.24(h), the recipient of the third party payment is expected to take the initiative to refund the program, without first receiving notice, or having a ''determination'' by HCFA that the refund is required. Since the OIG regulations intend for persons who profit from prohibited referrals to initiate making the refund, we believe that a 60 day period is a reasonable time period to establish is defining ''timely basis.''

Clarifying the Scope of the Regulations

Comment: One commenter asked that we clarify the regulations text to specify, as we did in the preamble to the proposed rule, that *physicians*—as well as the laboratory (or designated health service provider)—may be subject to CMPs for causing the submission of claims for services resulting from prohibited referrals.

Response: We believe that the language set forth in § 1003.102 is adequate to cover the scope of these provisions. The word ''person'' as defined in § 1003.101 includes an individual, trust, estate, partnership, corporation, professional association or corporation, or other entity. Physicians, as ''individuals,'' are specifically included under this definition.

Criteria for Circumvention Scheme Sanctions

Comment: The rulemaking proposed adding a new criterion in § 1003.106(a) that would take into account the amount of ownership interests involved when determining penalty amounts or assessments for circumvention schemes. One commenter strongly supported this criterion of requiring providers to disclose the *amount* of ownership interest whenever making an ownership disclosure under section 1877 rather than just the fact of ownership interest in a facility.

Response: We appreciate the commenter's support of this additional criterion, and believe that requiring the provider to disclose the amount of ownership will act as a further deterrent to providers referring patients to facilities in which they have financial interests.

Comment: In referencing both § 1003.102(b)(9) of the proposed regulations and existing § 1003.102(c), one commenter raised concerns regarding the ability of outside third parties to effectively counsel

practitioners if such counseling activities were considered subject to penalties as part of a ''circumvention'' scheme. The commenter expressed concern that the regulation would discourage lawyers, accountants and other professionals from advising physicians on how to set up practices for fear that the advising professional would be ''adding and abetting'' a violation.

Response: This regulation is directed specifically at *physicians* and *entities* that enter into a ''cross-referral arrangement'' or a scheme which the physician or entity knows or should know is designed to circumvent the prohibitions of this provision. It should in no way discourage physicians from seeking professional advice in good faith, or discourage attorneys and accountants from giving such advice in good faith.

Resource Issues

Comment: One commenter took issue with the regulatory impact statement that states the rulemaking will have no direct effect on the economy or on Federal or State expenditures. The commenter believes that there will be a considerable increase in the workload of Medicare auditors and fraud units in their efforts to detect fraud and abuse, and believes that the impact statement should reflect these increased activities.

In addition, based on information a second commenter is currently receiving on physician ownership of other entities when individuals are requesting provider numbers, the commenter indicated that they would need to establish specific flags or edits to be adequately apprised of situations involving potential violations.

Response: We do not believe that these penalty provisions will result in significantly increased expenditures for detection efforts in this area, and believe that these concerns do not warrant altering the existing regulatory impact statement. While we do not anticipate funding levels to significantly increase as a result of this additional authority, we remain acutely aware of the issue and need for resources in general, and will continue to invite and rely on active participation from within the health care industry to aid in efforts to accurately and effectively identify and police self-referral violations.

Delaying Issuance of the Final OIG Regulations

Comment: One commenter asked that issuance of the OIG final penalty provisions be delayed until HCFA has promulgated both sets of final implementing regulations addressing prohibited referrals and prohibited arrangements and schemes under section 1877 of the Act.

Response: As indicated above, HCFA plans two separate rulemaking initiatives—one addressing clinical laboratory services and a second for designated health services—to address the prohibitions set forth in section 1877 of the Act. The OIG has always maintained, however, that its statutory CMP authorities are independent authorities under which it may bring enforcement actions before regulations are published. For that reason, we do not believe that it is necessary for the OIG to wait upon finalization of HCFA's regulations to publish in final form our CMP regulations addressing the penalty and enforcement provisions of sections 1877 (g)(3) and (g)(4).

IV. Technical Changes

As discussed above, we are incorporating into this final rule the expansion of section 1877 resulting from OBRA 1993 to include Medicare payments for much of the health care industry, i.e., for clinical laboratory services and the additional ten ''designated health services'' effective for referrals made after December 31, 1994.

V. Cross-References to the HCFA Regulations

Sections 1003.100(b)(1) (ix)–(xi), 1003.102(a)(5) and 1003.102 (b)(9) and (b)(10) cross-reference HCFA regulations' §§ 411.351 and 411.353 that will not be codified until the HCFA Physician Referral rules are published in final form. We note that these citations to the HCFA regulations are tentative and will be amended, if necessary, when those provisions are finalized.

VI. Regulatory Impact Statement

The Office of Management and Budget has reviewed this final rule with comment period in accordance with the provisions of Executive Order 12866. As discussed above, the provisions contained in this rulemaking set forth new authorities to the OIG for levying CMPs against persons or entities that file claims for services furnished on the basis of prohibited referrals or who engaged in prohibited circumvention schemes proscribed by statute. These provisions are a result of statutory changes and serve to clarify departmental policy with respect to the imposition of CMPs against persons and entities who violate the statute. We believe that the great majority of providers and practitioners do not engage in such prohibited activities and practices discussed in these regulations. As a result, we believe that the aggregate economic impact of these provisions will be minimal, affecting only those who have engaged in prohibited behavior in violation of the statute. As such, this final rule should have no effect on the economy or on Federal or State expenditures.

In addition, we generally prepare a regulatory flexibility analysis consistent with the Regulatory Flexibility Act (5 U.S.C. 601 through 612) unless the Secretary certifies that a regulation will not have a significant economic impact on a substantial number of small business entities. While some sanctions and penalties may have an impact on small entities, we do not anticipate that a substantial number of these small entities will be significantly affected by this rulemaking. Therefore, we have concluded, and the Secretary certifies, that a regulatory flexibility analysis is not required for this final rule.

List of Subjects in 42 CFR Part 1003

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare, Penalties.

42 CFR part 1003 is amended as set forth below:

PART 1003—CIVIL MONEY PENALTIES, ASSESSMENTS AND EXCLUSIONS

1. The authority citation for part 1003 is revised to read as follows:

Authority: 42 U.S.C. 1302, 1320–7, 1320a–7a, 1320b–10, 1395u(j), 1395u(k), 1395dd(d)(1), 1395mm, 1395nn(g), 1395ss(d), 1396b(m), 11131(c) and 11137(b)(2).

2. Section 1003.100 is amended by revising paragraph (a); by republishing paragraph (b)(1) introductory text; by revising paragraphs (b)(1)(vi) and (b)(1)(vii); and by adding new paragraphs (b)(1)(viii)–(xi) to read as follows:

§ 1003.100 Basis and purpose.

(a) *Basis.* This part implements sections 1128(c), 1128A, 1140, 1842(j), 1842(k), 1876(i)(6), 1877(g), 1882(d) and 1903(m)(5) of the Social Security Act, and sections 421(c) and 427(b)(2) of Pub. L. 99–660 (42 U.S.C. 1320a–7, 1320a–7a, 1320a–7(c), 1320b(10), 1395mm, 1395ss(d), 1395u(j), 1395u(k), 1396b(m), 11131(c) and 11137(b)(2)).

(b) *Purpose.* * * *

(1) Providers for the imposition of civil money penalties and, as applicable, assessments against persons who—

* * * * *

(vi) Violate a requirement of section 1867 of the Act or § 489.24 of this title;

(vii) Substantially fail to provide an enrollee with required medically necessary items and services, or engage in certain marketing, enrollment, reporting, claims payment, employment or contracting abuses; or

(viii) Have submitted certain prohibited claims under the Medicare program;

(ix) Present or cause to be presented a bill or claim for designated health service (as defined in § 411.351 of this title) that they know, or should know, were furnished in accordance with a referral prohibited under § 411.353 of this title;

(x) Have collected amounts that they know or should know were billed in violation of § 411.353 of this title and have not refunded the amounts collected on a timely basis; or

(xi) Are physicians or entities that enter into an arrangement or scheme that they know or should know has as a principal purpose the assuring of referrals by the physician to a particular entity which, if made directly, would violate the provisions of § 411.353 of this title.

* * * * *

3. Section 1003.101 is amended by adding a definition for the term *timely basis* to read as follows:

§ 1003.101 Definitions

* * * * *

Timely basis means, in accordance with § 1003.102(b)(9) of this part, the 60-day period from the time the prohibited amounts are collected by the individual or the entity.

* * * * *

4. Section 1003.102 is amended by revising paragraphs (a)(3), (a)(4) introductory test, and (a)(4)(iii); and by adding paragraphs (a)(5), (b)(9) and (b)(10) to read as follows:

§ 1003.102 Basis for civil money penalties and assessments.

(a) * * *

(3) An item or service furnished during a period in which the person was excluded from participation in the program to which the claim was made in accordance with a determination made under sections 1128 (42 U.S.C. 1320a–7), 1128A (42 U.S.C. 1320a–7a), 1156 (42 U.S.C. 1320c–5), 1160(b) as in effect on September 2, 1982 (42 U.S.C. 1320c–9(b)), 1842(j)(2) (42 U.S.C. 1395u(j)), 1862(d) as in effect on August 18, 1987 (42 U.S.C. 1395y(d)), or 1866(b) (42 U.S.C. 1395cc(b));

(4) A physician's services (or an item or service) for which the person knew, or should have known, that the individual who furnished (or supervised the furnishing of) the service—

* * * * *

(iii) Represented to the patient at the time the service was furnished that the physician was certified in a medical specialty board when he or she was not so certified; or

(5) A payment that such person knows, or should know, may not be made under § 411.353 of this title.

(b) * * *

(9) Has not refunded on a timely basis, as defined in § 1003.101 of this part, amounts collected as the result of billing an individual, third party payer or other entity for a designated health service that was provided in accordance with a prohibited referral as described in § 411.353 of this title;

(10) Is a physician or entity that enters into—

(i) A cross referral arrangement, for example, whereby the physician owners of entity ''X'' refer to entity ''Y,'' and the physician owners of entity ''Y'' refer to entity ''X'' in violation of § 411.353 of this title, or

(ii) Any other arrangement or scheme that the physician or entity knows, or should know, has a principal purpose of circumventing the prohibitions of § 411.353 of this title.

* * * * *

5. Section 1003.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1003.103 Amount of penalty.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, the OIG may impose a penalty of not more than $2,000 for each item or service that is subject to a determination under § 1003.102.

(b) The OIG may impose a penalty of not more than $15,000 for each person with respect to whom a determination was made that false or misleading information was given under § 1003.102(b)(4), or for each item and service that is subject to a determination under § 1003.102(a)(5) or § 1003.102(b)(9) of this part. The OIG may impose a penalty of not more than $100,000 for each arrangement or scheme that is subject to a determination under § 1003.102(b)(10) of this part.

* * * * *

6. Section 1003.106 is amended by revising paragraph (a)(1) introductory text and paragraph (a)(1)(iv); by redesignating paragraph (a)(1)(v) as paragraph (a)(1)(vii); and by adding new paragraphs (a)(1)(v) and (a)(1)(vi) to read as follows:

§ 1003.106 Determination regarding the amount of the penalty and assessment.

(a) *Amount of penalty.* (1) In determining the amount of any penalty or assessment in accordance with § 1003.102 (a), (b)(1), (b)(4), (b)(9), and (b)(10), the Department will take into account—

* * * * *

(iv) The financial condition of the person presenting the claim or request for payment, or giving the information;

(v) The completeness and timeliness of the refund with respect to § 1003.102(b)(9);

(vi) The amount of financial interest involved with respect to § 1003.102(b)(10); and

* * * * *

Dated: October 4, 1994.

June Gibbs Brown,

Inspector General.

Approved: December 30, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 95–7845 Filed 3–30–95; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7129

[WY–930–1430–01; WYW–92953–01]

Revocation of Executive Order No. 3410, Dated February 22, 1921; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order that involves 2,844.17 acres of National Forest System land withdrawn for powersite purposes in the Shoshone National Forest. The land is no longer needed for powersite purposes. This action will open 2,336.22 acres to such forms of disposition as may by law be made of National Forest System land, including exchange under the General Exchange Act of 1922. The 2,336.22 acres has been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and these provisions are no longer required. There are 427.95 acres that would remain closed to disposal by an overlapping withdrawal. The remaining 80 acres have been conveyed into private ownership with revocation being a record clearing action as it pertains to that land. The entire acreage, with the exception of the 80 acres,

remains open to mining and mineral leasing.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Duane Feick, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6127.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Executive Order No. 3410, dated February 22, 1921, which withdrew National Forest System land for powersite purposes, is hereby revoked in its entirety for the following described land:

Sixth Principal Meridian

T. 52 N., R. 105 W.,
Sec. 17, W½;
Sec. 18;
Sec. 19, lots 1 to 4, inclusive E½, and E½W½, (formerly sec. 19, all);
Sec. 20, W½;
Sec. 29, lots 4 to 7, inclusive, SW¼NW¼, and SW¼, (formerly sec. 29, W½);
Sec. 30.

The area described contains 2,844.17 acres in Park County.

2. The following described National Forest System land will remain closed to disposal because of an overlapping withdrawal, Executive Order dated March 27, 1913, for powersite purposes:

Sixth Principal Meridian

T. 52 N., R. 105 W.,
Sec. 19, lots 2 to 4, inclusive, SE¼NE¼, SE¼NW¼, E½SW¼, and SE¼.

The area described contains 427.95 acres in Park County.

3. Revocation of the withdrawal for the following described private land is a record clearing action with no opening:

Sixth Principal Meridian

T. 52 N., R. 105 W.,
Sec. 17, SE¼SW¼;
Sec. 20, NE¼NW¼.

The area described contains 80 acres in Park County.

4. At 9:00 a.m. on May 1, 1995, the land described in paragraph 1, except as provided in paragraphs 2 and 3, will be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. The land described in paragraph 1 has been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and these provisions are no longer required, except for the land described in paragraphs 2 and 3.

Dated: March 21, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–8000 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–22–M

43 CFR Public Land Order 7130

[ID–943–1430–01; IDI–29793]

Modification of Secretarial Order Dated June 18, 1908, and Executive Order No. 2067 Dated October 28, 1914, and Transfer of Jurisdiction; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies the Secretarial Order dated June 18, 1908, and Executive Order No. 2067 dated October 28, 1914, insofar as they affect 37.50 acres of public land lying outside National Forest boundaries, withdrawn for a Forest Service guard station/administrative site. This order transfers jurisdiction of the land from the Forest Service to the Fish and Wildlife Service and establishes a 20-year term. The land will continue to be used as an administrative site for the Fish and Wildlife Service and will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is hereby ordered as follows:

1. The Secretarial Order dated June 18, 1908, and Executive Order No. 2067 dated October 28, 1914, which withdrew land for use by the Forest Service, Department of Agriculture, for a guard station/administrative site, are hereby modified to transfer jurisdiction of the land from the Forest Service to the Fish and Wildlife Service for use as an administrative site. The land is described as follows:

Boise Meridian

(Secretarial Order dated June 18, 1908)

T. 4 S., R. 43 E.,
Sec. 35, E½SE¼NE¼, N½S½NW¼SE¼NE¼ and N½NW¼SE¼NE¼.

(Executive Order No. 2067 dated October 28, 1914)

T. 4 S., R. 43 E.,
Sec. 35, NE¼NE¼SE¼.

The area described contains 37.50 acres in Bonneville County.

2. The land described above continues to be withdrawn from settlement, sale, location, or entry under the pubic land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), to protect the Fish and Wildlife Service Grays Lake Refuge Headquarters. The land has been and remains open to leasing under the mineral leasing laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: March 21, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–8001 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–CG–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–185; RM–8249]

Radio Broadcasting Services; Estes Park, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 271A to Estes Park, Colorado, as that community's first local FM service, in response to a petition for rule making filed on behalf of Hambric Associates. *See* 58 FR 37696, July 13, 1993. With this action, the proceeding is terminated.

DATES: Effective May 12, 1995. The window period for filing applications on Channel 271A at Estes Park, Colorado, will open on May 12, 1995, and close on June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 271A at Estes Park, Colorado, should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 93–185, adopted March 21, 1995, and released March 28, 1995. The full text of this Commission decision is available for

inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Estes Park, Channel 271A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–7944 Filed 3–30–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 93–66; RM–8192]

Radio Broadcasting Services; Huntsville and Willis, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of New Wavo Communications Group, Inc., reallocates Channel 279C3 from Huntsville to Willis, Texas, and modifies Station KVST(FM)'s license to specify Willis as its community of license. *See* 58 FR 17818, April 4, 1993. Channel 279C3 can be allocated in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.3 kilometers (3.3 miles) northwest to accommodate New Wavo's desired site. The coordinates for Channel 279C3 at Willis are 30–26–55 and 95–31–48.

With this action, this proceeding is terminated.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 93–66, adopted March 17, 1995, and released March 28, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [AMENDED]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Willis, Channel 279C3 and removing Channel 279C3 at Huntsville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–7946 Filed 3–30–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 94–82; RM–8487]

Radio Broadcasting Services; Spencer and Sac City, IA, St. James, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Iowa Great Lakes Broadcasting Company, Inc., substitutes Channel 285C3 for Channel 285A at Spencer, IA, modifies the license of Station KIGL(FM) to specify the higher class channel, substitutes Channel 268A for Channel 285A at St. James, MN, and modifies the license of Station KXAX to specify the alternate Class A channel. The Commission also retained Channel 284A at Sac City, IA. *See* 59 FR 37738, July 25, 1994. Channel 285C3 can be allotted to Spencer with a site restriction of 17 kilometers (10.5 miles) north, at coordinates 43–17–45 North Latitude; 95–10–30 West Longitude, to avoid a short-spacing to unoccupied but applied-for Channel 284A at Sac City, IA and to accommodate petitioner's desired transmitter site. Channel 268A can be allotted to St. James at the presently licensed transmitter site of Station KXAX, at coordinates 44–03–15 North Latitude; 94–39–40 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–82, adopted March 22, 1995, and released March 28, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 285A and adding Channel 285C3 at Spencer.

3. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 285A and adding Channel 268A at St. James.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–7948 Filed 3–30–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 032795A]

Groundfish of the Gulf of Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 27, 1995, until 12 noon, A.l.t., April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(f)(1)(i), the deep-water species fishery, which is defined at § 672.20(f)(1)(i)(B)(*2*), was apportioned 100 metric tons of Pacific halibut prohibited species catch for the first season, the period January 20, 1995, through March 31, 1995 (60 FR 8470, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(3)(i), that vessels participating in the trawl deep-water species fishery in the GOA have caught the first seasonal bycatch allowance of Pacific halibut apportioned to that fishery. Therefore, NMFS is prohibiting directed fishing for each species and species group that comprises the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, Greenland turbot, Dover sole, Rex sole, arrowtooth flounder, and sablefish.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

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

Dated: March 27, 1995.

David S. Crestin,

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

[FR Doc. 95–7903 Filed 3–27–95; 4:50 pm]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 940710–4292; I.D. 010695A]

Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Trawl Closure to Protect Red King Crab

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

ACTION: Emergency interim rule; response to comments.

SUMMARY: NMFS responds to comments submitted on the interim emergency rule closing a portion of the Bering Sea to trawl vessels to protect red king crab. NMFS published this emergency rule in the **Federal Register** on January 25, 1995 for comment. No change in the trawl closure was made as a result of this action.

DATES: The emergency interim rule published at 60 FR 4866, January 25, 1995, is effective January 20, 1995, through April 25, 1995.

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

SUPPLEMENTARY INFORMATION: NMFS published an emergency interim rule in the **Federal Register** on January 25, 1995 (60 FR 4866) that implemented a closure to trawl vessels in the Bristol Bay area of the Bering Sea. The closure area encompasses the area from 56° to 57 ° N. lat. and 162° to 164° W. long. and is intended to protect female red king crab, in view of the declining Bristol Bay red king crab stocks. Two letters of comment on the emergency rule were received within the comment period and are summarized in the ''Response to Comments'' section, below. After review of the comments received, NMFS determined that no change to the emergency rule is warranted.

Response to Comments

Two letters of comment were received within the comment period that ended February 9, 1995. A summary of the comments and NMFS' response follows.

Comment 1. The emergency trawl closure area should be reconfigured to remove the 10 minutes of latitude from 56° to 56°10′ N. lat. The closure should have been designed to protect female red king crab, but, for this purpose, the best available biological data do not support inclusion of the 10 minutes of latitude from 56° to 56°10′ N. lat. in the trawl closure area.

Response. NMFS chose the closure area implemented under the emergency rule based on the distribution of female red king crab. Annual NMFS crab survey data show distribution and relative abundance of female red king crab vary from year to year. However, survey data since 1990 indicate that relatively large numbers of female crab have been taken at survey stations in Bristol Bay located around 56° N. lat. Recent 1993 and 1994 trawl survey data show female red king crab are present at survey stations located along 56° N. lat. The relative abundance of female red king crab at these stations was significantly greater in 1993 compared to 1994. The distribution of crab indicated from summer trawl surveys may not represent the distribution of various stock components during winter months; however, because no recent winter trawl survey data exist, NMFS must use the best available scientific data as a basis for the closure determination.

Available observer data on the sex composition of Bristol Bay red king crab taken as bycatch in the trawl fisheries are limited. Sex composition data collected in 1993 for observed hauls between 56° and 56°10′ N. lat. show about one third of the crab sampled for sex composition were females. Between 56° and 57° N. lat. almost 80 percent of the crab sampled for sex composition were females. Despite the fact that the red king crab bycatch limit is still in place and the rock sole fishery can still take the same number of crab, inclusion of the area between 56° and 56°10′ N. lat. provides greater protection to female red king crab.

Comment 2. The emergency rule was undertaken without any economic analysis of the impact of the closure on the trawl fisheries. It was undertaken without any analysis of the impact of other fisheries, such as the *C. bairdi* Tanner crab and red king crab fisheries, on Bristol Bay red king crab stocks.

Response. The short time frame that was available to implement the

emergency rule precluded an extensive economic analysis. However, the emergency rule does contain economic information that was considered in making the decision for the most appropriate closure area. A more comprehensive economic analysis will be conducted for alternative time/area closures being considered by the Council for an amendment to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands area that would address concerns about the red king crab resource on a long-term basis. A bycatch simulation model is also being updated to analyze the impacts of these alternative closure areas on the affected fisheries. The Council is scheduled to take action on the FMP amendment at its April 1995 meeting. NMFS approved the closure area implemented under the emergency rule based on the best data that was available at the time.

Data that were presented in both the original environmental assessment (EA) prepared for the emergency rule and in a subsequent addendum to the EA indicated the amount of bycatch in the various closure options. This information was used to determine the potential savings in red king crab bycatch and the impacts on other prohibited species bycatch.

Dated: March 27, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–7904 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 62
Friday, March 31, 1995

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1099

[DA–95–10]

Milk in the Paducah, Kentucky Marketing Area; Extension of Time for Filing Comments on Proposed Termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing comments to proposed termination of order.

SUMMARY: This notice extends the time for filing comments on the proposed termination of the order regulating the handling of milk in the Paducah, Kentucky, marketing area. The time has been extended 17 days to April 10, 1995, at the request of interested persons.

DATES: Comments now are due on or before April 10, 1995.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Division, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1366.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Proposed Termination of Order: Issued March 3, 1995; published March 9, 1995 (60 FR 12907).

Notice is hereby given that the time for filing comments to the proposed termination of the order regulating the handling of milk in the Paducah, Kentucky, marketing area is hereby extended from March 24, 1995, to April 10, 1995.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Dated: March 27, 1995.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 95–7962 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AE20

Revision of Fee Schedules; 100% Fee Recovery, FY 1995; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision of Fee Schedules; 100% Fee Recover, FY 1995: Correction.

SUMMARY: This document corrects a notice appearing in the Federal Register on Monday, March 20, 1995 (60 FR 14670). The action is necessary to correct a typographical error.

FOR FURTHER INFORMATION CONTACT: C. James Holloway, Jr., Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–415–6213.

On page 14679, Table V, item 2, add the word ''on'' so that the sentence reads: ''Activities not assessed Part 170 licensing and inspection fees or Part 171 annual fees based on existing law or Commission policy:''

Dated this 27th day of March, 1995.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 95–7936 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 14, 18, and 75

RIN 1219–AA92

Requirements for Approval of Flame-Resistant Conveyor Belts

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; reopening of the record; request for public comment and notice of public hearing.

SUMMARY: The Mine Safety and Health Administration (MSHA) is reopening the rulemaking record on proposed revisions to requirements for approval of flame-resistant conveyor belts for use in underground mines. Subsequent to the record closing on the conveyor belt proposal, MSHA published another proposed rule which would allow independent laboratories to test and evaluate certain products MSHA approves for use in underground mines. To allow comment on the applicability of the independent laboratory proposal to conveyor belt testing, submission of new relevant data, or updating of comments previously submitted, the Agency is reopening the rulemaking record on the conveyor belt proposal and scheduling a public hearing.

DATES: Written comments must be submitted on or before April 21, 1995.

The public hearing will be held on Tuesday, May 2, 1995, beginning at 9 a.m. All written requests to make oral presentations for the record should be submitted at least 5 days prior to the hearing date. Requests may also be made by calling the MSHA Office of Standards at 703–235–1910.

The public record for the rulemaking will close on June 2, 1995.

ADDRESSES: Send written comments and requests to make oral presentations to MSHA; Office of Standards, Regulations, and Variances; 4015 Wilson Boulevard, Room 631; Arlington, Virginia 22203. Commenters are encouraged to submit comments on a computer disk along with a hard copy.

The location and address for the public hearing is: Holiday Inn Meadowlands, 340 Racetrack Road, Washington, PA 15301. The Holiday Inn is adjacent to the Meadows Racetrack in Meadowlands approximately 5 miles north of Washington, PA.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 703–235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

On December 24, 1992, MSHA published a proposed rule to implement new procedures and requirements for testing and approval of flame-resistant conveyor belts and requirements for their use in underground coal mines (57 FR 61524). The proposed revision would replace the existing flame test for acceptance of flame-resistant belts specified in Agency regulations. Because of the fire hazards in underground coal mines, existing MSHA safety standards require that conveyor belts be flame-resistant in accordance with specifications of the Secretary and pass the flame test for conveyor belting specified in 30 CFR 18.65. The comment period closed on March 26, 1993. Several commenters requested that the Agency hold public hearings.

On November 30, 1994, the Agency proposed a new part 6 to 30 CFR which would allow independent testing laboratories to test and evaluate certain mining products for use in underground mines, as well as allow the use of equivalent testing and evaluation requirements (59 FR 61376). Under the proposal, an independent laboratory recognized by the Occupational Safety and Health Administration (OSHA) as a nationally recognized testing laboratory would conduct product testing and evaluation currently done by MSHA according to MSHA's testing and evaluation requirements. Upon request by an applicant, the new proposal would also enable the Agency to approve products based upon testing and evaluation requirements other than MSHA's, provided that the alternative requirements are equivalent to the Agency's and provide at least the same measure of protection to miners. Several commenters on the independent laboratory testing proposal questioned how it would relate to the conveyor belt proposal. Since publication of the independent laboratory testing proposal occurred after the close of the conveyor belt record, MSHA is reopening the conveyor belt record for a limited period of time prior to holding a hearing. This will allow all parties to comment on the applicability of the independent laboratory proposal to conveyor belt testing, to submit new relevant data, or to update comments previously submitted.

The purpose of the public hearing is to receive relevant comment and to answer questions concerning the proposal. The hearing will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions. The order of appearance will be determined by the Agency prior to the hearing, and any unallotted time will be made available to persons making late requests.

The hearing will begin with an opening statement from MSHA. The public will then be given the opportunity to make oral presentations. The hearing panel will be available to answer relevant questions during the presentations. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. At the end of the hearing, time will be made available for rebuttal statements. Verbatim transcripts of the proceedings will be taken and made part of the rulemaking record, and will be made available for review by the public.

At the time of the hearing, MSHA will also accept written comments and appropriate data from any party, including those not presenting oral statements. Written comments and data will be included in the rulemaking record. The record will remain open until June 5, 1995, to allow for the submission of any post-hearing comments.

II. Issues

Although commenters questioned a number of provisions contained in the proposal, some portions of the rule raised issues of particular concern and MSHA will address the following issues at the public hearing and specifically solicits comments, data, and pertinent information on them, in addition to any other aspect of the proposed rule.

A. Proposed Test

The repeatability and reproducibility of the proposed conveyor belt test was questioned by several commenters. The Agency considers ''repeatability'' to mean the degree of duplication of test results for a sample using a single apparatus in a specific laboratory or location. ''Reproducibility'' is considered by MSHA to mean the degree of duplication of test results for a sample using the same type of apparatus in a multitude of laboratories or locations. More than 700 individual tests have been conducted by MSHA and serve as a data base to address this issue. MSHA will make available its data on repeatability of the proposed test. In addition, MSHA requests any information or data regarding repeatability and reproducibility, particularly from those parties and individuals who have installed the proposed test apparatus and have used the proposed test in evaluation of conveyor belts.

Several commenters indicated that parameters such as humidity, temperature, atmospheric pressure, and airflow changes affect the proposed test results. In the development of the proposed test, factors such as airflow and temperature were considered. The proposal specifies controlling the temperature of the roof of the test apparatus and the temperature of the air entering the test chamber. Also, the proposal specifies control of the airflow through the apparatus to 200 plus or minus 20 ft/min (61 plus or minus 6 m/min). In addition, a variety of other parameters, such as different airflows, different lengths and widths of test samples, and variations in the duration of the ignition time, were evaluated during development of the proposed test. This information was used in designing the proposed test and establishing its comparison with the large-scale fire test results. MSHA requests specific information or data on the experience that manufacturers and other parties may have with respect to the effect of parameters on the proposed test, such as temperature, humidity, atmospheric pressure, and airflow changes.

In its comments on the proposed rule, Factory Mutual, Norwood, MA, suggested that MSHA consider a conveyor belt test developed by its personnel from which a ''fire propagation index'' could be determined. Factory Mutual indicated that its test correlated with large-scale conveyor belt fire tests conducted by the U.S. Bureau of Mines in conjunction with MSHA. MSHA requests information from Factory Mutual and other organizations and individuals that have used or have obtained data from the Factory Mutual test or any other test that compares to the proposed test.

B. Pollution Control

Another issue on which commenters expressed concern was the impact the proposed test may have on the environment and what pollution controls may be necessary as a result of the emissions from the testing of conveyor belts. MSHA is interested in hearing from manufacturers who have installed the proposed conveyor belt test apparatus and performed testing of

conveyor belts as to the method of pollution control that is used or is necessary to perform testing using the proposed test.

C. Combustion Toxicity

Some commenters indicated that conveyor belts passing the proposed tests would present more of a toxic hazard than conveyor belts meeting the present MSHA acceptance test. MSHA requests any information or data from manufacturers and other parties on the comparison or assessment of the combustion toxicity of conveyor belts meeting the present acceptance test and belts meeting the proposed test.

D. Quality Assurance

Commenters also questioned the proposal regarding the quality assurance (control) program for maintaining conveyor belt as approved. One commenter suggested that inspection of ingredients alone could not ensure that conveyor belting is manufactured as approved, suggesting that a flame test is needed for this assurance. MSHA requests information on the current practices manufacturers use in their quality control programs to maintain a product as approved. MSHA is particularly interested in whether manufacturers flame test belts using the MSHA acceptance test indicated in 30 CFR 18.65, inspect or control ingredients, or perform a combination of both.

E. Cost Data

Commenters provided a range of data on the financial impact of the proposed rule, which included costs of belting passing the proposed flame test (''new'' belt), total dollar amount of the conveyor belt market, and belt service life information. MSHA solicits comments and data on the economic impact to all belt manufacturers and all underground coal mines, including small manufacturers and small mine operators. In particular, MSHA requests information for both rubber and PVC types of conveyor belt on: (1) the quantity of belt (in feet or meters) currently in use that would pass the proposed test; (2) the total quantity (in feet or meters) and dollar amount of the market for conveyor belt used in underground coal mines; (3) the cost of belt that will pass the proposed flame test (''new'' belt) versus belt that passes the current MSHA flame test (''old'' belt); (4) whether costs of the ''new'' belt will decline as production increases and by how much; and (5) the life and warranty of ''new'' belt versus ''old'' belt.

Some manufacturers and other parties have installed the proposed MSHA test apparatus to conduct research and testing on samples of conveyor belts. MSHA also requests information from interested parties on the research and development costs for conveyor belt meeting the new test.

Dated: March 27, 1995.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 95–8018 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN32–1–6006; FRL–5180–8]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve State Implementation Plan (SIP) revision request submitted by the State of Indiana for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM). The SIP revision request was submitted by the State to satisfy certain Federal requirements for an approvable nonattainment area PM SIP for the Lake County nonattainment area. This area was designated nonattainment for PM and classified as moderate by the Clean Air Act (Act), upon enactment of the 1990 Amendments (amended Act). The amended Act requires that States make plan submittals by November 15, 1991, for those areas designated nonattainment and classified as moderate for PM upon enactment (the ''initial moderate nonattainment areas'').

DATES: Comments on this SIP revision request and on USEPA's proposed rulemaking action must be received by May 1, 1995.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Branch, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for moderate PM nonattainment areas are set out in Title I of the amended Act.[1] The USEPA has issued a ''General Preamble'' describing USEPA's preliminary views on how USEPA intends to review SIPs and SIP revisions submitted under Title I of the amended Act, including those State submittals containing moderate PM nonattainment area SIP requirements (see generally 57 FR 13498, April 16, 1992). The reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this proposed rule and the supporting rationale. In this proposed rule on the Indiana moderate PM SIP submittal for the Lake County nonattainment area, USEPA is proposing to apply the interpretations as expressed in the General Preamble, taking into consideration the special factual issues presented.

Part D of Title I contains the provisions applicable to nonattainment areas. Moderate PM nonattainment areas must meet the applicable requirements set out in Subparts 1 (sections 171–179B of the Act) and 4 (sections 188–190 of the Act) of Part D. Subpart 1 contains provisions generally applicable to all nonattainment areas and Subpart 4 contains provisions specifically applicable to PM nonattainment areas. At times, Subparts 1 and 4 overlap or conflict. USEPA has attempted to clarify the relationship among these various provisions in the General Preamble and, as appropriate, in this proposed rule.

Under Part D, those States containing initial moderate PM nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented;

[1] The 1990 Amendments to the Act made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the PM national ambient air quality standards (see Pub. L. No. 101–549, 104 Stat. 2399). References herein are to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Control requirements applicable to major stationary sources of PM precursors, except where the Administrator determines that such sources do not contribute significantly to PM levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

II. Analysis of State Submittal

Section 110(k) of the Act sets out provisions governing USEPA's review of SIP submittals (see 57 FR 13565–13566). In this proposed rule, USEPA is proposing to approve the SIP revision request submitted to USEPA on June 16, 1993, and supplemented on December 9, 1993, September 8, 1994, and November 17, 1994, for the Lake County nonattainment area. The submittal repeals rules 326 Indiana Administrative Code (IAC) 5–1–6, 6–1–10, and 6–1–11. The submittal contains the following new or revised rules:

326 IAC 1–2–32.1* ..	''Gooseneck cap'' definition
326 IAC 1–2–34.1* ..	''Jumper pipe'' definition
326 IAC 1–2–62.1* ..	''Quench car'' definition
326 IAC 1–2–63.1* ..	''Quench reservoir'' definition
326 IAC 1–2–63.2* ..	''Quench tower'' definition
326 IAC 5–1–1*	Applicability of rule
326 IAC 5–1–2*	Visible emission limitations
326 IAC 5–1–3*	Temporary exemptions
326 IAC 5–1–4*	Compliance determination
326 IAC 5–1–5*	Violations
326 IAC 5–1–7*	State implementation plan revisions
326 IAC 6–1–10.1(a–k).	Lake County PM10 emissions requirements
326 IAC 6–1–10.2	Lake County PM10 coke battery emissions requirements
326 IAC 6–1–11.1	Lake County fugitive particulate matter control requirements
326 IAC 11–3–2(a–f and i)*.	Emission limitations
326 IAC 11–3–4*	Compliance determination

While some of these rules apply strictly to Lake County, others (marked above with an asterisk) are intended to have state-wide applicability. The USEPA is proposing to approve the rules marked above with an asterisk for the entire state of Indiana. The others are being approved for sources in Lake County only.

Public comments are solicited on the requested SIP revision and on USEPA's proposed rulemaking action. The USEPA will consider any comments received during the public comment period before taking final action on the requested SIP revision. Presented below are the SIP requirements under which the submittal was reviewed, and the results of USEPA's review.

1. Procedural Requirements

The Act requires States to observe certain procedural requirements in developing implementation plans for submission to USEPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[2]

The USEPA also must determine whether a submittal is complete and therefore warrants further USEPA review and action (see section 110(k)(1) and 57 FR 13565). The USEPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The USEPA attempts to make completeness determinations within 60 days of receiving a submittal. However, a submittal is deemed complete by operation of law if a completeness determination is not made by USEPA 6 months after receipt of the submission.

The State of Indiana held a public hearing on October 22, 1992, in Gary, Indiana to receive public comment on the requested implementation plan revision for the Lake County PM nonattainment area. Following the public hearing the plan was adopted by the State on May 12, 1993, and submitted to USEPA on June 16, 1993, as a SIP revision request. Supplemental submittals were made with cover letters dated December 9, 1993, September 8, 1994, and November 17, 1994.

The SIP revision request was reviewed by USEPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated July 13, 1993, was sent to the Commissioner, Office of Air Management, Indiana Department of Environmental Management (IDEM), indicating the completeness of the submittal and the next steps to be taken in the review process.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Further, for the attainment demonstration, the SIP must contain a comprehensive, accurate, and current inventory of allowable emissions in the area. Because the submission of an emissions inventory is necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received with the submission (see 57 FR 13539).

The emissions inventory information was compiled from data supplied by individual companies, permit applications in the IDEM files, and information from personnel at local agencies. The emissions inventory contains information on approximately 900 point and area sources. The Lake County PM emissions inventory is dominated by industrial sources, including metal manufacturers, mineral product manufacturers, and food/agricultural facilities. For further information on the emissions inventory, see the Technical Support Document available at the above address.

The USEPA is proposing to approve the emissions inventory because it is generally accurate and comprehensive, and provides a sufficient basis for determining the adequacy of attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(k) of the Act.

3. RACM (Including RACT)

As noted above, the State must submit provisions for initial moderate PM nonattainment areas to assure that RACM (including RACT) are implemented (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of USEPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561). The USEPA's interpretation of this requirement is set out here only in broad terms.

The State should first identify available control measures and evaluate them for their reasonableness in light of the feasibility of the controls and the

[2] Also, Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

attainment needs of the area. A State may reject an available control measure if the measure is technologically infeasible or the cost of the control is unreasonable. The State must demonstrate attainment of the NAAQS as expeditiously as practicable but no later than December 31, 1994, unless the State demonstrates that attainment by that date is impracticable. Therefore, if a State adopts less than all available measures but demonstrates, adequately and appropriately, that RFP and attainment of the PM NAAQS is assured, and application of all such available measures would not result in attainment any faster, then a plan which requires implementation of less than all available measures may be approved as meeting the RACM requirement. As a suggested starting point, USEPA has identified reasonably available control measures for sources of fugitive dust, residential wood combustion, and prescribed burning (see 57 FR 18072–18074, April 28, 1992). The State should add to the list of available measures in an area any measures that public commenters demonstrate may well be reasonably available in a particular circumstance.

The RACT for a particular source is similarly determined. The USEPA's longstanding definition of RACT is the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (see 57 FR 13541). Thus, USEPA recommends that available control technology be applied to those existing sources in the area that are reasonable to control in light of the attainment needs of the area and the feasibility of controls.[3]

A State should submit a reasoned justification for partial or full rejection of any available control measure (including any available control technology) that explains, with appropriate documentation, why each rejected control measure is infeasible or otherwise unreasonable and, therefore, does not constitute RACM (or RACT) for the area. In those PM nonattainment areas where mobile sources significantly contribute to the PM air quality problem, States also must address the section 108(f) transportation control measures (see 57 FR 13561).

The limitations on point sources in Lake County include source-specific emissions limits in terms of pounds per ton (lb/ton), pounds per hour (lbs/hr), pounds per Million British Thermal Units (lb/MMBTU), and grains per dry standard cubic foot (gr/dscf). There are also source-specific opacity limits ranging from 5–20 percent on certain sources in the nonattainment area. These limits are listed in Title 326 Indiana Administrative Code (326 IAC) 6–1–10.1. Compliance with these emissions limits is to be determined using Title 40 of the Code of Federal Regulations, part 60 (40 CFR part 60), appendix M, Methods 201 and 201A for PM; 40 CFR part 60, appendix A, Methods 5, 5A, 5D, 5E or 17 for Total Suspended Particulate; and 40 CFR part 60, appendix A, Method 9 for opacity limits. Other limitations on point sources include emission limits on coke ovens located in Lake County (326 IAC 6–1–10.2) and a general 20 percent opacity limit for all sources in the nonattainment area (326 IAC 5–1–2).

Limitations on sources of fugitive emissions in Lake County include a 10 percent opacity limit for paved roads and parking lots, unpaved roads and parking lots, and wind erosion from storage piles (326 IAC 6–1–11.1(d)). Subsection (e) of this rule also requires sources to submit control plans which will achieve compliance with the limitations of subsection (d). These plans are to include maps and descriptions of facilities, descriptions of the proposed control measures and practices to be implemented, and a schedule for achieving compliance with the rule.

The USEPA has reviewed the State's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. By this notice, USEPA is proposing to approve the control strategy.

4. Attainment Demonstration

As noted above, the State must submit a demonstration for initial moderate PM nonattainment areas (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). Alternatively, the State must show that attainment by December 31, 1994 is impracticable. In the General Preamble, USEPA indicated that the attainment demonstrations for the initial moderate areas must follow existing modeling guidelines for PM or, if appropriate, may be developed consistent with the supplemental attainment demonstration policy issued for initial areas (see 57 FR 13539).

IDEM began the Lake County modeling study in 1989, using version 88348 of the Industrial Source Complex Short Term model (ISCST). An updated version of ISCST, 90346, was used for the final runs. Version 93109 of the Industrial Source Complex Long Term model (ISCLT2) was used to determine annual average concentrations. Version 93109 is the most recent version of ISCLT2, and the versions of ISCST used by the State were current at the time of application. Therefore, their use is approvable by USEPA. Future SIP revision requests submitted to USEPA must demonstrate attainment of the NAAQS through modeling performed in accordance with current USEPA modeling guidance.

IDEM modeled a total of 540 sources, all with emissions greater than one ton per year. Smaller sources were excluded from the modeling. Direction-specific building dimensions were input for facilities which chose to provide the information. The annual concentrations modeled represent the actual hours of operation of sources which contributed significantly to high annual concentrations.

Average background concentrations for each wind sector were derived from measurements taken at ten local PM monitors during the years 1990 through 1992. The monitors were located in Lake County, Indiana; Porter County, Indiana; and Cook County, Illinois. While the background concentrations were developed so as not to include measurements directly influenced by the emissions from large facilities, monitors within the modeled area were expected to account for the influence of small sources which were not included in the modeled source inventory. IDEM arrived at an average annual background concentration of 23 micrograms per cubic meter ($\mu g/m^3$).

IDEM ran the models with five years of meteorological data (1984–1988) from the Hammond and Whiting Towers, which are located in Lake County. IDEM's final receptor network focused on hot spots pinpointed by earlier modeling runs. Receptors were also placed in Illinois in order to assess interstate impacts. Modeling showed that the Indiana sources did not violate the NAAQS in Illinois.

The final modeling shows that the Lake County PM nonattainment area will attain the 24-hour PM standard. The highest sixth high predicted 24-hour concentration is 149.9 $\mu g/m^3$ (the 24-hour PM standard is 150 $\mu g/m^3$). The final modeling also predicts attainment of the annual PM standard. The highest 5-year average predicted PM concentration is 47.7 $\mu g/m^3$ (the standard is 50 $\mu g/m^3$).

[3] USEPA has issued technological and economic parameters that should be considered in determining RACT for a particular source (see 57 FR 18073–74).

To have attained the PM NAAQS, an area must have an average of no more than 1.0 expected exceedance of the 24-hour PM NAAQS per year for the previous 3 years at any monitor. In addition, the average of the annual PM concentrations for the previous 3 years at any monitor must be below the annual standard.

A preliminary review of the Lake County air quality monitoring data indicates that the area is attaining the PM NAAQS. No monitor in the Lake County area has shown an exceedance of the annual PM NAAQS in the last 3 years. In addition, the worst-case monitor in the Lake County PM nonattainment area shows an average of 0.75 expected exceedance per year for 1992, 1993, and 1994. The USEPA will make a formal determination of the attainment status of the Lake County PM nonattainment area at a later date.

5. PM Precursors

The control requirements which are applicable to major stationary sources of PM must also apply to major stationary sources of PM precursors unless the USEPA determines such sources do not contribute significantly to PM levels which exceed the National Ambient Air Quality Standards in that area (see section 189(e) of the Act). PM precursors are pollutants emitted as gases that undergo chemical transformations to become particulate, and principally include sulfates and nitrates. The control requirements that apply to major stationary sources in PM nonattainment areas generally include the following: reasonably available control technology, which applies in moderate PM nonattainment areas; best available control technology, which applies in serious PM nonattainment areas; and control requirements under the applicable new source review provisions, such as the lowest achievable emission rate. The General Preamble (see 57 FR 13539–13540 and 13541–13542) contains a lengthy discussion on control requirements for PM precursors in moderate nonattainment areas and on the type of technical information USEPA will rely on in making any determinations under section 189(e).

Filter analysis data from ambient monitors in Cook County, Illinois (the data was collected in 1992) were used to assess the significance of PM precursors in the Lake County, Indiana PM nonattainment area. The monitors used are located at the Washington School and the Bright School in the city of Chicago, Illinois. These monitors are located approximately .6 and 1.75 miles, respectively, west of the Lake County nonattainment area. Besides the close proximity, these sites are also appropriate because the source mix in southeast Chicago closely approximates that of the Lake County nonattainment area.

The mean sulfate concentration plus the mean nitrate concentration for the Washington school and Bright school monitors were 13.1μg/m^3 and 14.9μg/m^3 respectively. This compares to an average annual background PM concentration of 23μg/m^3 in the Lake County nonattainment area. This illustrates the relative insignificance of the impact of PM precursors, and supports representing PM precursor impacts as part of the background concentration.

Further considerations also argue against applying the same control requirements for precursor sources as for direct emission sources. The climatology in northwest Indiana is such that precursor emission control for a particular source would not have a significant effect until far downwind. Title IV of the Clean Air Act mandates significant particulate precursor emission reductions in Indiana, after which the impacts of these sources on particulate matter concentrations will be even less significant.

For these reasons, it is appropriate to conclude that precursors do not contribute significantly to particulate matter concentrations in the Lake County nonattainment area. This finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. The USEPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM nonattainment area plan revisions demonstrating attainment must contain quantitative milestones, which are to be achieved every 3 years, until the area is redesignated to attainment. The plan also must demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

For the initial moderate PM nonattainment areas, the emissions reductions progress made between the SIP submittal due date of November 15, 1991 and the attainment date of December 31, 1994, (only 46 days beyond the November 15, 1994 milestone date) will satisfy the first milestone requirement. The *de minimis* timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations.

In implementing RFP for an initial moderate area, USEPA has reviewed the attainment demonstration and control strategy for the area to determine whether the initial milestones have been satisfied, and to determine whether annual incremental reductions different from those provided in the SIP may be necessary to ensure attainment of the PM NAAQS by December 31, 1994 (see section 171(1)). As indicated, Indiana's PM SIP submittal for the Lake County PM nonattainment area shows that the PM NAAQS will be attained by December 31, 1994. Also, a preliminary review of the monitored air quality data shows that the area is in attainment of the PM NAAQS. Therefore, the RFP requirement has been satisfied.

7. Enforceability

All measures and other elements in the SIP must be enforceable by the State and USEPA. See sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556. The USEPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from the Assistant Administrator for Air and Radiation, et al., entitled ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,'' and with an attached memorandum with the same date and title which contained more detailed guidance from the Associate Enforcement Counsel for Air Enforcement, *et al.* (see 57 FR 13541).

The particular control measures contained in the SIP are addressed above under the section headed ''RACM (including RACT).'' These control measures apply to the types of activities identified in that discussion, including, for example, grain loading limits, lb/ton limits, and lb/MMBTU limits for point sources and opacity limits for roadways and storage piles. The SIP provides that these control measures apply to the Lake County nonattainment area.

Upon initial review of Indiana's submittal, USEPA identified two enforcement concerns. The first enforcement concern was related to the 20 percent opacity limit as it applies to

coal preheater bypass stacks at U.S. Steel. A number of years ago, Indiana issued a variance to these stacks under a previous State rule. The USEPA requested IDEM's interpretation of how the variance relates to the new rule. On November 17, 1994, IDEM submitted to USEPA a letter clarifying this issue. In the letter, IDEM stated that ''no variance currently exists for the U.S. Steel. Any variance from a previous, repealed rule that existed prior to the adoption of 326 IAC 5–1–2(2)(B) has been superseded by the revised PM rule.'' Therefore, this issue has been resolved.

The second enforcement concern was related to the shutdown of the A. Metz Asphalt Company in Gary, Indiana. IDEM did not include this source in the emissions inventory because it is not currently operating, but the plant still has a limit in the State rules. The USEPA was concerned about the enforceability of the shutdown, and the possibility that the plant might resume operation. In a November 17, 1994, letter, IDEM assured USEPA that the A. Metz Asphalt Company has not operated since 1989, and does not have a valid operating permit. IDEM stated that restarting of operations at this plant would trigger Indiana's new source review permitting process. Therefore, this issue has been resolved.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIPs that demonstrate attainment must include contingency measures. See generally 57 FR 13543–13544. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures were to have been submitted by November 15, 1993, for initial moderate nonattainment areas. These measures must take effect without further action by the State or USEPA, upon a determination by USEPA that the area has failed to make RFP or attain the PM NAAQS by the applicable statutory deadline.

On January 25, 1994, a letter was sent to the State indicating that the USEPA was making a finding that the State of Indiana had failed to submit PM contingency measures for the Lake County PM nonattainment area. The letter also stated that Indiana would have 18 months from the date of the letter to make a complete submission of PM contingency measures before USEPA would be mandated to impose sanctions as identified in section 179(b) of the amended Act. The USEPA is currently working with IDEM to develop the required PM contingency measures. The USEPA will take separate rulemaking action on the contingency plan for the Lake County nonattainment area.

III. USEPA's Proposed Rulemaking Action

USEPA is proposing to approve the plan revision submitted to USEPA by the State of Indiana on June 16, 1993, and supplemented on December 9, 1993, September 8, 1994, and November 17, 1994, for the Lake County PM nonattainment area. Among other things, the State of Indiana has demonstrated through modeling that the Lake County moderate PM nonattainment area will attain the PM NAAQS by December 31, 1994. In addition, a preliminary review of the monitored air quality data for the Lake County area shows that this area is in attainment of the NAAQS.

As noted, additional submittals for the initial moderate PM nonattainment areas are due at later dates. The USEPA will determine the adequacy of any such submittals as appropriate.

USEPA is requesting comments on the requested SIP revision and this proposed rule. As indicated at the outset of this dowment, USEPA will consider any comments received by May 1, 1995.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. See *Union Electric Co.* v. *U.S. E.P.A.* , 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 21, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–7718 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 60, No. 62
Friday, March 31, 1995

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

Cooperative State Research, Education, and Extension Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Public Law 92–463, 86 Stat. 770–776), the Cooperative State Research, Education, and Extension Service announces the following meeting:

Name: Committee of Nine.

Date and Time: May 9, 1995, 1:00 p.m.—5:00 p.m.; May 10, 1995, 8:30 a.m.—5:00 p.m.; May 11, 1995, 8:30 a.m.—Noon.

Place: USDA, CSREES, 14th & Independence Avenue, S.W., Room 3854 South Building, Washington, D.C. 20250.

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 listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact person for Agenda and more information: Dr. Walter R. Woods, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14th & Independence Avenue, S.W., Room 3341, South Building, Washington, D.C. 20250, Telephone: 202–720–4088.

Done at Washington, D.C., this 21st day of March 1995.

William D. Carlson,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 95–7963 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

Notice of Intent to Prepare an Environmental Impact Statement to Amend the Land and Resource Management Plan for the Toyable National Forest Spring Mountains National Recreation Area

AGENCY: Forest Service, USDA.

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

Preparation of a general management plan for the Spring Mountains National Recreation area as an amendment to the Toiyabe National Forest Land and Resource Management Plan (Forest Plan); Toiyabe National Forest; Spring Mountains National Recreation Area; Clark and Nye Counties, Nevada.

SUMMARY: Pursuant to the Spring Mountains National Recreation Area Act (P.L. 103–63) and 36 CFR 219.10(f), the Forest Supervisor for the Toiyabe National Forest gives notice of the agency's intent to prepare an environmental impact statement (EIS) for the decision to prepare a general management plan for the Spring Mountains National Recreation Area (SMNRA) as an amendment to the Land and Resource Management Plan for the Toiyabe National Forest. This amendment would make specific changes in the Forest Plan, as it applies to the SMNRA. This notice includes a summary of the proposed changes to the Forest Plan, a description of the need for these changes, and a brief description of preliminary issues and potential alternatives to the proposed amendment. This notice also provides estimated dates for filing the draft and final EIS; information on future public involvement; the name and address of the responsible official; and the name of the person who can provide additional information.

DECISION TO BE MADE: The Spring Mountains National Recreation Area is currently managed under three separate land management plans, developed independently by different agencies under different authorities and legislation. One of these is the Forest Plan, which also provides direction for the rest of the 4.5 million acre Toiyabe National Forest. Public Law 103–63 directs the Forest Service to ''develop a general management plan for the Recreation Area as an amendment to the Toiyabe National Forest Land and Resource Management Plan.''

In January, 1995, the Forest Service released the Analysis of the Management Situation for the SMNRA. This document reviews the best available information on the ecosystems and users of the Spring Mountains, and identifies the need for change in current management direction. Through the process of environmental analysis, the Forest Service will decide whether or not to amend the Forest Plan to address needs for change identified in the Analysis of the Management Situation. Changes are needed to:

—Meet the direction established in the Spring Mountains National Recreation Area Act;
—Improve ecosystem health and sustainability by protecting riparian areas, biodiversity hotspots, habitat for threatened, endangered, and candidate species, and soil and water quality;
—Establish standards and guidelines to protect heritage resources, wilderness characteristics, scenic values, and other resources affecting the public use and enjoyment of the land;
—Respond to population growth and development in Las Vegas and southern Nevada, and changes in public sentiment regarding management of the Spring Mountains;
—Identify opportunities for sustainable recreational use and development;
—Provide management direction for lands transferred to the Forest Service under the Nevada Enhancement Act of 1988;
—Establish ecosystem management as the organizing philosophy for management of the SMNRA;
—Identify goals, objectives, and desired future conditions for each ecological unit of the SMNRA;
—Respond to changes in law and direction in the eight years since the Forest Plan was approved; and
—Establish a program of monitoring and evaluation to support adaptive management of the SMNRA.

The proposed amendment would not make any changes in Forest-wide direction, or in management of other portions of the Toiyabe National Forest. No irreversible or irretrievable commitment of resources (site-specific actions) will be made as a result of this decision. The Forest Plan is a programmatic document; projects to

implement it will involve site-specific environmental analysis and appropriate documentation.

DATES: The agency expects to file the draft EIS (DEIS) with the Environmental Protection Agency and make it available for public comment by November, 1995. The agency expects to file the final EIS by July, 1996.

MEETINGS AND PUBLIC INVOLVEMENT: Based on public recommendations, scientific analysis, and the Analysis of the Management Situation, the Toiyabe National Forest has prepared a proposed amendment to the Forest Plan for consideration. The Forest Service invites comments and suggestions from Federal, State and local agencies, American Indian tribes, individuals, and organizations on issues concerning the effects of this proposal. The agency has scheduled public meetings to present and discuss the proposed Forest Plan amendment at:

—Monday, April 10, 7:30 pm, Public Library, Mt. Charleston, NV.
—Tuesday, April 18, 7:00 pm, Chamber of Commerce, Pahrump, NV.
—Tuesday, April 25, 6:00 pm, Cashman Field mtg rms, Las Vegas, NV.
—Date to be arranged, Fire Station, Mountain Springs, NV.

The purpose of these meetings is to discuss the proposed changes to the Forest Plan and to identify issues associated with those changes. Written comments are encouraged. Additional meetings with individuals or groups will be arranged by request.

The Forest has an extensive public mailing list of interested and affected people, developed during preparation of the Analysis of the Management Situation, with additions based on participation at each meeting. The Forest Service will continue to contact everyone on the mailing list at each stage of the planning process to provide information and solicit input. Those interested in being added to the mailing list should call or write to the address below.

In addition, the Forest has continuing contact with federal, state and local agencies such as the Nevada Division of Wildlife, the Nevada Division of State Parks, the Bureau of Land Management, the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Clark County Planning Commission, and Congressional representatives. These agencies, governments and contacts will continue to be part of the planning effort.

Additional public meetings will be scheduled in June to develop a wide range of alternatives to the Proposed Amendment which address the needs identified in the Analysis of the Management Situation, and respond to the significant issues.

Comments will be of most use to the planning team if received before August, 1995. Refer to the **FOR FURTHER INFORMATION CONTACT** in this notice for the contact individual.

FOR FURTHER INFORMATION CONTACT: Jerry Ingersoll, Planning Team Leader, Spring Mountains National Recreation Area, 2881 S. Valley View, Suite 16, Las Vegas, NV 89102. (702) 873–8800.

RESPONSIBLE OFFICIAL: The Forest Supervisor for the Toiyabe National Forest, located at 1200 Franklin Way, Sparks, NV 89431, is the Responsible Official and deciding official for this action. The Forest Supervisor may delegate this responsibility to an Assistant Forest Supervisor in Las Vegas.

SUPPLEMENTARY INFORMATION: Forest planning is a dynamic process that builds upon new information and conditions developed since adoption of a Forest Plan. Forest Plans may be amended as needed. The adoption of a Forest Plan sets key decisions for the long-term management of a National Forest. These decisions can be described as:

—Establishment of forest-wide multiple-use goals and objectives (36 CFR 219.11(b));
—Establishment of forest-wide management requirements, or standards and guidelines (36 CFR 219.13);
—Establishment of management area direction (prescriptions and associated standards and guidelines) applying to each specific management area (36 CFR 219.11(c));
—Designation of lands suited or not suited for timber production and other resource management activities (36 CFR 219.14, 219.15, 219.20 and 219.21);
—Establishment of monitoring and evaluation requirements (36 CFR 219.11(d)); and
—Recommendations to Congress for the establishment of Wilderness, Wild and Scenic Rivers, Research Natural Areas, and other special designations, as appropriate.

This proposed Forest Plan amendment is limited in scope. Changes are proposed in management area direction, suitability for resource management, monitoring, and recommendations for special designations for the Spring Mountains National Recreation Area (less than 10% of the land area of the Toiyabe National Forest). The proposed amendment would make no changes in forest-wide goals or standards, or in management direction for any other lands on the Toiyabe National Forest.

The amendment process began with the development of an Analysis of the Management Situation (AMS) for the Spring Mountains National Recreation Area (36 CFR 219.12(e)), which was distributed on January 17, 1995. The AMS:

—reflects the results of scientific inventories and surveys;
—compiles public sentiment and suggestions;
summarizes relevant law, regulation, and policy; and
identifies the need for change in current management.

The AMS brings together the best available scientific information to document the conditions and trends of ecosystems and human uses in the Spring Mountains. The public was involved in identifying the need for changes to the Forest Plan, and many groups worked closely with the planning team to develop the AMS. Between May, 1994, and January, 1995, the Forest Service held eight open houses and public meetings, made more than sixty presentations to groups and individuals, and solicited ideas from more than 600 people. Copies of the AMS may be obtained by contacting the **FOR FURTHER INFORMATION** contact identified previously.

Based upon the needs for change identified in the AMS, the Forest Service is proposing specific changes to the long-term management direction for the Spring Mountains National Recreation Area. The public is invited to comment on the proposed changes and to identify alternatives to the proposal which address the needs identified in the AMS.

Proposed Action

The Forest Service proposes to provide new management direction for the Spring Mountains National Recreation Area, one of five districts on the Toiyabe National Forest. The proposal would:

—designate two new management areas and realign one more to encompass lands acquired through the Enhancement Act;
—unify management direction for the SMNRA under a single management plan;
—provide new management prescriptions for the SMNRA, including goals, objectives, desired future condition, standards, and guidelines for each of the four management areas involved;
—expand the Carpenter Canyon Research Natural Area to provide

additional protection for the unique resources of Carpenter Canyon;
—establish a program of monitoring and evaluation specific to the SMNRA; and
—identify opportunities for sustainable recreational use and development.

The full text of the Proposed Amendment to the Forest Plan is being distributed to the Forest Service's mailing list of potentially interested and affected parties. Copies are available upon request from the Spring Mountains National Recreation Area Planning Team. See **FOR FURTHER INFORMATION CONTACT** above.

This proposal represents a starting point for discussion; the Forest Service will consider all reasonable alternatives to the proposed Forest Plan amendment, including no action (leaving management direction as it is). Public comment on this proposal will be used to develop alternatives to the proposed action. The responsible official may select any alternative developed through this process as the management plan for the SMNRA; the proposed amendment will not necessarily be the preferred alternative.

Purpose and Need/Amendment Topics

Not every issue related to Forest Service management is best addressed through the Forest Plan. Public comment, monitoring of current activities, and direction from the Spring Mountains National Recreation Area Act led to the identification of many topics which might lend themselves to Forest Service action. These topics were categorized as follows:

—Amendment Topics
—Implementation Topics
—Topics outside the jurisdiction of the Forest Service
—Administrative Topics
—Research Topics

Amendment topics are identified and discussed below. Only those topics which fall into this category are addressed in the proposed Forest Plan amendment.

Implementation topics are those where the existing Forest Plan is adequate, but there have been problems with implementation of the Plan. One example is use of motor vehicles in the Mr. Charleston Wilderness. Motor vehicles are clearly prohibited in the Wilderness by the Wilderness Act of 1964, the Nevada Wilderness Act, and the Forest Plan. Nevertheless, some use continues to occur, especially at Trough Spring and Wallace Canyon, where old roads cross the Wilderness boundary. This problem is being addressed through placement of barriers (boulders, earth mounds) in road beds, and increased law enforcement.

Topics outside the jurisdiction of the Forest Service include those where the Forest Service does not have authority to act. These topics include issues involving private land or land under the management of other federal agencies (such as the BLM). Some people in the Mt. Charleston area, for example, are concerned over development of additional lots in Kyle Canyon. This is a proper subject for Clark County, but not for the Forest Service, which has no jurisdiction over private land.

Administrative topics are those which relate to budget, personnel, or administrative procedures, rather than land management. These are topics which can be addressed through the Forest Service directives system, and which do not generally require environmental analysis. Examples in this category include fees charged by the Forest Service for campground reservations, group events, and other special land uses. The Forest Service sets these fees through administrative direction, in accordance with existing law and regulation.

Research topics are those where additional information, through research, is needed. Once research topics are identified, they can be investigated by the Forest Service's Intermountain Forest and Range Experiment Station, or by public or private universities. One example is the need to learn more about the ecology of the blackbrush community and its successional pathways.

Amendment topics are those subjects which can best be resolved by amending the Forest Plan. These are also known as ''public issues, management concerns, and resource use and development opportunities'' (36 CFR 219.12(b)). Through work with interested publics, the Planning Team identified the following fifteen amendment topics in the *Analysis of the Management Situation*.

- FOREST HEALTH/BIODIVERSITY—The Spring Mountains provide a unique and fragile ecosystem—an island in the desert—which harbors many endemic species of plants and animals. As we have learned more about ecosystem dynamics, and as Las Vegas has grown, we have become increasingly aware of potential conflicts. The proposed amendment includes goals, objectives, and standards to assure protection of ecological health and diversity while providing for sustainable recreation use and development.
- THREATENED, ENDANGERED, AND SENSITIVE SPECIES—The Spring Mountains provide habitat for four listed threatened and endangered species, one species proposed for listing, and 54 candidate species, including 22 which occur nowhere else in the world. Proposed standards to protect these species are needed to provide for recovery of listed species, and to keep candidate species from becoming threatened or endangered. The proposed amendment would include a conservation agreement with the U.S. Fish and Wildlife Service which could provide a basis for determinations not to list some candidate species.
- WILDLIFE HABITAT—Wildlife of the SMNRA includes native species ranging from mule deer and desert bighorn sheep to Palmers chipmunk and chuckwalla. Several game species have also been introduced to the range, including elk, chukar, and turkey. Wildlife populations are managed by the Nevada Division of Wildlife. Forest Plan direction is needed, however, to establish habitat management objectives, and to set an appropriate balance between native and non-native species. Proposed objectives, including Appropriate Management Levels (AML's) for elk, are needed in order to provide direction for habitat management, and for improvements such as water development.
- WILD HORSES AND BURROS—Wild horses and burros on the SMNRA are managed by the Forest Service under the authority of the Wild Horses and Burros Protection Act of 1971. Like elk, wild horses and burros have been introduced to the Spring Mountains, and are maintained there to provide for public enjoyment. In some areas of the SMNRA, wild horse populations have increased to the point where riparian and spring sites are affected; in other areas, forage is so limiting that animal condition is poor. Proposed objectives, including Appropriate Management Levels (AML's) are needed in order to provide direction for management of habitat and populations, and for improvements such as water development.
- ARCHAEOLOGY—Many places in the AMNRA have been used by people for thousands of years. Often, these people have left behind evidence of their use of the land, including American Indian rock art and

roasting pits, historic cabins and sawmills, and a section of the Spanish Trail/Mormon Road. These artifacts and sites offer us a glimpse of our history and culture, and provide a window on the dynamics and use of the ecosystem. Proposed management direction is needed to protect these resources while also allowing for appropriate interpretation and enjoyment.

- RECREATION AND ADMINISTRATIVE FACILITIES—All of the developed recreation facilities in the SMNRA are located within the old ''Developed Canyons'' management area—15,500 acres in Kyle Canyon, Lee Canyon, and Deer Creek. Most of the fire and administrative facilities of the SMNRA are in these same canyons. In Cold Creek, heavy recreation use occurs with very limited service, facilities, or management. Many people have suggested dispersing recreation use and facilities over a wider area; the Nevada Division of State Parks commissioned a 1991 study which identified suitable areas for cooperative development of state park facilities. The Proposed Amendment includes determinations of suitability for recreation development, as well as standards and guidelines for development and management of recreation and administrative facilities.
- WILDLAND/URBAN INTERFACE—The SMNRA, and particularly the developed canyons of the east slope, are heavily influenced by urban development centered in Las Vegas. Four small communities are located within the boundaries of the SMNRA, and further subdivision and development on private land is likely. Semi-urban areas surrounded by National Forest System lands often present such issues as fire suppression and conflict with recreation users. Standards are proposed to address fire prevention and suppression, scenic quality, water quality degradation, and loss of wildlife habitat in and around the wildland/urban interface.
- SCENIC QUALITY—One of the principal resources of the SMNRA, and one of the main reasons for its popularity, is the unique quality of the area's scenery. Cliffs, towering ponderosa pines, ancient bristlecones, meadows, and snow-covered peaks all form part of the attraction of the Spring Mountains to visitors. proposed visual quality objectives are needed in order to establish standards for management activities which might affect scenic quality.
- WILDERNESS MANAGEMENT—The 43,000 acre Mt. Charleston Wilderness forms the core of the Spring Mountains National Recreation Area, and includes the highest peaks in the range. The Wilderness also includes most of the bristlecone pine forests, and many species of rare plants and butterflies. Proposed standards and guidelines for recreational use of Wilderness are needed to protect these fragile resources.
- RECREATION MANAGEMENT—In addition to camping and picnicking at developed recreation sites, many people enjoy the SMNRA as a place for sightseeing, horseback riding, mountain biking, off-highway vehicle use, rock climbing, cave exploration, hiking, backpacking, cross-country skiing, and group outings. As the population of southern Nevada grows, these uses can cause damage to natural and cultural features, and sometimes conflict a bit. Proposed standards are needed to provide direction for management of these uses in a sustainable manner, within the capacity of the land.
- TRAILS—Of approximately 50 miles of designated trails in the SMNRA, less than 7 miles are outside the Mt. Charleston Wilderness. Trail riding opportunities for mountain bikes and off-highway vehicles (which are excluded from the Wilderness), and for equestrians are limited. The Spring Mountains offer a great deal of potentially suitable terrain for multiple-use trails, including opportunities for development of regional trail networks. Proposed goals and standards for trail development are needed to suggest appropriate locations and management for trails.
- MONITORING AND RESEARCH—During preparation of the Analysis of the Management Situation, the Forest Service recognized many fields in which information to predict environmental effects is limited. As the Spring Mountains receive unprecedented levels of use, how will ecosystem health and function be affected? If we continue to suppress fires, how will vegetation and wildlife habitat change? How is increasing recreational use affecting historic and prehistoric sites? Our inventories have often left us with more questions than they have answered. The proposed program of monitoring and research is needed to assess the impacts of the management courses we choose, and to permit us to change course if needed.
- LAND ACQUISITION AND DISPOSAL—The boundaries of the SMNRA include 315,648 acres of national forest system land, and 7,171 acres of private land. The Spring Mountains National Recreation Area Act directs the Forest Service to prepare ''an inventory of all lands within the Recreation Act not presently managed as National Forest lands that will permit the Secretary to evaluate possible future acquisitions.'' Land purchases and exchanges are carried out on an equal value basis with willing buyers and sellers. Proposed direction for land adjustment is needed to identify which private parcels are suitable for acquisition, and which national forest parcels, if any, are available for disposal.
- FIRE MANAGEMENT—With increased subdivision and development of private land within the SMNRA boundaries, management of wildfires assumes importance beyond simply the protection of national forest resources. At the same time, successful fire suppression can often lead to dangerous buildups of fuels, and may result in unwanted changes in vegetation and wildlife habitat. Proposed direction for fire suppression, controlled burning, and fuel reduction is needed in order to retain the historic role of fire in the ecosystem while protecting lives, property, and natural resources.
- PRIVATE AND COMMERCIAL DEVELOPMENTS—From time to time, the Forest Service receives requests for private, commercial developments or uses of national forest system land. These may include electronic sites and public utilities, outfitter/guide uses, competitive trail rides and other group activities, and even substantial commercial developments. The Lee Canyon ski area, the electronic sites on Angel Peak and Mt. Potosi, and several organizational camps are among the most visible examples of such uses. Proposed standards for special uses are needed to assist Forest Service managers in identifying which uses are appropriate.

The Forest Service prepared the proposed action as a starting point for analysis and scoping. The proposed action is one way to respond to the need for change—to the above amendment topics. The Forest Service will use public comment on the proposal to identify significant issues, and to develop to wide range of alternative solutions to address these needs.

Preliminary Issues

Through initial scoping, the Forest Service has identified the following issues relating to the effects of the proposed Forest Plan amendment. These are preliminary issues—additional scoping and public involvement will be used to refine and add to this list to develop a complete understanding of all significant issues related to this proposal.

—UNCERTAIN EFFECTS TO SENSITIVE SPECIES—For many rare species of plants and animals, current research and inventories are not sufficient to identify whether existing uses or alterations to the ecosystem pose a threat to their existence. While we can sometimes identify ''biodiversity hotspots,'' we do not completely understand the critical factors necessary to ensure their protection. Scientists and others are concerned that introduced species (including wild horses and burros), rock climbing, and proposed expansion of recreational facilities and trails, especially in Kyle and Lee Canyons and the Wilderness, may affect rare plants and animals in ways which we do not fully understand.

—LIMITS TO RECREATIONAL USE—The proposal would limit some opportunities for recreational use of the Spring Mountains. Proposed restrictions on equestrian use above timberline, rock climbing in the Wilderness, expansion of the ski area and other commercial developments, closure of the Carpenter Canyon road, and restrictions on development of recreation facilities are, in some peoples' minds, contrary to the spirit of a national recreation area. Some people are concerned that the proposed limits on recreational activities go too far, unnecessarily restricting public use within adequate scientific basis.

—WILD HORSES AND BURROS—The proposed amendment would set appropriate management levels (AML's) for wild horses and burros. Some people are concerned that the proposed AML's are unnecessarily low, and many threaten the long-term survival of these species in southern Nevada by reducing genetic diversity. This concern includes the cumulative effects of other agencies' actions in managing wild horse and burro herds.

—ELK AND OTHER WILDLIFE—The proposed amendment would set an AML for elk, and restrict introduction of new non-native species and augmentation of existing species. Some people believe that the proposed restrictions on wildlife habitat management will restrict wildlife populations far below levels that the ecosystem could support, and will limit the ability of Nevadans to view and hunt game and non-game wildlife.

—CONTROLLED BURNING—The proposed amendment would encourage controlled burning in some areas of the Spring Mountains under certain specific conditions. Some people are concerned that any deliberately set fires could escape and pose a risk to life and property. This concern also includes the effects of fire on vegetation, scenery, and wildlife.

Preliminary Alternatives

The Forest Service will evaluate a wide range of alternatives to the proposed amendment to the Forest Plan, in response to issues identified in the scoping process. The agency expects to consider at least the following alternatives, which respond to preliminary issues identified to date. As new issues are identified through public involvement, new alternatives may be created, and existing alternatives modified. Some of these preliminary alternatives may not be analyzed in detail. The Responsible Official may select the original Proposed Amendment or any of the alternatives to it as the final management plan for the Spring Mountains National Recreation Area.

—Alternative A—Continue to manage the Spring Mountains National Recreation Area under current management plans. Do not amend the Forest Plan. This is the ''no action'' alternative.

—Alternative B—Maximize protection of natural resources, heritage resources, and ecosystem health. When in doubt over effects, choose standards which will involve the least risk to rare species, natural ecological processes, and heritage resource sites, even if this involves closing many areas or activities to recreational use. Favor native species and natural processes, but use prescribed fire to mimic historic fire regime. Provide for little or no expansion of recreation opportunities. Close the Spring Mountains Wild Horse Territory, and place the horses for adoption or remove them to other territories.

—Alternative C—Within the capacity of the ecosystem, maximize opportunities for recreation (both developed and undeveloped) and customer service, including trails. roads, campgrounds, and other facilities. This alternative would still provide basic protection for threatened and endangered species, and would not permit activities which endanger the long-term health of the ecosystem. However, public uses would not be prohibited or restricted without hard scientific evidence that they are harmful.

—Alternative D—Maintain the same balance of protection and development as the Proposed Amendment, but provide for the maximum sustainable populations of wild horses and burros consistent with maintaining ecosystem health. Provide for water development and other habitat improvements, and favor wild horses over elk, other wildlife, and recreation development.

—Alternative E—Maintain the same balance of protection and development as the Proposed Amendment, but provide for the maximum sustainable diversity and productivity of wildlife habitat, especially for game animals, consistent with maintaining ecosystem health. Encourage introduction of new species which show the potential to naturalize, as appropriate. Provide for water development and other habitat improvements, and favor wildlife over wild horses and recreation development.

—Alternative F—Maintain the same balance of protection and development as the Proposed Amendment, but do not use controlled burns or allow natural fires to burn. Suppress all wildfires aggressively, and use only vegetative treatments to minimize risk to property from fire.

Public Comments on the Draft EIS

After the Draft Environmental Impact Statement has been published, the Forest Service will again be actively seeking information, comments and assistance from Federal, State and local agencies and from individuals and organizations who may be interested in or affected by the proposed action. It is very important that those interested in this proposed action participate at that time.

The DEIS and draft Forest Plan amendment should be available for public review by about November, 1995.

After a comment period of 90 days, the Final Environmental Impact Statement and Forest Plan amendment should be completed by September, 1996.

The comment period on the Draft Environmental Impact Statement will extend 90 days from the date the Environmental Protection Agency publishes the ''Notice of Availability'' in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1973).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

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

Dated: March 17, 1995.

R.M. ''Jim'' Nelson,

Forest Supervisor.

[FR Doc. 95–7886 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–11–M

Environmental Impact Statement Helicopter Landings in Wilderness, Tongass National Forest, Alaska

AGENCY: Forst Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The original notice of intent to prepare an environmental impact statement for helicopter landings in Wilderness, Tongass National Forest, Alaska was published in the August 31, 1994 **Federal Register** (pages 44964–44965).

The purpose of this revised notice is to clarify the scope of activities to be analyzed in the helicopter landings in wilderness EIS. The EIS will include all helicopter access for recreational purposes including tours, sightseeing, guiding and other commercial recreation purposes. The environmental consequences of helicopter landing for general public access will be addressed. If helicopter landings are approved within Tongass wildernesses, allocation of those landings between commercial visitor service providers and other members of the public would be made in a separate process.

EFFECTIVE DATE: Written comments concerning the revised proposed action to approve helicopter landing areas in Tongass National Forest wilderness should be received on or before May 1, 1995.

ADDRESSES: Send written comments to Bill Tremblay, Team Leader USDA Forest Service, P.O. Box 309, Petersburg, AK 99833.

FOR FURTHER INFORMATION CONTACT: Questions concerning the environmental impact statement should be directed to Bill Tremblay, Team Leader, USDA Forest Service, P.O. Box 309, Petersburg, AK 99833, phone: (907) 772–3841.

SUPPLEMENTARY INFORMATION: The purpose of the project is to provide for use of helicopters for general public access where this use was established prior to designation of Wilderness while managing Tongass National Forest wilderness to provide high quality Wilderness opportunities. In this context, general public access is for activities such as hiking, camping, photography, fishing, skiing, sightseeing, guiding, and other Wilderness-oriented forms of recreation.

The Regional Forester, Phil Janik, will decide whether to allow helicopter landings for access in areas that were used prior to Wilderness designation. If helicopter landings are approved, the Regional Forester will decide which areas will be designated and what restrictions, if any, will be established.

Issuance of the final environmental impact statement is projected in the spring of 1996. The Responsible official for the decision is Phil Janik, Regional Forester, Alaska Region, P.O. Box 21628, Juneau Alaska, 99802–1628.

Dated: March 22, 1995.

Phil Janik,

Regional Forester.

[FR Doc. 95–7888 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–11–M

Sequoia National Forest; California Spotted Owl DEIS

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice announces an open house in which the public is invited to participate in an information exchange regarding alternatives being considered in the California Spotted Owl Draft Environmental Impact Statement, as they affect the Sequoia National Forest area.

DATES AND TIME: April 11, from 7:00 p.m. to 9:00 p.m.

ADDRESSES: Springville Veterans Memorial Building, 35944 Highway 190, Springville, CA 93265.

CONTACT PERSON FOR FURTHER INFORMATION: Judy Schutza, Hot Springs Ranger District, Route 4, Box 548, California Hot Springs, CA 93207, (805) 548–6503.

SUPPLEMENTARY INFORMATION: The Forest Service has released a Draft Environmental Impact Statement (DEIS) to amend the Pacific Southwest Regional Guide Sierran Province Forest Plans with new management direction for the California Spotted Owl. The purpose of this meeting is to exchange information with the public regarding the Draft Environmental Impact Statement and the preferred alternative.

The meeting will be informally structured. A member of the team that prepared the DEIS will be available to answer questions and discuss the DEIS. Visual media depicting the alternatives and selected environmental consequences will be displayed.

March 27, 1995.

Linda C. Brett,

Acting Forest Supervisor.

[FR Doc. 95–7907 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–11–M

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on April 13 & 14, 1995 at Rock Springs Guest Ranch, 10 miles north of Bend, Oregon off Highway 20. Times are 6 to 9 pm April 13, and 8 am to 4 pm April 14. Agenda items include: (1) context of the Advisory Committee and background on the President's Forest Plan; (2) introduction of members; (3) operating guidelines and ground rules; (4) mission and purpose of the Province Advisory Committee; (5) relationship to the PIEC; and (6) Open public forum. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Harry Hoogesteger, Province Liaison, USDA, Fort Rock Ranger District, 1230 N.E. 3rd, Bend, Oregon 97701, 503–383–4704.

Dated: March 15, 1995.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 95–7989 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the States of Louisiana and North Carolina

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of the Louisiana Department of Agriculture and Forestry (Louisiana) and the North Carolina Department of Agriculture (North Carolina) will end September 30, 1995, according to the Act, and GIPSA is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before May 1, 1995.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

GIPSA designated Louisiana, main office located in Baton Rouge, Louisiana, to provide inspection and Class X and Class Y weighing services under the Act on October 1, 1992, and North Carolina, main office located in Raleigh, North Carolina, to provide inspection services under the Act on October 1, 1992.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Louisiana and North Carolina end on September 30, 1995.

The geographic area presently assigned to Louisiana, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is the entire State of Louisiana, except those export port locations within the State.

The geographic area presently assigned to North Carolina, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is the entire State of North Carolina, except those export port locations within the State.

Interested persons, including Louisiana and North Carolina, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning October l, 1995, and ending September 30, 1998. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 22, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–7977 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–EN–F

Opportunity to Comment on the Applicant for the Eastern Iowa Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicant for designation to provide official services in the geographic area currently assigned to Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 1, 1995.

ADDRESSES: Comments must be submitted in writing to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36JHART]. ATTMAIL and FTS2000MAIL users may respond to !A36JHART. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W.,during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the January 31, 1995, **Federal Register** (60 FR 5897), GIPSA asked persons interested in providing official services in the geographic area assigned

to Eastern Iowa to submit an application for designation. Eastern Iowa, the only applicant, applied for designation to provide official inspection services in the entire area currently assigned to them. GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning Eastern Iowa. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of Eastern Iowa. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicant written notification of the decision.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 22, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–7965 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–EN–F

Designation of the Detroit (MI), Keokuk (IA), and Michigan (MI) Agencies

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Detroit Grain Inspection Service, Inc. (Detroit), Keokuk Grain Inspection Service (Keokuk), and Michigan Grain Inspection Services, Inc. (Michigan), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATES: May 1, 1995.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M Hart, telephone 202–720–8525

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 31, 1994, **Federal Register** (59 FR 54428), GIPSA asked persons interested in providing official services in the geographic areas assigned to Detroit, Keokuk, and Michigan to submit an application for designation. Applications were due by November 30, 1994. There were four applicants: Detroit, Keokuk, and Michigan each applied for designation in the entire area they are currently assigned. Springfield Grain Inspection, Inc. (Springfield), applied for the portion of Keokuk's area that includes all of Mason County and the part of Fulton County South of State Route 24.

GIPSA requested comments on the applicants in the January 3, 1995, **Federal Register** (60 FR 96). Comments were due by January 31, 1995. GIPSA received three comments supporting redesignation of Keokuk. No comments were received regarding Detroit, Michigan, and Springfield.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Detroit and Michigan are able to provide official services in the geographic area for which they applied, and that Keokuk is better able than Springfield to provide official services in the Keokuk geographic area. Effective May 1, 1995, and ending April 30, 1998, Detroit, Keokuk, and Michigan are designated to provide official inspection services in the geographic areas specified in the October **Federal Register**.

Interested persons may obtain official services by contacting Detroit at 313–395–2105, Keokuk at 319–524–6482, and Michigan at 616–781–2711.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 24, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–7964 Filed 3–30–95; 8:45 am]

BILLING CODE 3410–EN–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene on Thursday, April 20, 1995, from 6:00 p.m. to 8:30 p.m., at the Shiloh Inn, 206 SW Temple, Salt Lake City, Utah 84101. The purpose of the meeting will be to review a draft report on the current project, brief members on Commission and regional activities, discuss current civil rights issues, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Mary Stovall Richards, 801–378–6138 or Ki-Taek Chun, Acting Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, March 27, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–7912 Filed 3–30–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene on Tuesday, April 25, 1995, at 2:00 p.m. and adjourn 5:00 p.m. at the Holiday Inn, 605 E. Broadway, Bismarck, North Dakota 58501. The purpose of the meeting is to brief the Committee on Commission and regional activities, discuss current civil rights issues in the State, and approve plans for factfinding meetings in Bismarck and Fargo.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Betty L. Mills, 701–223–4643, or Ki-Taek Chun, Acting Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, March 27, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–7913 Filed 3–30–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Indiana State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Indiana Advisory Committee to the Commission will be held from 9:00 a.m. until 1:00 p.m., on Thursday, April 27, 1995, at the South Bend Public Library, 304 South Main Street, South Bend, Indiana 46601. The purpose of the meeting is to gather information on ''The Enforcement of Affirmative Action Compliance in Indiana under Executive Order 11246.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Hollis E. Hughes, 219–232–8201, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, March 27, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–7914 Filed 3–30–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 19–94]

Foreign-Trade Zone 204—Sullivan County, TN (Tri-City area); Application for Subzone Siemens Industrial Automation, Inc. (Programmable Logic Controllers) Carter County, Tennessee; Amendment of Application

Notice is hereby given that the application of the Tri-City Airport Commission, grantee of FTZ 204, requesting special-purpose subzone status for the robotics/programmable logic controller products plant of Siemens Industrial Automation, Inc., Carter County, Tennessee (59 FR 25885, 5/18/94) has been amended to expand the scope of activity to be conducted under zone procedures.

The original application requested authority to manufacture industrial control products using certain foreign components. The amendment includes additional foreign components that could be used in manufacturing authority conducted under zone procedures, including: labels, boxes, screws, data processing machines and parts used for industrial control equipment, resistors, fuses, connectors, plugs, cables, pressure gauges, voltage regulators, and typewriter ribbons (duty range—free to 9.5%).

The application remains otherwise unchanged.

The comment period is reopened until May 15, 1995.

A copy of the application and the amendment will be available for public inspection at each of the following locations:

Tri-City Regional Airport, Room 306, State Highway 75, Blountsville, TN 37617

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: March 23, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–8005 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of April 1995.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Canada
Sugar and Syrups
A–122–085
45 FR 24126
April 9, 1980
Contact: David Dirstine at (202) 482–4033

Greece
Electrolytic Manganese Dioxide
A–484–801
54 FR 15243
April 17, 1989
Contact: Thomas Barlow at (202) 482–5256

Japan
Calcium Hypochlorite
A–588–401
50 FR 15470
April 18, 1985
Contact: Sheila Forbes at (202) 482–5253

Japan
Cyanuric Acid
A–588–019
49 FR 18148
April 27, 1984
Contact: Sheila Forbes at (202) 482–5253

Kenya
Standard Carnations
A–779–602
52 FR 13490
April 23, 1987
Contact: Michael Panfeld at (202) 482–0168

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity to Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of April 1995. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k)(3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203.

This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: March 7, 1995.

Joseph A. Spetrini

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–8002 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–050]

Racing Plates (Aluminum Horseshoes) From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: In response to a request by a respondent, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty finding on racing plates from Canada. The review covers one firm and the period February 1, 1993, through January 31, 1994. Preliminary results were published on December 19, 1994. Since there were no comments, we determine that the dumping margin for Equine Forgings Limited remains at .01 percent, the dumping margin from the preliminary results of review.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4195 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published preliminary results on December 19, 1994. The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of racing plates (horseshoes) that are made of aluminum, may have cleats or caulks, and come in a variety of sizes. They are used on race horses, polo, jumping, hunting, and other performing horses, as differentiated from pleasure and work horses. During the review period such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item number 7616.90.00. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Final Results of Review

The Department received no comments on its preliminary results. Therefore, the margin from the preliminary results is the final margin for the period February 1, 1993, through January 31, 1994:

Manufacturer/exporter	Margin (percent)
Equine Forgings Limited	.014

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review. Since the rate for Equine Forgings Limited is *de minimis,* there will be a cash deposit of zero on shipments from this firm; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the ''all others'' rate will remain at 6.77 percent, the ''all others'' rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 22, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–8012 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–804]

Sparklers from the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On October 18, 1994, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sparklers from the People's Republic of China (PRC) (59 FR 52510). The review was requested for one manufacturer, Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch (Guangxi), of the subject merchandise to the United States and the review period June 1, 1992 through May 31, 1993.

We gave interested parties an opportunity to comment on our preliminary results. We received no

comments. The final results are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1991, the Department published in the **Federal Register** the antidumping duty order on sparklers from the PRC (56 FR 27946). On June 7, 1993, the Department published a notice in the **Federal Register** notifying interested parties of the opportunity to request an administrative review of sparklers from the PRC (58 FR 31941). On June 28, 1993, the petitioners requested, in accordance with 19 CFR 353.22(a), that we conduct an administrative review of exports to the United States by Guangxi, for the period June 1, 1992, through May 31, 1993. Guangxi had received a separate rate in the final determination of sales at less than fair value (LTFV). We published a notice of initiation of the antidumping administrative review on July 21, 1993 (58 FR 39007). On October 18, 1994, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on sparklers from the PRC. The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this administrative review are sparklers from the PRC. Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Sparklers are currently classifiable under subheading 3604.10.00 of the *Harmonized Tariff Schedules* (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of this proceeding. The period of review (POR) was June 1, 1992, through May 31, 1993.

Best Information Available

On February 22, 1994, we mailed Guangxi a questionnaire explaining the review procedures. The questionnaire, which covered exports to the United States for the POR, was due on April 14, 1994. We did not receive a response by the due date and, thus, asked Skypak International Express (TNT) to trace the mailing and verify Guangxi's receipt of the document. On May 4, 1994, TNT's delivery office in Hong Kong confirmed that the questionnaire was accepted by a representative of Guangxi on March 3, 1994. Because we have received no response and have not been contacted by Guangxi, we determine that Guangxi is an uncooperative respondent. Therefore, in accordance with section 776(c) of the Act, we are using the best information available (BIA) as the basis for determining a dumping margin for Guangxi's United States entries during the POR.

In determining what to use as BIA, the Department follows a two-tiered methodology whereby the Department normally assigns lower margins to those respondents who cooperate in a review, and margins based on more adverse assumptions for those respondents who do not cooperate in a review. This methodology has been upheld by the U.S. Court of Appeals for the Federal Circuit (*see Allied-Signal Aerospace Co. v. the United States, Slip Op. 93–1049* (Fed. Cir. June 22, 1993); *see also Krupp Stahl Ag. et. al. v. the United States, Slip Op. 93–84* (CIT May 26, 1993)). Given that Guangxi did not respond to the Department's questionnaire, we find that Guangxi has not cooperated in this review.

In accordance with our BIA methodology for uncooperative respondents, we assign as BIA the higher of: (1) The highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the LTFV investigation or prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin (*see Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.* (57 FR 28379, June 24, 1992)).

We are using as BIA the highest rate established in the remand of the LTFV final determination (58 FR 53708, July 29, 1993), which was 93.54 percent.

Final Results of the Review

We invited interested parties to comment on the preliminary results. We received no comments. The final results are therefore unchanged from those presented in the preliminary results, and we determine that a margin of 93.54 percent exists for Guangxi for the period June 1, 1992, through May 31, 1993.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Guangxi will be the rate as stated above; (2) for PRC exporters not covered in this review, a prior review, or the original LTFV investigation, the cash deposit rate will be the PRC country-wide rate of 93.54 percent, the rate established in the remand of the LTFV final determination; and (3) the cash deposit rate for non-PRC exporters will be the rate established for that firm if a separate rate has been established for that firm; if a non-PRC exporter does not have its own separate rate, the deposit rate for that firm's shipments will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until the publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 16, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–8014 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–583–806]

Certain Small Business Telephone Systems and Subassemblies Thereof from Taiwan: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Lou Apple, Office of Antidumping Investigations, Import

Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–1769, respectively.

SUPPLEMENTARY INFORMATION:

Background

Since the publication of our preliminary results on December 28, 1994 (59 FR 66912), the following events have occurred:

We gave interested parties an opportunity to comment on the preliminary results. No comments were received.

The Department of Commerce (the Department) has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all cites to the statute and the Department's regulations refer to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are shipments of certain small business telephone systems and subassemblies thereof, currently classifiable under the following *Harmonized Tariff Schedule* (HTS) item numbers: 8504.40.0004, 8504.40.0008, 8504.40.0010, 8504.40.0015, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.81.0010, 8517.81.0020, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8517.90.4000, and 8518.30.1000. Although HTS item numbers are provided for convenience and Customs purposes, the written description of the scope of this proceeding is dispositive.

Certain small business telephones and subassemblies thereof are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between two and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is ''designed'' for use in a small business telephone system if it functions to its full capability only when operated as part of a small business telephone system. These subassemblies are designed as follows:

(1) Telephone sets and consoles, consisting of proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: Answer all lines in the system, monitor the status of other phone sets, and transfer calls. The term ''telephone sets and consoles'' is defined to include any combination of two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: Housing, had set, cord (line or hand set), power supply, telephone set circuit cards, or console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. ''Control and switching equipment'' is defined to include the units described in the preceding sentence which consist of one or more circuit cards or modules (including backplane circuit cards) and one or more of the following items, when imported or shipped in the same container as the circuit cards or modules, with or without additional apparatus: connectors to accept circuit cards or modules and building wiring.

(3) Circuit cards and modules including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise is excluded from the scope of this order: (1) Nonproprietary industry-standard (''tip/ring'') telephone sets and other subassemblies that are not specifically designed for use in covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets; and (3) adjunct software used on external data processing equipment.

Final Results of Review

The Department received no comments on its preliminary results of review. Therefore, the final results of our review are identical to those in the preliminary results:

Manufacturer/exporter	Margin (percent)
Bitronic Telecoms Co., Ltd.	6.97

The Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of this administrative review for all shipments of the subject merchandise entered or withdrawn from warehouse for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The case deposit rate for the reviewed company will be as outlined above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will be 0.00 percent, the ''all other'' rate established in the original less-than-fair-value investigation by the Department (54 FR 42543, October 17, 1989), in accordance with the decisions of the Court of International Trade in *Floral Trade Council v. United States*, 822 F. Supp. 766 (1993), and *Federal-Mogul Corporation v. United States*, 822 F. Supp. 782 (1993).

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antitdumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibilities concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 17, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–8013 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–427–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; Amendment to Final Results of Antidumping Duty Administrative Reviews and Recision of Partial Revocation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative reviews and recision of partial revocation of Antidumping Duty Order.

SUMMARY: On February 28, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 10959) the final results of its administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Japan, Singapore, Sweden, Thailand, and the United Kingdom. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). The review period was May 1, 1992, through April 30, 1993. Based on corrections to the calculation of United States price (USP), we are amending the final results with respect to French BBs and SPBs sold by one company, SKF France (SKF).

We are also rescinding the revocation of the antidumping duty order on SPBs from France with respect to SKF, since the dumping margin is no longer *de minimis.*

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202)482–4733.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1995, the Department published in the **Federal Register** the final results of its administrative reviews of the antidumping duty orders on AFBs from France, Germany, Japan, Singapore, Sweden, Thailand, and the United Kingdom. The classes or kinds of merchandise covered by these reviews are BBs, CRBs, and SPBs. The review period was May 1, 1992, through April 30, 1993.

In these final results, we revoked in part the antidumping duty order on SPBs from France with respect to SKF based on three consecutive years of zero or de minimis weighted- average dumping margins in accordance with 19 CFR 353.25(a).

Subsequent to the issuance of our final results, the Torrington Company (Torrington), the petitioner, alleged a clerical error in the calculation of dumping margins for SKF with respect to BBs and SPBs from France. We determined there was a ministerial error in the calculation of USP in the final results for AFBs from France sold by SKF. Specifically, purchase price sales made by SKF were reported in French francs, and we failed to convert these prices to U.S. dollars. We have therefore corrected our calculation of SKF's USP.

Recision of Revocation

After correction of this ministerial error, we found that the weighted-average margin for SPBs from France sold by SKF no longer is *de minimis.* Therefore, the criteria for partial revocation pursuant to 19 CFR 353.25(a) have not been met, and we hereby rescind the partial revocation of the antidumping duty order on SPBs from France with respect to SKF.

Amended Final Results of Reviews

As a result of our corrections, we have determined the following percentage weighted-average margins to exist for the period May 1, 1992 through April 30, 1993:

Company	BBs	SPBs
SKF	3.74	49.08

Based on these results, we will direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of these reviews.

These deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with section 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(f)) and 19 CFR 353.28(c).

Dated: March 23, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–8011 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–834]

Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Stainless Steel Angle From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: James Maeder or Bill Crow, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3330 or 482–0116, respectively.

Final Determination

We determine that stainless steel angle (SSA) from Japan is being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on November 4, 1994 (59 FR 56053, November 10, 1994), the following events have occurred.

On November 23, 1994, the petitioners alleged that the preliminary margin calculations contained three distinct ministerial errors. As detailed in the December 8, 1994, memorandum to Barbara R. Stafford, the Department agreed that the errors identified by the petitioners were ministerial in nature, but did not amend the preliminary determination because these errors were not significant, as defined in the Proposed Regulations (19 CFR 353.15(g)(4)(ii)).

In December 1994, the Department conducted its sales and cost

verifications of the respondent, Aichi Steel Works Ltd. (''Aichi'') in Japan.

On February 17, 1995, the petitioners and Aichi submitted case briefs. Rebuttal briefs were submitted by both parties on February 24, 1995.

Scope of Investigation

For purposes of this investigation, the term ''stainless steel angle'' includes hot-rolled, whether or not annealed or descaled, stainless steel products of equal leg length angled at 90 degrees, that are not otherwise advanced.

The stainless steel angle subject to this investigation is currently classifiable under subheadings 7222.40.30.20 and 7222.40.30.60 of the Harmonized Tariff Schedules of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

As noted in the March 21, 1995 memorandum from the Acting Director of the Office of Antidumping Investigations to the Deputy Assistant Secretary for Investigations, the Department has clarified the scope of the investigation as published in the preliminary determination, to specifically exclude stainless steel products of unequal leg length.

Period of Investigation

The period of investigation (POI) is November 1, 1993, through April 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. References to the Antidumping and Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 57 FR 1131 (Jan. 10, 1992), concerning corrections of ministerial errors, (''Proposed Regulations''), are provided solely for further explanation of the Department's antidumping practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding, which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Such or Similar Comparisons

For purposes of the final determination, we have determined that SSA constitutes a single ''such or similar'' category of merchandise.

The respondent reported that there were no sales of identical merchandise in the home market during the POI. Because there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Stainless steel grade; (2) leg-length; (3) thickness; (4) spine length; and (5) other characteristics, as listed in Appendix V of the Department's questionnaire, and in accordance with section 772(16) of the Act.

Fair Value Comparisons

To determine whether sales of SSA from Japan to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice. When comparing the U.S. sales to sales of similar merchandise in the home market, we made adjustments for differences in physical characteristics, pursuant to 19 CFR 353.57. Further, in accordance with 19 CFR 353.58, we made comparisons at the same level of trade, where possible.

United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to an unrelated purchaser before importation into the United States and because exporter's sales price methodology was not otherwise indicated. For the reasons detailed in the *Comment* section of this notice, we reclassified the level of trade of U.S. sales to categorize them as having been made to a trading company.

With regard to the calculation of movement expenses, we made deductions from the U.S. sales price, where appropriate, for foreign brokerage, foreign inland freight, and insurance.

We recalculated U.S. credit expenses based on Aichi's lending rate to its customers as opposed to Aichi's investment return rate. In accordance with section 772(d)(1)(B) of the Act, we added to USP the amount of import duties which were not collected on inputs due to exportation of SSA to the United States.

In accordance with our standard practice, pursuant to the decision of the U.S. Court of International Trade (CIT) in *Federal-Mogul Corporation and The Torrington Company* v. *United States,* 834 F. Supp. 1391 (CIT 1993), our calculations include an adjustment to U.S. price for the consumption tax levied on comparison sales in Japan. See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from France (60 FR 10538, 10539, February 27, 1995) and Preliminary Antidumping Duty Determination: Color Negative Photographic Paper and Chemical Components from Japan (59 FR 16177, 16179, April 6, 1994), for an explanation of this methodology.

Foreign Market Value

As stated in the preliminary determination, we found that the home market was viable for sales of SSA, in accordance with 19 CFR 353.48(a).

Because Aichi maintained that its sales to related parties in the home market were made at arm's length, we examined those sales under the Department's arm's-length test. Where possible, in applying this test, we compared related and unrelated party sales at the same level of trade. We considered a party as related to the respondent whenever the respondent had a substantial ownership interest in the party. See Appendix II to the Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37077, July 9, 1993) for more information on the Department's arm's-length test. In order to determine whether a sale is made at arm's length, we must compare the related-party price for a given product model to the average price for the same product model as sold to unrelated customers. Therefore, certain related-party sales were excluded from our analysis because those specific product models could not be compared to unrelated sales and because they were made in insignificant quantities.

In the home market, Aichi sells SSAs through several distribution channels. Where Aichi sold SSAs through its subsidiary, that subsidiary's sales to unrelated parties formed the basis of our FMV calculation. We only included sales to the related parties that were made at arm's length.

We calculated FMV based on delivered prices. Deductions were made for discounts and rebates, where applicable.

In light of the decision of the U.S. Court of Appeals for the Federal Circuit's (CAFC) in Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States, 13 F.3d 398 (Fed. Cir. 1994), the Department no longer can deduct home

market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust, where appropriate, for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a). Accordingly, in the present case, we deducted post-sale home market inland freight and insurance from FMV under the circumstance-of-sale provision of 19 CFR 353.56(a).

Examination of the facts surrounding one expense claimed as a rebate by Aichi led us to determine that this reported adjustment was, in fact, a transfer of funds from the parent to its subsidiary. As stated in Final Results of Antidumping Duty Administrative Review: Color Television Recievers from Korea (53 FR 24975, July 1, 1988), ''Transactions between related parties are intracorporate transfers of funds for which no adjustment should be allowed.'' In Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland (56 FR 56372, November 4, 1991), we made an exception for rebates paid to a related party where sales to that party were found to be at arm's length. However, in this instance, the rebates in question are to a related reseller, and the sales reported to the Department are the downstream resales of that related party to the first unrelated purchaser. This rebate was not passed on to the unrelated purchaser. Consequently, we did not make any adjustments to FMV for this claimed rebate.

FMV was reduced by home market packing costs and U.S. packing costs were added, in accordance with section 773(a)(1) of the Act. The Department also made circumstance-of-sale adjustments for home market direct selling expenses, which included imputed credit expenses, and commissions, in accordance with 19 CFR 353.56(a)(2). Pre-sale warehousing expenses and pre-sale foreign freight charges were classified as home market indirect selling expenses, pursuant to the Departments practice and as upheld by *The Torrington Co.* v. *the United States,* No. 91–08–00567, Slip Op. 94–168 (CIT 1994). We deducted commissions incurred on home market sales and added total U.S. indirect selling expenses, capped by the amount of home market commissions; those total U.S. indirect selling expenses included U.S. inventory carrying costs, and indirect selling expenses incurred in Japan on U.S. sales.

We adjusted for the consumption tax in accordance with our practice (*see* ''United States Price'' section of this notice).

Cost of Production (COP)

As we indicated in our preliminary determination, on September 7, 1994, the Department initiated an investigation of sales in the home market made below the cost of production (COP). In order to determine whether home market sales prices were below COP within the meaning of section 773(b) of the Act, we calculated COP based on the sum of the respondent's cost of materials, fabrication, general, and packing expenses, in accordance with 19 CFR 353.51(c). As discussed in the Department's cost verification report, Aichi had misreported the material costs of two SSA models. We corrected the reported material costs used in COP and constructed value (CV) for those two models by using the average material cost of all other models of the same grade as a reasonable surrogate, since verification revealed that the misreporting resulted from a technical flaw inherent in the computerized cost allocations used by Aichi in the normal course of business. We then compared the COP to the home market selling prices, net of movement charges and discounts and rebates.

In accordance with Section 773(b) of the Act, we followed our standard methodology to determine whether the home market sales of each product were made at prices below their COP in substantial quantities over an extended period of time, and whether such sales were made at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade.

To satisfy the requirement of 773(b)(1) that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. Where we found that over 90 percent of a respondent's sales of a given product were at prices above the COP, we did not disregard any below-cost sales because we determined that respondent's below-cost sales are not made in substantial quantities. If between ten and 90 percent of a respondent's sales of a given product were at prices above the COP, we disregarded only the below-cost sales if made over an extended period of time. Where we found that more than 90 percent of a respondent's sales of a given product were at prices below the COP and were sold over an extended period of time, we disregarded all sales for that model and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we did not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time; *i.e.,* where sales of a product were made in only two months, the extended period of time was two months, where sales of a product were made in only one month, the extended period of time was one month. (See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom (60 FR 10558, 10560, February 27, 1995). Based on this, for U.S. sales of certain products, there were adequate home market sales made above the cost of production to serve as FMV. For U.S. sales of other products, there were not. In such cases, we matched U.S. sales to CV.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of materials, fabrication, general expenses, profit, and U.S. packing cost. In accordance with section 773(e)(1)(B) of the Act, for general expenses, which include selling and financial expenses (SG&A), we used the reported general expenses because these were greater than the statutory minimum of ten percent of the cost of production. For profit, we used the statutory minimum of eight percent of the cost of manufacturing and general expenses, because Aichi's reported profit was less than eight percent of the total of cost of manufacturing and general expenses.

Currency Conversion

We have made currency conversions based on the official exchange rates, as certified by the Federal Reserve Bank of New York, in effect on the dates of the U.S. sales, pursuant to 19 CFR 353.60.

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Interested Party Comments

Comment 1—Level of Trade

The petitioners maintain that the reported U.S. sales were not made to a

distributor, as the respondent claims, but to a trading company. They contend that since the sales are made to Kanematsu [1] for delivery to its wholly-owned subsidiary, KGS, and since Kanematsu is a trading company, U.S. sales should be classified as trading company sales. According to the petitioners, Aichi's descriptions in its June 29, 1994, submissions at exhibits 31 and 32 identify Kanematsu at a different level of trade than reported. The petitioners maintain that the record shows that Kanematsu did not inventory SSA, since the subject merchandise was shipped directly by Aichi to KGS. Thus, they argue, Aichi's own definition categorizes Kanematsu as a trading company.

Aichi claims that it has reported levels of trade based on the different economic functions performed by its customers. According to the respondent, while Kanematsu is nominally a trading company, it actually functions as a distributor in Japan for sales of SSA, since it does take the SSA into inventory. Correspondingly, the respondent reported sales to Kanematsu in the home market as ''distributor'' sales. Aichi maintains that it detailed in its June 29, 1994, submission and in the documentation of sales at verification, how Aichi's sales to the United States begin with price negotiations held with KGS, not Kanematsu. Aichi stresses that it deals directly with KGS, which functions as a mill depot for Aichi's angles and, therefore, holds inventory. Aichi reiterates that the prices are set between Aichi and KGS on CIF terms considering KGS's function as a mill depot, and that the price to Kanematsu is merely calculated from this CIF price. Respondent's argument centers on the price negotiations between Aichi and KGS, and Kanematsu's role in facilitating the documentation for Aichi's sales to KGS; accordingly, Aichi maintains that its sales are, in effect, to a distributor.

DOC Position

We disagree with the respondent. In accordance with 19 CFR 353.58, we have changed the designation of U.S. sales level of trade to that of a trading company. It is Kanematsu which establishes the basic business relationship with Aichi and which pays for the merchandise. Because Kanematsu is the controlling entity with final approval of the subject sales to the United States, we have determined that the appropriate designation of the level of trade of U.S. sales is that of a trading company transaction. Thus, we are matching trading company sales in Japan to trading company sales in the United States first; if no trading company sales exist in Japan for the product model, then we used distributor sales in Japan instead.

Comment 2—Aichi's Price Protection Program as Control

The petitioners maintain that in the event the Department does not classify Aichi's home market sales price protection program as a commission program, the Department should reconsider its determination not to treat Aichi and the participating members of the price protection program as related parties. They restate their argument, previously made before the preliminary determination, that the record demonstrates that the manufacturer, Aichi, exercises significant control over the selling practices of the reseller companies participating in the price protection program. Contending that, while these parties are not related via stock or equity ownership, the business dealings between them do not represent arm's-length transactions, the petitioners argue that the Department should treat these parties as related.

Aichi counters that the Department thoroughly reviewed its records at verification to examine the members' activities, none of which would give Aichi either *de jure* or *de facto* control over these member companies. Rejecting the petitioners' contention that the possibility of control is the operative standard for relatedness, Aichi states that the petitioners have failed to provide any measurable criteria for applying such a standard. Aichi maintains that, in the absence of evidence that Aichi exerts control over these members and in the absence of an ownership interest greater than 5 percent, the petitioners argument that Aichi is related to these customers should be rejected.

DOC Position

We disagree with the petitioners and determine that members of the program are not related. We believe that the evidence on the record does not indicate that Aichi maintains control over members of the price protection program. The information provided does not indicate that Aichi can set the prices of the members; price is set by market conditions. The price protection agreement is not a contractual agreement constituting business control over the members. No evidence exists in the record of this investigation which indicates that Aichi exercises, or can exercise, control over participants in the price protection program.

Comment 3—The Nature of Price Protection Adjustments

The petitioners maintain that the Department should treat the amounts which Aichi claimed as discounts as home market commissions under the commission offset provision. They argue that a review of the administration of the price protection program demonstrates that the adjustments granted represent ommissions rather than discounts, arguing that the calculation of the adjustments is based, not on the purchases made by these firms, but rather on their resales. The petitioners further maintain that discounts are price reductions which are based solely on the transaction between the manufacturer and the immediate purchaser. The analysis conducted by petitioners instead characterizes the reported adjustments as the equivalent of payments for services rendered by a commissioned agent. The petitioners cite to the Final Determination of Sales at Less than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan (55 FR 34585,34598 (August 23, 1990)), which they maintain shows that the Department has classified selling expenses as commissions when it found that the manufacturers' trading company performed the functions of a commission agent.

As an alternative approach, the petitioners argue that even if the Department decides not to treat all of the price protection adjustments as commissions, it should, at a minimum, offset indirect U.S. selling expenses against those price protection adjustments expressly identified as commissions.

Aichi states that the petitioners ignore a basic distinction between discounts which are a prepayment price reduction, and commissions which are a form of payment for services. Aichi maintains that its accounting system treats discounts differently from commissions and likewise the Department's methodology should treat the adjustments differently. Citing numerous investigations and court cases, including *Sonco Steel Tube Division* v. *United States,* 714 F. Supp. 1218, 1222 (CIT 1989), Aichi seeks to demonstrate that the Department's practice of treating early payment discounts as price adjustments instead of circumstance-of-sale adjustments is longstanding and supported by the Courts. Aichi believes that the pre-payment price protection adjustments are similar to early-payment discount

[1] Aichi has not claimed proprietary treatment for the identity of its U.S. customer, nor for that customer's U.S. subsidiary.

programs and, accordingly, should be given the same treatment in the Department's margin calculations.

Aichi maintains that since the price protection program deals with reductions in prices to its customers, not in selling expenses actually incured, the program cannot be considered to generate commissions. Aichi notes that in its accounting system, the price protection discounts are netted from accounts receivable as a reduction from sales revenue and are, therefore, reflected in its net sales. Aichi contrasts its treatment of commissions (paid only on non-subject merchandise) which are expensed in Aichi's SG&A accounts with its treatment of the price protection adjustments as a component netted from accounts receivable.

Central to Aichi's presentation is its contention that the Department in every prior determination has determined price protection adjustments to be discounts; for this reason it refers to its listing of those determinations in exhibit 4 of its September 19, 1994, submission. According to Aichi, the discount nominally identified as the ''commission'' adjustment was administered and calculated according to an agreed-upon formula just as are all other components of the price protection program.

Aichi maintains that the petitioners' citation to Sweaters from Taiwan is ill-chosen because, in that investigation, the Department treated payments to a trading company as commissions for a combination of reasons not present here: because the trading company never took possession of the merchandise, because the trading company never paid the manufacturer directly for the merchandise, and because the respondent treated the payment amounts as commission expenses in its accounting records.

DOC Position

We agree, in part, with both parties. Under the program, Aichi receives aggregate monthly resale reports from the price protection member companies; Aichi does not set prices for the member companies. Member companies do not report individual sales prices back to Aichi, only aggregate resales values. The price protection program does not require member companies to report expenses to Aichi; the program's various adjustments take into account that the member firms will incur certain selling expenses in making those resales.

As described by Aichi and verified by the Department, the general purpose and actual administration of the price protection program consists of Aichi granting price reductions to its customer to ensure a set return on the resales of the merchandise. Unlike the company examined in the investigation of *Sweaters from Taiwan*, Aichi did not report the expenses incurred by an intermediary party in making resales. Instead, Aichi is, for the most part, granting discounts in order to ensure that the prices received by resellers are adequate. Because these price adjustments are based on claims settled according to terms agreed upon at sale and before payment, we are treating the claimed adjustments for four of the five elements of the price protection program as discounts, similar in execution to early payment discounts, for purposes of the final determination. *See Sonco Steel Tube Division* v. *United States*, 714 F. Supplement 1218, 1222 (CIT 1989); Granular Polytetrafluorethylene Resin from Japan; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 5622 (January 30, 1995); *et al.*

Four adjustments (the exception being the adjustment calculated in recognition of member companies' role as resellers) are not like commissions, which are normally set at given rates prior to sale and which are not dependent on ultimate resale prices. One component of Aichi's program, however, which was specifically designed in recognition of the selling function of the member companies, is the functional equivalent of a sales commission. As stated by Aichi in its July 28, 1994, submission at 18, ''Aichi guarantees * * * a set return on their SSA sales by granting a commission for their resales of Aichi SSAs and price adjustments that 'account' for 'selling expenses' presumably incurred * * * in making resales.'' The reduction in price termed a commission adjustment is, in fact, similar to a commission payment. The amount is set and administered like a commission. This adjustment is designed, by Aichi's own account, to take into consideration the expenses which the price protection member companies must incur to find and maintain their customers. The importance of this function is underlined by Aichi's reliance on the external sales and marketing abilities of its price-protected customers. We are, therefore, treating this reported adjustment as a commission, deducting it from FMV and adding to FMV indirect selling expenses incurred by Aichi on U.S. sales, capped by the amount of the home market commission.

Comment 4—Duty Drawback

The petitioners maintain that the record in the investigation demonstrates that Aichi is not entitled to an upward adjustment to U.S. price by virtue of duty drawback. They contend that Aichi does not have a valid claim to a duty drawback adjustment because the cost verification demonstrated that import duties were not included in the prices for any of the angle that Aichi sold in Japan during the POI. They cite the December 29, 1994, cost verification report, which states that ''Aichi re-exported enough nickel and chromium during the POI in order to avoid paying any (import) duty amounts.'' They also cite the report's analysis that ''since there are no duties included in the home market price, it may be appropriate to exclude the submitted addition to COP and CV for exempted duty, and to exclude the duty adjustment to USP.''

The petitioners' contention rests on the concept that the statute requires that import duties be added to U.S. price in order to prevent the creation of dumping margins, or the increase of dumping margins, as a result of comparing duty-inclusive home market prices to duty-exclusive U.S. prices. Based on this interpretation, the petitioners maintain that granting a drawback adjustment in this case would contravene the object of the statute because the record shows that Aichi used both domestic and imported nickel and chromium to manufacture its stainless steel products, and because Japan's substitution drawback regulations allowed Aichi to obtain exemption from payment of duties for all of its imported nickel and chromium. Thus, they argue, all of Aichi's home market sales were at prices that were exclusive of duties on imported nickel and chromium. The petitioners object to the comparison of what they characterize as duty-inclusive U.S. prices to duty-exclusive home market prices.

Alternatively, they argue that if the Department adds duty drawback to Aichi's U.S. prices it should also add the same amount of import duties to Aichi's reported home market prices and reported cost of production.

The petitioners maintain that none of the arguments presented by Aichi in its case brief alters the Department's concerns voiced in the cost verification report. They contend that the reasoning inherent in Aichi's arguments suggests that the drawback adjustment is inappropriate. Petitioners characterize Aichi's reporting as specifically acknowledging that the purpose of the duty drawback adjustment is to ''neutralize the duty difference between sales made to the U.S. and sales made in the home market.''

Aichi maintains that, in its preliminary determination, the Department correctly made a price-related adjustment to Aichi's U.S. price for duty drawback earned in connection with its exports to the United States. Likewise, Aichi believes that the Department was correct in its preliminary upward adjustment to Aichi's COP and CV for the amount of duty drawback revenues included in its cost of production. According to Aichi, the upward adjustment to cost is necessary because COP and CV are intended to represent the theoretical cost of producing a product to be sold in the home market. Aichi states that its cost system does not specifically allocate duty drawback earned between cost of production for export products and cost of production for home market products. Thus, Aichi maintains, it needed to extract duty drawback savings from its normal cost system to enable the Department to identify the theoretical costs of production for a product to be sold in the home market. Aichi disagrees with the comments in the cost verification report, which noted that there may be a connection between the purpose of Aichi's price-related duty drawback adjustment and its cost-related duty drawback adjustment. Aichi argues that there is no connection because, while the price-related adjustment captures duty drawback savings which are earned in connection with exports to the United States, the cost-related adjustment simply isolates the duty drawback savings included in its normal cost accounting system for all products.

In addressing the petitioners' arguments, Aichi cites to the statute, Court decisions, Department practice, and the GATT, in maintaining that it is irrelevant whether products sold in the home market are produced from imported and duty-paid raw materials. According to Aichi, the petitioners mischaracterize the conditions under which the Department makes a duty-drawback adjustment.

In Aichi's view, the antidumping statute and the Department's practice do not require the respondent receiving rebates on, or exemptions from, import duties by reason of exportation of finished products, to demonstrate that its home market prices include import duties in order for its U.S. prices to be eligible for a duty-drawback adjustment. Aichi maintains that the statute and regulations make clear that the duty-drawback adjustment is to capture a difference in selling circumstances whereby a company receives import duty-drawback rights or earnings by virtue of exportation which are not earned when products are sold on the home market. Citing several investigations, including Certain Welded Stainless Steel Pipe from Korea (57 FR 53693,53696) (1992), Aichi seeks to demonstrate that the Department has consistently used a two prong test to analyze duty-drawback claims:

- Import duty and rebate are directly linked to, and dependent upon one another, and;
- The company claiming the adjustment can demonstrate that there were sufficient imports of imported raw material to account for the duty drawback received on the exports of the manufacturing product.

Aichi faults the petitioners for not noting that the Court of International Trade has flatly rejected past requests to add as a new condition to the two-prong test the mandatory inclusion of dutiable imported inputs into the production of the merchandise sold in the home market. Aichi cites *Chang Tieh Industry* v. *U.S.*, 840 F. Supp. 141, 147 (CIT 1993):

> [Plaintiff's] arguments provide no basis from which to conclude that drawback adjustments should not be made unless ITA determines that the cost of the products sold in the home market is duty-inclusive. To require such a finding would add a new hurdle to the drawback test that is not required by the statute.

Maintaining that the petitioners' suggestion to make an upward duty-drawback adjustment to FMV by increasing the import duty component of cost of production/constructed value is tantamount to not making any adjustment at all, Aichi asks the Department to reject such an alternative. According to Aichi, the amount of import duties included in COP/CV will depend on several factors including: (1) Whether the company normally allocates duty-drawback earnings to the cost of production for export products, (2) the relative quantity of raw materials which are imported and exempted from import duties, and (3) the volume of home market sales relative to the volume of export sales to all countries. Aichi argues that none of these factors affects the calculation of the entitlement or earnings-based adjustment used to increase U.S. price. Aichi concludes that there is no legal or policy reason for denying or changing Aichi's drawback adjustment.

DOC Position

We disagree with the petitioners. The only germane issue is whether or not Aichi's documented duty drawback meets the two pertinent statutory criteria. At verification we examined Aichi's duty drawback and documented that the application of the duty exemption program reported to the Department had been accurately described and quantified. Although Aichi then and now maintains that the imported materials need not have been physically consumed in the actual production of the U.S. shipments, company officials also demonstrated that imported alloys are used in the batches from which SSAs destined for the United States were produced. Most importantly, the inclusion of imported inputs in equal proportions in merchandise sold in both the home market and in the United States *is not* a requirement for obtaining a duty drawback adjustment. As stated by the Department in *Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipes from Taiwan* (57 FR53705, 53710, November 12, 1992):

> Other claims by petitioners do not speak to the test traditionally applied by the Department but rather seek to impose additional requirements for duty drawback claims, which are not required by the statute, the regulations, or past Department practice. There is no basis for petitioners' argument that the Department should not make a duty drawback adjustment, unless it determines that the cost of products sold in the home market includes duties on imported raw materials.

Therefore, we made a duty drawback adjustment to U.S. price in our final margin calculations following this principle. In accordance with this principle, the Department calculates the amount of duty included in CV. CV includes import duties which have been waived or rebated upon export because such duties are added to U.S. price. The cost figures used for constructed value reflect the weighted-average value of duty costs, which, due to Aichi's use of domestically-sourced inputs in the production of SSA, are not necessarily the exact equivalent of the duty drawback adjustment on U.S. sales.

Comment 5—Rebates

The petitioners argue that the Department should correct the mistake noted in the verification report at pages 20–23, whereby Aichi included the three percent consumption tax in the numerators of its formulas for allocating rebates and thus overstated the reported rebates. The respondent did not address this issue.

DOC Position

On February 23, 1995, the Department instructed Aichi to resubmit a computer tape correcting this calculation error. It did so on March 3, 1995.

Comment 6—Sales Outside the Ordinary Course of Trade

The petitioners agree with Aichi's contention that sales of ferritic angle should be considered as sales outside the ordinary course of trade because Aichi did not sell ferritic angle to the United States during the POI. They also agree with Aichi's argument that billing and expense adjustments that were erroneously classified as sales transactions should be excluded from consideration as a basis for FMV. They note without comment that Aichi contends that angles with spine length of seven meters are outside of the ordinary course of trade. However, they disagree with Aichi's contention that products for nuclear use, grade 304HT or of special straightness, should be considered outside the ordinary course of trade. The petitioners maintain that since no physical differences existed but, instead, different selling and packing costs were incurred, Aichi should have reported those under the respective charges and adjustment fields available in the sales listing. According to the petitioners, a number of the home market product codes used for those products Aichi identifies as within the ordinary course of trade are also used for those products which Aichi claims to be outside the ordinary course of trade. The petitioners argue that Aichi has not submitted evidence to show that the special sales were made through a different channel of trade or by way of some unusual marketing practice. In the petitioners' view, the Department's acceptance of a designation of outside the ordinary course of trade is normally reserved for sample sales and sales of secondary quality.

The petitioners contend further that, because Aichi did not provide timely evidence to support its claim that nuclear SSAs were sold outside the ordinary course of trade, the Department should not exclude those transactions from the final margin analysis. For support, the petitioners cite the CIT's ruling in *Timken Co.* v. *United States,* 865 F. Supp. 850 (CIT 1994), which overturned the Department's exclusion of certain sales as outside the ordinary course of trade where the respondents only alleged that their sales were not in the ordinary course of trade. Further, the petitioners maintain that Aichi's arguments fail because none of the circumstances identified by Aichi provide a sufficient basis for treating sales for nuclear applications as sales outside the ordinary course of trade. The petitioners maintain that SSAs sold for nuclear purposes possess the same anti-corrosive properties as SSA sold for other applications. Moreover, they contend that special expenses incurred to make nuclear application sales could, and should, have been captured as claims for circumstance of sale adjustments.

Aichi maintains that the nuclear SSA sales involved such different circumstances that they should be excluded from the margin calculation analysis. According to Aichi, the Department verified that the nuclear SSAs are distinguished by their unique sales process and application, and that these factors are sufficient to call for the exclusion of nuclear SSAs from the antidumping analysis. The special requirements for nuclear SSAs, examined at verification, such as special documentation of quality, special warranties, special inspections, special packing, and special quality control inspections, in conjunction with relatively different quantity and prices in comparison to sales of SSA not certified for nuclear use, are factors Aichi lists in support of its request for exclusionary treatment. Aichi cites Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 52 FR 30700, 30704 (August 17, 1987) (''Tapered Roller Bearings from Japan'') in support of its contention that the Department excludes sales when the transactions: (1) Involve individual sales at very small quantities at substantially higher prices; (2) most of the sales were later cancelled; and, (3) there were no comparable sales in the United States.

Contending that because the price of nuclear SSAs are set at vastly different price ranges due to the unique nature of the products and their sales process, Aichi rejects the possible use of circumstance-of-sale adjustments as inadequately capturing the basic sales differences. Aichi maintains that these unique circumstances are precisely the reason for excluding these sales as unrepresentative. Aichi further maintains that none of the home market product codes which the petitioners ascribe as applying both to sales designated as outside the ordinary course of trade and to sales designatied as within the ordinary course of trade, pertain to sale of nuclear-use SSA.

DOC Position

We disagree with both parties. As to whether ferritic and nuclear-use sales were made outside the ordinary course of trade, Aichi has made an unsubstantiated argument. Aichi has not substantiated its claim under the guidelines enunciated in Tapered Roller Bearings from Japan, in support of its contentions. Additionally, the claims set forth do not satisfy the criteria enunciated in Final Results of Antidumping Duty Administrative Reviews: Certain Welded Carbon Steel Standard Pipes and Tubes from India, 56 FR 64,753, 64,753–55 (1991) (these terms were reiterated in the Court of International Trade's remand order in Circular Welded Non-Alloy Pipe from the Republic Korea). To determine whether sales were made outside of the ordinary course of trade, it is appropriate for the Department to analyze: (1) The number of home market customers buying the products; (2) the product standards and uses of the products; and, (3) price and profit differentials between the alleged non-ordinary sales and sales made in the ordinary course of trade. (See *Leclede Steel Co.* vs. *U.S.,* No. 92–12–00784, Slip 94–160, at 28–29 (CIT October 12, 1995) Remand Order. Sales of ferritic SSA comprise a relatively small percentage of the total quantity of sales. However, Aichi never reported the data to quantify particular expenses which make such sales unique, nor did it address the market situation of the customers of ferritic SSA. No evidence of special channels of trade for ferritic SSA exists. We examined the spectrum of sales of the grade of SSA to which ferritic SSA belong and found that many of the customers who purchase ferritic SSA also purchase austenitic SSA. On average, ferritic SSA prices are only slightly different from those of austenitic SSA of the same leg-length. No information was submitted providing analysis for determining profit differentials.

Sales of nuclear-use SSA also comprise a small percentage of the total quantity of sales, and only a slightly greater percentage of sales of the same angle type sold for non-nuclear use. On average, nuclear SSA prices are different from non-nuclear SSA of the same physical characteristics. However, Aichi never reported the data to quantify the nuclear-specific technical, packing, and warranty expenses it maintains are unique, nor did it address the market situation of the customers of nuclear-use SSA. No evidence of special channels of trade for nuclear-use SSA exists. We examined the spectrum of sales of the grade of SSA to which nuclear-use SSA belong and found that all of the customers who purchase nuclear SSA also purchase non-nuclear SSA. No information was submitted providing analysis for determining profit differentials.

It is Aichi's responsibility to provide such data in defense of its claims, both for ferritic and for nuclear-use sales.

Aichi provided almost no explanation of any unique sales conditions for ferritic SSA. As regards nuclear-use SSA, Aichi did not provide analysis of the quantitative factors required to determine that such sales are outside of the ordinary course of trade, but instead gave general documentation at verification that such sales had specific sales conditions. Those aspects of the sales process should have been accounted for by a detailed explanation and reporting of circumstance-of-sale adjustments. Therefore, we determine that neither ferritic nor nuclear-use SSA were sold outside of Aichi's normal course of trade.

We are removing the separate line-items for billing and expense adjustments from the sales database for use in the less than fair value comparison, since these were erroneously entered as sales transactions.

We are keeping in the database those sales of SSA which were of odd spine lengths, since these are subject merchandise.

Comment 7—Rate for U.S. Imputed Credit Calculations

Aichi maintains that it reported the correct interest rate to calculate U.S. imputed credit expenses and credit income because this is the rate its pays for the pre-shipment advance money it receives from Kanematsu. According to Aichi, the use of the home market interest rate at the preliminary determination was based on the faulty understanding that the interest rate Aichi had used was based on investment returns. Aichi maintains that the rate reported is that which Aichi pays to Kanematsu for having received the pre-shipment advance money deposited by Kanematsu with Aichi for sales greater than a certain set amount. Therefore, Aichi argues that the correct interest rate for all U.S. imputed credit calculations is the percentage Aichi pays Kanematsu for pre-payment.

The petitioners contend that, because the customer is credited for the time that Aichi held advance payment at a given rate for the period from the receipt of advance payment to shipment, the interest revenue that Aichi earned from the advance payments should have been calculated based on the difference between Aichi's short-term borrowing rate, as manifest by its use of promissory notes, and the interest rate that Aichi paid to Kanematsu. They argue that the Department should value the imputed interest revenue for advance payments at the difference between the two percentages.

In addressing Aichi's arguments, the petitioners counter that the Department should recognize that Aichi was incurring interest expenses for two distinct periods: (1) the period between receipt of the advance payment and the date of shipment, and (2) the period from the date of shipment to the date of final payment. The petitioners argue that Aichi's methodology does not account for the interest rate that Aichi incurred to finance its receivables for the post-shipment period. They maintain that the interest rate for the post-shipment period should be Aichi's home market promissory note discount rate, which reflects the only short-term borrowing that Aichi had during the POI. They argue that the Department should continue to use Aichi's promissory note discount rate to calculate Aichi's post-shipment credit expense.

DOC Position

We agree with the petitioners. The time value of the yen-denominated U.S. sales should be measured by Aichi's short-term borrowings as represented by its use of promissory notes in Japan. Measuring the value of advance payments received by Aichi (*i.e.*, Aichi's imputed credit revenue) should be measured by the difference between the time value of money to Aichi and the credit Aichi gives to Kanematsu for having advanced payment. With regard to establishing the time value of money, we verified Aichi's borrowing rate by examining the discount rate documented by Aichi's promissory notes on home market sales. We also verified the rate used by Aichi to credit Kanematsu for the value of the advance payment received before shipment. For those sales greater than a given amount, Aichi reduced the net total amount due from Kanematsu by the value of the advance payment for the time held, at an interest rate set internally. However, while this amount does reflect Aichi's internal evaluation of the time value of the money advanced by Kanematsu, the rate is not based on actual borrowing by Aichi during the POI. The Department, therefore, used a rate charged for borrowings to determine imputed credit, since by extending credit to its customers, Aichi acted as a lender. It is the Department's practice to use lending rates, as opposed to investment return rates, in calculating credit expenses. (See, e.g., Preliminary Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Color Negative Photographic Paper and Chemical Components Thereof from Japan 59 FR 16177, (April 6, 1994), and Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Germany, 54 FR 18992, 19053 (May 3, 1989).

We have therefore recalculated imputed U.S. credit expenses based on the interest rate applied by Aichi's banks for discounting promissory notes and applied this rate to the portion of U.S. sales paid after shipment. The net value of Aichi's imputed interest income is measured as the difference between (1) the time value money based on Aichi's Japanese promissory notes and (2) the rate at which Aichi compensated Kanematsu for making advance payments. We have, therefore, also recalculated U.S. credit income on advance payments by using an interest rate that is the difference between the two rates.

Comment 8—Errors in U.S. Indirect Selling Expenses

The petitioners argue that the Department should correct the errors concerning the calculation of U.S. indirect selling expenses as identified in the verification report. In the report, the Department noted that on November 23, 1994, Aichi reported that the correct amount of U.S. indirect selling expenses was a percent of sales value slightly higher than that on the computer tape submitted for purposes of verification. On February 23, 1995, the Department instructed Aichi to resubmit a computer tape correcting this calculation error. On March 1, 1995, Aichi also requested that it revise the home market indirect selling expenses to reflect the narrative data submitted on November 23, 1994. The tape, with the requisite revisions, was submitted on March 3, 1995.

DOC Position

We agree with both parties. We used the revised percentages for both U.S. and home market indirect selling expenses, based on the data first submitted in narrative on November 23, 1994.

Comment 9—Home Market Inland Freight

Aichi states that in preparing the documentation for verification of the home market inland freight charges, several errors had been discovered prior to, and voluntarily disclosed at, verification and corrected for the Department officials' inspection. (The first type of error involved a recording error of the contract rate for the route. The second type of error was due to the fact that the actual delivery route for particular shipments was sometimes different from the standard delivery route reflected in the contract freight

rate schedule.) The effect of these errors, Aichi emphasizes, had been to understate most inland freight costs. Aichi stresses that shipment-specific reporting of such costs was prohibitively burdensome, since Aichi's computerized records do not contain the data necessary to electronically compile the information. At verification, Aichi adjusted incorrect amounts for specific transactions and provided a revision of the chart showing freight expense charges by domestic destination. Aichi argues that the Department should make the adjustments to the home market inland freight charges based on the verified freight expenses.

The petitioners contend that the Department should use the verified freight rate schedules originally reported and should not accept the revisions to the reported freight schedule rates. They argue that if the Department chooses to rely on the revised home market inland freight charges, it should only do so with respect to those home market sales actually found to contain erroneous freight costs. Additionally, they argue that any revisions to the respondent's home market inland freight costs should not include the amounts reported under the second inland freight variable field which they contend pertain to pre-sale expenses for shipments to the warehouses, and, therefore, should not be deducted as movement charges from FMV.

DOC Position

We agree, in part, with both parties. We used the originally reported values for most home market sales. We examined a selection of the mistakes made in reporting these values and found that, overwhelmingly, the charges under-reported inland freight claimed as a reduction of FMV. Aichi voluntarily disclosed the mistakes and was able to quantify the general effect of the inaccuracies. However, due to the volume and complexity of the errors, a complete revision was not examined at verification. Therefore, we used the originally reported charges, with the exception of the corrections specifically examined at verification; for those transactions we (1) used the revised freight-schedule data reported, and (2) added several invoice-specific corrections noted in the sales verification report at 31.

Because certain expenses reported separately pertain to pre-sale expenses for transportation to warehouses, these costs should be included as a portion of home market indirect selling expenses, rather than movement charge deductions to FMV. Aichi reported on September 19, at 32–33 that ''because shipment date to the customer is sale date, these shipments to the warehousers are pre-sale and reported in INLFRTH2.'' For those transactions whose corrections were examined at verification, the correct values for pre-sale expenses are included in home market indirect selling expenses.

Comment 10—Additional Price Protection Adjustment

Aichi originally argued that the Department should make an adjustment at the final determination for the additional price discounts discovered at verification, maintaining that the unreported discounts are no different from the other price protection discounts previously reported. For this reason, Aichi argued that the Department should adjust the applicable home market sales for these additional discounts.

The petitioners argue that the newly claimed discounts constitute a claim submitted for the first time in Aichi's case brief and as such, is untimely. In its March 3, 1995, submission, Aichi withdrew its claim for additional price protection program discounts.

DOC Position

Since Aichi has withdrawn its own claims, all arguments set forth by the interested parties are moot. We accept Aichi's withdrawal of the request for additional price protection adjustments.

Comment 11—Home Market Bank Charges

Aichi argues that the Department should make an adjustment for Aichi's home market bank charges as direct selling expenses because the Department verified that Aichi incurs bank charges for the processing of promissory notes in connection with home market sales. Aichi cites several cases, including Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela, 58 FR 27522, 27525 (May 10, 1993), to demonstrate that the proper treatment of bank charges is as a circumstance-of-sale adjustment.

The petitioners contend that the Department should reject Aichi's claim for an adjustment based on bank charges given the untimeliness of the claim. Additionally, they argue that the Department did not review documents related to this charge during verification. If the Department were to consider Aichi's claim as timely and substantiated by the verification record, the petitioners maintain that they believe that such bank charges would have also been incurred in the discounting of anticipated revenues for U.S. sales. Therefore, they request that the Department either disregard Aichi's claim or, alternatively, make a similar adjustment for Aichi's U.S. sales.

DOC Position

We agree with the petitioners that the respondent's claim is untimely. Therefore, we did not make any adjustments for bank charges.

Comment 12—Product-Matching Criteria

Aichi argues that the Department should not conduct its sales-below-cost test on a model-specific basis, whereby if more than 90 percent of a model are found to be sold below the cost of production, constructed value is used as the basis of FMV. This claim is premised on Aichi's understanding that it is inconsistent with the statutory preference for price-to-price comparisons to resort to constructed value when a comparable model exits that in the home market that was sold above cost and that satisfies the 20 percent difference in merchandise test. Aichi contends that when there are no above-cost sales for a particular control number designated product, the Department should first compare the U.S. sale to the next most similar product.

The petitioners contest Aichi's proposed revision to matching home market sales of the next most similar model to U.S. prices when the number of sales of the most similar model were found to be insufficient to form the basis of FMV because they were made below the cost of production. They cite to the Department's Import Administration Policy Bulletin 92/4, issued on December 15, 1992, wherein the Department states that because the statute ''specifies the determination of such or similar merchandise on the similarity of the merchandise only and not on whether the most similar model is sold above cost, section 771(15) appears to direct us to the use of constructed value when the most similar model is sold below cost.''

DOC Position

We agree with the petitioners. As outlined in the December 15, 1995, Office of Policy Bulletin, it is the Department's practice to conduct the sales-below-cost test on a model-specific basis. The memorandum states that ''in determining FMV, if the Department finds that sales of a given model, otherwise suitable for comparison, are sold below the cost of production, and the remaining sales of that model are inadequate to determine FMV, the

Department will use constructed value to determine FMV.'' This has been the Department's consistent practice since the issuance of that Bulletin. Therefore, we used constructed value to determine FMV when 90 percent of the sales of a given model were found to be sold below the cost of production.

Comment 13—Correction to Understated COP

The petitioners contend that the Department should correct all misstated material costs for purposes of the final determination by substituting the highest material cost reported by Aichi for the same grade of material.

Aichi agrees with the petitioners that for two sizes of stainless steel angle products, the reported materials cost does not reflect actual costs and notes that this error was due to an output quantity recording error in Aichi's normal cost accounting system. However, Aichi explains that since neither of these products were produced in significant volume, nor exported to the United States, nor compared to U.S. products in the Department's product matching, they have no relevance in the Department's LTFV comparisons. Accordingly, Aichi contends that the Department should not revise material costs for these two sizes of products. In the event the Department decides to revise material costs for these two sizes of products, Aichi urges the Department to use the average of reported material costs within the same grade of steel rather than the highest reported costs.

DOC Position

We agree in part with petitioner that Aichi's material costs for these two products should be revised. However, because the misstated material costs were due to re-coding errors from its cost accounting system, we do not consider it appropriate to penalize Aichi by using the highest material cost reported for the same grade of material. Instead, we agree with Aichi to revise the material costs for these two products using the average reported material cost within the same grade of steel.

Comment 14—Inclusion of Depreciation Expenses in COP

The petitioners argue that the Department should increase Aichi's reported depreciation expense to account for the special depreciation amount on environmental and conservation equipment. They state that these expenses were recorded in Aichi's accounting records and were reported in its audited financial statements for the fiscal accounting period that covered the POI. Accordingly, the Department should increase Aichi's reported G&A expenses to include the special depreciation expense.

Aichi contends that it included all conventional depreciation expenses in its submitted G&A rate and that it did not include the special depreciation expense or the reversal of this special depreciation because these amounts strictly relate to Japanese tax law. However, if the Department determines that the special depreciation amounts should appropriately be included in the G&A rate calculation, Aichi believes that its COP and CV would decrease due to the fact that the reversal of previously set aside depreciation exceeds the current year's special depreciation.

DOC Position

The Department disagrees with the petitioners that the special depreciation expense should be included in the reported COP and CV amounts. This special depreciation relates solely to Japanese tax law which, in effect, allows companies to accelerate depreciation for purchases of environmental and conservation equipment. Since this depreciation relates solely to tax law and represents no real additional cost to the company, we excluded it from the COP and CV for purposes of the final determination.

Comment 15—Preliminary Ministerial Errors

The petitioners maintain that the Department should make corrections pertaining to the following: (1) Comparison of tax-inclusive U.S. prices to consumption tax-exclusive constructed value; (2) double-counting of other expenses for purposes of determining the SG&A amounts to be used in constructed value calculations; and, (3) double-counting of imputed credit in the formula used to calculate SG&A.

Aichi contends that the Department should incorporate a revision to SG&A in the CV calculations by revising two lines of its preliminary computer programming to include the factor for imputed credit as one of the components of SG&A, but as deductions. Aichi maintains that the imputed credit value should be a downward adjustment to SG&A, both when measuring whether actual or statutory (10 percent) SG&A are to be used, and when defining what actual SG&A is comprised of. According to Aichi, the values reported should be used as downward adjustments to interest expenses requested in the section D questionnaire, based on Aichi's relative value of finished goods inventory and accounts receivable to total assets.

In addition, Aichi argues that, when revising the calculation of SG&A in its programming, the Department should also revise the program to deduct warehousing expenses. Aichi contends that this revision is required because the Department's calculations double-count warehousing. Aichi maintains that home market warehousing expenses are included in FMV as a component of total indirect selling expenses. According to Aichi, the indirect selling expenses for CV are inclusive of warehousing; thus SG&A brings home-market warehousing into FMV when CV is used.

DOC Position

We implemented the three corrections noted after the preliminary determination. Our final calculations took into account the following methodology:

(A) The calculations exclude the tax adjustment included in the U.S. price to CV comparison programming.

(B) The calculations eliminate the ''other expenses'' added to the SG&A test in the preliminary programming, as these double-counted these expenses.

(C) The calculations eliminate the separate variable for imputed credit used in its SG&A test in the preliminary programming, as this double-counted the expenses. Aichi's claim that the reported value is the required adjustment to interest expenses is not correct; as noted in the final OA memorandum, the interest expense value has already been adjusted for imputed credit by the ratio of Aichi's accounts receivables to total assets.

With regard to Aichi's request to modify the methodology for treating selling expenses, we disagree with Aichi, instead:

(D) We included home market pre-sale warehousing as a component of the indirect selling expenses in CV and also treated U.S. post-sale warehousing as a direct selling expense and adjusted for it as a circumstance-of-sale, pursuant to *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement* V. *United States*, 13 F.3d 398 (Fed. Cir. 1994).

Continuation of Suspension of Liquidation

In accordance with section 735(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of stainless steel angle from Japan, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from

warehouse, for consumption on or after November 10, 1994.

The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin (percentage)
Aichi Steel Works, LTD.	15.06
All Others	15.06

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing the Customs Service officers to assess an antidumping duty on SSA from Japan, entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20.

Dated: March 24, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95–8017 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–P

The Scripps Research Institute, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–102. *Applicant:* The Scripps Research Institute, La Jolla, CA 92037. *Instrument:* NMR Spectrometer, Model Avance DMX750. *Manufacturer:* Bruker, Germany. *Intended Use:* See notice at 59 FR 49645, September 29, 1994. *Reasons:* The foreign instrument provides: (1) superior magnetic field homogeneity and stability with a smaller fringe field and (2) better lock stability (uses digital design), spectral fidelity (uses digital filters) and pulsed field gradient performance (uses 3-axis gradient probe). *Advice Received From:* The National Institutes of Health, January 9, 1995.

Docket Number: 94–112. *Applicant:* Department of Veterans Affairs Medical Center, Kansas City, MO 64128. *Instrument:* Microvolume Stopped Flow Spectrometer, Model SX.17MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 59 FR 52957, October 20, 1994. *Reasons:* The foreign instrument provides: (1) repetitive, single-shot operation providing wavelength dependent time resolved spectra at a rate of 100 000 per second, (2) sub-millisecond dead time and (3) sensitivity to signals <.02AV. *Advice Received From:* The National Institutes of Health, January 9, 1995.

Docket Number: 94–140. *Applicant:* Penn State University, University Park, PA 16802. *Instrument:* Electron Gun for Reflection Electron Diffraction. *Manufacturer:* Staib Instruments, Germany. *Intended Use:* See notice at 59 FR 66941, December 28, 1994. *Reasons:* The foreign accessory provides capability to change the angle of incidence of a high energy electron beam electronically, without affecting the beam's position on the sample surface, in a molecular beam epitaxy system using RHEED. *Advice Received From:* The Center for Telecommunications Research, National Science Foundation, February 9, 1995.

Docket Number: 94–144. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Gas Composition Analyzer, Model Epison II. *Manufacturer:* Thomas Swan, United Kingdom. *Intended Use:* See notice at 60 FR 442, January 4, 1995. *Reasons:* The foreign instrument provides: (1) non-invasive control of gas mixture ratios in a chemical vapor deposition (CVD) system using a unique ultrasonic technique requiring no physical contact with the gas stream and (2) compatibility and sharing of control software with an existing CVD system. *Advice Received From:* The Center for Interfacial Engineering, National Science Foundation, February 9, 1995.

The National Institutes of Health and the National Science Foundation advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–8007 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–012. *Applicant:* University of California, Berkeley, Department of Geology and Geophysics, Berkeley, CA 94720-4767. *Instrument:* Electron Microprobe, Model SX 50. *Manufacturer:* Cameca, France. *Intended Use:* The instrument will be used for studies of various materials including mineral grain separates, whole rock thin sections, soil particles, meteorites, archeological artifacts, experimental glass and crystallite charges, volcanic ashes, rare earth semiconductors, superconducting oxides, silicide and nitride ceramics, and super alloys. The instrument will also be used to teach Geology 401 (Electron Microprobe) to graduate students to provide an in depth

understanding of both the technical aspects of the electron microprobe and its theoretical basis. *Application Accepted by Commissioner of Customs:* February 17, 1995.

Docket Number: 95–013. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, Urbana, IL 61801. *Instrument:* Eye Tracking System, Model EYELINK. *Manufacturer:* SR Research Ltd., Canada. *Intended Use:* The instrument will be used in a series of experiments planned to investigate performance on perceptual tasks in visual speech perception. Eye-monitoring techniques will be used to precisely determine facial regions attended to by the speechreader. Direct comparisons of performance on a series of perceptual tasks will be made among adults who differ in speechreading proficiency, those with either normal hearing, congenital hearing-loss, or adult-onset hearing loss. *Application Accepted by Commissioner of Customs:* February 22, 1995.

Docket Number: 95–014. *Applicant:* University of Wisconsin-Milwaukee, 3209 North Maryland Avenue, Milwaukee, WI 53211. *Instrument:* Mass Spectrometer, Model Autospec 3000. *Manufacturer:* Fisons Instruments, Inc., United Kingdom. *Intended Use:* The instrument will be used for negative ion thermospray studies of ions generated from molecules traditionally difficult to characterize and observe. The instrument will also be used for educational purposes in various chemistry courses. *Application Accepted by Commissioner of Customs:* February 22, 1995.

Docket Number: 95–015. *Applicant:* Georgia State University, University Plaza, Atlanta, GA 30303. *Instrument:* ICP Mass Spectrometer, Model SOLA. *Manufacturer:* Finnigan MAT, United Kingdom. *Intended Use:* The instrument will be used to continue a wide array of geochemical and environmental geochemistry problems. One particular research area of interest is the application of ICP-MS in REE and trace element studies of fluid inclusions. In addition, the instrument will be used for the training of post-doctoral research associates, M.S. students and undergraduate students. *Application Accepted by Commissioner of Customs:* February 23, 1995.

Docket Number: 95–016. *Applicant:* Jersey City State College, Kennedy Boulevard, Jersey City, NJ 07305. *Instrument:* Electron Microscope, Model JEM 1010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used to teach undergraduate students the principles and techniques of transmission electron microscopy and provide them the instrumental basis for carrying out research at the ultrastructural level. The proposed research includes investigation of the effects of ionizing radiation at the level of tissue and organ ultrastructure and of various chemical toxicants on cellular components. *Application Accepted by Commissioner of Customs:* March 1, 1995.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–8008 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–F

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Quota Cheese

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated March 23, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross [1] subsidy (cents per lb.)	Net [2] subsidy (cents per lb.)
Austria	Export Restitution Payments	200.0	200.0
Belgium	European Community (EC) Restitution Payments	38.7	38.7
Canada	Export Assistance on Certain Types of Cheese	25.5	25.5
Denmark	EC Restitution Payments	48.2	48.2
Finland	Export Subsidy	104.7	104.7
France	EC Restitution Payments	49.5	49.5
Germany	EC Restitution Payments	56.5	56.5
Greece	EC Restitution Payments	0.0	0.0
Ireland	EC Restitution Payments	56.3	56.3

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS—Continued

Country	Program(s)	Gross [1] subsidy (cents per lb.)	Net [2] subsidy (cents per lb.)
Italy	EC Restitution Payments	87.6	87.6
Luxembourg	EC Restitution Payments	38.7	38.7
Netherlands	EC Restitution Payments	39.5	39.5
Norway	Indirect (Milk) Subsidy	18.3	18.3
	Consumer Subsidy	40.5	40.5
		58.8	58.8
Portugal	EC Restitution Payments	37.3	37.3
Spain	EC Restitution Payments	37.3	37.3
Switzerland	Deficiency Payments	166.1	166.1
U.K.	EC Restitution Payments	40.1	40.1

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 95–8004 Filed 3–30–95; 8:45 am]
BILLING CODE 3510–DS–P

Intent to Revoke Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent to Revoke Countervailing Duty Orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty orders listed below. Domestic interested parties who object to revocation of any of these orders must submit their comments in writing not later than the last day of April 1995.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 C.F.R. 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty orders listed below, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke these orders pursuant to this notice, and no interested party (as defined in section 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty orders are no longer of interest to interested parties and proceed with the revocations. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke pursuant to this notice, the Department will not revoke the order.

COUNTERVAILING DUTY ORDERS

Argentina:	
Wool (C–357–002)	04/04/83, 48 FR 14423.
Malaysia:	
Carbon Steel Wire Rod (C–557–701).	04/22/88, 53 FR 13303.
Peru:	
Pompon Chrysanthemums (C–333–601).	04/23/87, 52 FR 13491.

Opportunity to Object

Not later than the last day of April 1995, domestic interested parties may object to the Department's intent to revoke these countervailing duty orders. Any submission objecting to the revocation must contain the name and case number of the order and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: March 22, 1995.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.

[FR Doc. 95–8003 Filed 3–30–95; 8:45 am]
BILLING CODE 3510–DS–P

Determination Not to Revoke Countervailing Duty Orders

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Determination Not to Revoke Countervailing Duty Orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty orders listed below.

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202)482–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1994, the Department published in the **Federal Register** (59 FR 67700) its intent to revoke the countervailing duty orders listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of

Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation and no interested party requests an administrative review by the last day of the fifth anniversary month.

Within the specified time frame, we received an objection from a domestic interested party to our intent to revoke these countervailing duty orders. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke these orders.

This determination is in accordance with 19 CFR 355.25(d)(4).

COUNTERVAILING DUTY ORDERS

Korea:	
Stainless Steel Cookware (C–580–602).	01/20/87, 52 FR 2140.
Argentina:	
Non-Rubber Footwear (C–357–052).	01/17/79, 44 FR 3475.
Spain:	
Stainless Steel Wire Rod (C–469–004).	01/03/83, 48 FR 52.
Taiwan:	
Stainless Steel Cookware (C–583–604).	01/20/87, 52 FR 2141.

Dated: March 22, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–8006 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of prospective grant of exclusive patent license.

SUMMARY: This is notice in accordance with 35 USC 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of an exclusive license in all microgravity and space related research including, but not limited to the Space Shuttle, the MIR Space Station, the US Space Station, orbital re-entry vehicles, sounding rockets and low ''g'' research aircraft, to practice the invention embodied in U.S. Patent Number 5,104,478, titled, ''Method For Making Single Crystals'' to Instrumentation Technology Associates, Inc., having a place of business in Exton, Pennsylvania. The patent rights in this invention have been assigned to the United States of America.

FOR FURTHER INFORMATION CONTACT: Bruce E. Mattson, National Institute of Standards and Technology, Technology Development and Small Business Program, Building 221, Room B–256, Gaithersburg, MD 20852.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent Number 5,104,478 is a method for making single crystals, comprising osmotically removing the solvent from a solution containing the material to be grown into a crystal.

The availability of the invention for licensing was published in the **Federal Register**, Vol. 57, No. 158 (August 14, 1992). A copy of the patent application may be obtained from NIST at the foregoing address.

Dated: March 22, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–7860 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 030995A]

North Pacific Fishery Management Council; Meetings

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

ACTION: Notice of agenda changes.

SUMMARY: An agenda for public meetings of the North Pacific Fishery Management Council (Council) and its advisory bodies, which are scheduled during the week of April 17, 1995, was published in the **Federal Register** on March 17, 1995, (60 FR 14425). The following change is made to the meeting schedule and agenda. All other information originally published remains unchanged.

1. The Scientific and Statistical Committee will begin its meeting at 2:00 p.m., on April 17.

2. The Council's plenary session will begin at 8:00 a.m., on April 19, and will continue through April 24.

3. The report on the status of seabirds has been deleted from the agenda.

4. Initial review of a regulatory amendment for electronic reporting has been added to the agenda.

5. A report on pollock trawl mesh studies has been deleted from the agenda.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, (907) 271–2809, at least 5 working days prior to the meeting date.

Dated: March 27, 1995.

David S. Crestin,

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

[FR Doc. 95–7972 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 032495A]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of its Mackerel Socioeconomic Assessment Panel beginning at 8:30 a.m. on April 13, 1995, and concluding at approximately 5:00 p.m. on April 14, 1995, to review and consider available social and economic data on Gulf king and Spanish mackerels and cobia, and recommend levels of total allowable catch for the 1995–96 fishing year.

ADDRESSES: The meeting will be held at the Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by April 6, 1995.

Dated: March 27, 1995.

David S. Crestin,

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

[FR Doc. 95–7973 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–22–F

(I.D. 032495C)

Mid-Atlantic Fishery Management Council; Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council and its Demersal Species Committee and Habitat Committee will hold public meetings on April 18–20, 1995, at the Holiday Inn, 39th and Oceanfront, Virginia Beach, VA 23451; telephone: (804) 428–1711. On April 18, the Demersal Species Committee will meet from 1:00 p.m. to 4:00 p.m. On April 19, the Council will meet from 8:00 a.m. to 12:00 p.m. The Habitat Committee will meet from 1:30 p.m. to 4:00 p.m. On April 20, the Council will meet from 8:00 a.m. until approximately 12:00 p.m.

The following topics may be discussed:

1. Action on the scoping process for Amendment 7 to the Summer Flounder Fishery Management Plan.
2. Development of a Council policy on artificial reefs.
3. Review of the NMFS management program for striped bass.
4. Other fishery management matters.

The Council meetings may be revised, lengthened or shortened based on the progress of the meeting. The Council may go into closed session to discuss personnel or national security matters.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: (302) 674–2331.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331 at least 5 days prior to the meeting date.

Dated: March 27, 1995.

David S. Crestin,

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

[FR Doc. 95–7974 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 030695E]

Marine Mammals

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

ACTION: Modification to permit no. 835 (P250D).

SUMMARY: Notice is hereby given that the Washington Department of Wildlife, Marine Mammal Institute, 7801 Phillips Road, SW., Tacoma, WA 98498; the National Marine Fisheries Service, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., BIN C15700 - Building 1, Seattle, WA 98115–0070; and the Oregon Department of Fish and Wildlife, Marine Region, Marine Science Drive, Building 3, Newport, OR 97365, have been granted a modification to permit no. 835.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Director, Northwest Region, NMFS, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150).

The permit issued to the Washington Department of Wildlife, the National Marine Mammal Laboratory, and the Oregon Department of Fish and Wildlife has been modified three times. The National Marine Fisheries Service determined that a public comment period was not necessary because no procedure resulted in additional takes being requested and the risk to the animals involved was not expected to increase.

SUPPLEMENTARY INFORMATION: The subject modification to permit no. 835, issued on April 27, 1993 (58 FR 26288), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Permit No. 835 authorizes the permit holder for the inadvertent harassment of harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus*), and elephant seals (*Mirounga angustirostris*) incidental to the conduct of aerial, ground, and boat surveys. The holders are also authorized to capture, mark, tag, brand, and sample harbor seals.

The permit holders have been granted the following modifications to their permit: (a) The permit holders are authorized to use a gas anesthetic on California sea lions during blood drawing and instrument attachment; (b) to correct an unintentional omission from the original permit, the permit holders are now authorized to take 50 northern elephant seals annually for capture and tagging in Oregon and Washington; (c) the permit holders are authorized to lavage up to 100 harbor seals captured under the original permit.

Dated: March 24, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–7905 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Fiji

March 27, 1995.

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

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

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, 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.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Republic of Fiji agreed to extend their current bilateral textile agreement for a one-year period beginning on

January 1, 1995 and extending through December 31, 1995.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish a limit for Categories 338/339/638/639 for 1995.

This limit will be subject to revision pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC) on the date that Fiji becomes a member of the World Trade Organization.

A copy of the agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–1683.

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 59 FR 65531, published on December 20, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 27, 1995.

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); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated May 24, 1991 and August 20, 1991, as amended and extended, between the Governments of the United States and the Republic of Fiji; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 3, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 338/339/638/639, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995, in excess of 1,011,240 dozen [1] of which not more than 842,700 dozen shall be in Categories 338–S/339–S/638–S/639–S [2].

Imports charged to this category limit for the period January 1, 1994 through December 31, 1994, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

Should Fiji become a member of the World Trade Organization (WTO), the limit set forth above will be subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangement notified to the Textiles Monitoring Body.

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,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–7896 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

Amendment and Establishment of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Hungary

March 27, 1995.

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

ACTION: Issuing a directive to the Commissioner of Customs revising and establishing limits pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC), the current limits are being amended for textile products, produced or manufactured in Hungary and exported during the period beginning on January 1, 1995 and extending through December 31, 1995. These limits are being amended because Hungary is now a member of the World Trade Organization. Also, a level is being established for cotton and man-made fiber textile products in Categories 351/651 for the 1995 period.

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 59 FR 65531, published on December 20, 1994). Also see 59 FR 62717, published on December 6, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 27, 1995.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1994, by the Chairman, Committee for the Implementatin of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Hungary and exported during the period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on April 3, 1995, you are directed, pursuant the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), to increase and establish levels for the following categories:

Category	Twelve-month restraint limit [1]
351/651	209,625 dozen.
410	898,662 square meters.
433	17,042 dozen.
434	14,460 dozen.
435	24,995 dozen.

Category	Twelve-month restraint limit [1]
443	160,092 numbers.
444	51,643 numbers.
448	22,089 dozen.
604	1,037,530 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

Textile products in Categories 351/651 which have been exported to the United States prior to January 1, 1995 shall not be subject to this directive.

Textile products in Categories 351/651 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.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–7897 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

March 27, 1995.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing import limits for the new agreement year.

EFFECTIVE DATE: April 4, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Memorandum of Understanding (MOU) dated June 28, 1994 between the Governments of the United States and the State of Qatar establishes limits for the period beginning on January 1, 1995 and extending through December 31, 1995.

These limits will be subject to revision pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC) on the date that Qatar becomes a member of the World Trade Organization, the restraint limits will be modified in accordance with the ATC.

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 59 FR 65531, published on December 20, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 27, 1995.

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); pursuant to the Memorandum of Understanding dated June 28, 1994 between the Governments of the United States and the State of Qatar; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 4, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in the State of Qatar and exported during the period beginning on January 1, 1995 and extending through December 31, 1995, in excess of the following levels of restraint:

Category	Restraint limit [1]
340/640	344,500 dozen.
341/641	159,000 dozen.
347/348	392,200 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

Imports charged to these category limits for the period January 1, 1994 through December 31, 1994 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Should Qatar become a member of the World Trade Organization (WTO), the limits set forth above will be subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangement notified to the Textiles Monitoring Body.

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

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–7895 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

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

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 1, 1995.

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

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

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

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

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

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

2. The action will result in authorizing small entities to furnish the commodities to the Government.

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

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

The following commodities has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Executive/Personal Time Management System

7520–00–NSH–0087 (1″ binder, specialized logo, seven sections, velcro closure)
7520–00–NSH–0091 (1″ binder, specialized logo, seven sections, zipper closure)
7520–00–NSH–0092 (1.5″ binder, specialized logo, five sections, no closure)
NPA: Easter Seal Society of Allegheny County Pittsburgh, Pennsylvania

G. John Heyer,

General Counsel.

[FR Doc. 95–7979 Filed 3–30–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions

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

ACTION: Proposed Additions to procurement list.

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

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 1, 1995.

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

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

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

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

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

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

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

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

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

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

The following commodities and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Bottle, Prescription
6530–00–NIB–0007 (120 cc)
6530–00–NIB–0008 (200 cc)
6530–00–NIB–0009 (250 cc)
(Requirements for the Department of Veterans Affairs, Hines, IL)
NPA: Alphapointe Association for the Blind Kansas City, Missouri

Liner, Foam Insert
8470–00–NIB–0002
NPA: Association for the Blind, Inc. Charleston, South Carolina

Service

Janitorial/Custodial
Pentagon Building
Basement and Mezzanine Floors (except restrooms)
Washington, DC
NPA: Didlake, Inc. Manassas, Virginia

G. John Heyer,

General Counsel.

[FR Doc. 95–7980 Filed 3–30–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Additions

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

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 1, 1995.

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

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

SUPPLEMENTARY INFORMATION: On October 14, December 16, 30, 1994, January 13, 27 and February 10, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 52145, 65026, 67703, 60 FR 3196, 5373 and 7944) of proposed additions to the Procurement List.

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

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

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

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

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

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

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Line, Tent, Manila
8340–00–252–2299
8340–00–252–2285
8340–00–252–2286
8340–00–252–2269

Services

Grounds Maintenance, Woodford U.S. Army Reserve Center, 1635 Armor Road, Akron, Ohio
Grounds Maintenance, Scouten U.S. Army Reserve Center, 271 Hedges Street, Mansfield, Ohio
Grounds Maintenance, Pennington Memorial U.S. Army Reserve Center, 2164 Harding Higway East, Marion, Ohio
Janitorial/Custodial, Federal Building & U.S. Courthouse, Alabama & 17th Streets, Jasper, Alabama
Janitorial/Custodial, Federal Building & U.S. Courthouse, 1118 24th Avenue, North, Tuscaloosa, Alabama
Janitorial/Custodial, National Weather Service Office, 520 N. Elevar Street, Oxnard, California
Janitorial/Custodial, Basewide, Dover Air Force Base, Delaware
Janitorial/Custodial, Buildings 844, 850, 862, 863, 867, 868 & 869, Fort Campbell, Kentucky
Janitorial/Custodial, Federal Building and U.S. Post Office, 10 E. Babcock Street, Bozeman, Montana
Janitorial/Custodial, Schaffner U.S. Army Reserve Center, 1011 Gorge Boulevard, Akron, Ohio
Janitorial/Custodial, Woodford U.S. Army Reserve Center, 1635 Armor Road, Akron, Ohio,
Janitorial/Custodial, AMSA #3 U.S. Army Reserve Center, 6830 Erie Avenue, Canal Fulton, Ohio
Janitorial/Custodial, Hastings U.S. Army Reserve Center, 3120 Parkway Drive NW, Canton, Ohio
Janitorial/Custodial, Jacob Parrott U.S. Army Reserve Center, 1025 S. Main Street, Kenton, Ohio
Janitorial/Custodial, Scouten U.S. Army Reserve Center, 271 Hedges Street, Mansfield, Ohio
Janitorial/Custodial, Pennington Memorial U.S. Army Reserve Center, 2164 Harding Highway East, Marion, Ohio
Operation of Postal Service Center, Building 20204 and 926, Kirtland Air Force Base, New Mexico
Patient Escort Service, Veterans Administration Hospital, Houston, Texas
Recycling Service, Patrick Air Force Base, Florida
Recycling Service, Basewide, Kelly Air Force Base, Texas.

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

G. John Heyer,

General Counsel.

[FR Doc. 95–7981 Filed 3–30–95; 8:45 am]

BILLING CODE 6820–33–P

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade: Proposed Amendment Pertaining to the Automatic Adjustment Procedure for Locational Price Differentials Applicable to Deliveries on the Soybean Meal Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade (''CBOT'') has submitted a proposed amendment to its Regulation 1241.01 regarding the minimum weekly average number of shipping certificates during a crop year that must be outstanding to activate the automatic adjustment procedure for the locational price differentials of the soybean meal futures contract. In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (''Division'') of the Commodity Futures Trading Commission (''Commission'') has determined, on behalf of the Commission, that the proposed amendment is of major economic significance. On behalf of the Commission, the Division is requesting public comment on the proposal.

DATES: Comments must be received on or before May 1, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the proposed amendment to CBOT soybean meal futures contract's locational price differentials.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The existing terms of the soybean meal futures contract provide for delivery of shipping certificates which call for delivery of soybean meal at specified CBOT-approved (regular) plants located in six different geographical delivery areas (delivery territories). The contract currently sets forth specific fixed locational price differentials applicable to futures deliveries in each non-par delivery territory.[1]

The contract's existing terms also provide for annual adjustments to the above-noted locational price differentials based on a specified formula. Under the formula, the cumulative weekly average of outstanding soybean meal shipping certificates in a given territory relative to the total crushing capacity of all regular plants in that delivery territory for a given crop year is compared to the corresponding relationship for the five remaining delivery territories combined for the same crop year.[2] For any non-par delivery territory, a derived ratio less than or equal to .5 (greater than or equal to 2.0) will result in an increase (decrease) in the price differential for that territory by 50 cents per ton for the next calendar year. For the par delivery territory (see footnote 1), a ratio less than or equal to .5 (equal to or greater than 2.0) will result in a 50-cent-per-ton increase (decrease) in the price differential for all other delivery territories for the next calendar year. Under the contract's current terms, the above-described automatic adjustments may be made only if the weekly average

[1] Currently, the par delivery area is the Central Territory (consists of the states of Illinois and Kentucky). The contract's locational price differentials for the other five delivery territories are: Northeast Territory (composed of the states of Indiana and Ohio)—$3.00 per ton premium; Mid South Territory (consists of the states of Tennessee, Arkansas and specified northern parts of Mississippi and Alabama)—$5.00 per ton premium; Missouri Territory (composed of the state of Missouri)—$1.00 per ton discount; Eastern Iowa Territory (consists approximately of the southeastern part of the state of Iowa)—$5.00 per ton discount; and Northern Territory (contains that part of the state of Iowa not included in the Eastern Iowa Territory)—$6.00 per ton discount.

[2] Under the contract's rules, all crop years end on August 31. All adjustments to territorial differentials based on a particular crop year become effective with respect to all contract months expiring in the next calendar year.

number of outstanding shipping certificates for all territories combined for the crop year is 300 or more. No changes in the locational price differentials currently may be made if this average is less than 300.

The proposed amendment would reduce to 150 from 300 the minimum weekly average number of outstanding shipping certificates during a crop year that must be observed in order to activate the contract's automatic adjustment procedure for locational price differentials for the next succeeding calendar year.

The CBOT indicates that the purpose of the proposed amendment is to allow the contract's locational price differentials to reflect cash market locational price relationships. The CBOT indicates, in this respect, that reducing the minimum weekly average number of outstanding shipping certificates needed to permit changes in the contract's price differentials will allow such differentials to adjust more quickly toward changing cash market price differences between the contract's delivery territories. The CBOT notes that, while the current automatic adjustment feature has been in effect for three years, adjustments to the contract's locational price differentials were made only in 1993, the first calendar year in which such changes were possible under the automatic adjustment procedure. The CBOT further indicated that, since that time, no changes have been made to the price differentials, because the weekly average number of shipping certificates outstanding during the immediately preceding crop years for each of these years was less than 300 shipping certificates.[3] According to the CBOT, if the standard were 150 outstanding certificates, as proposed, the above-noted adjustment formula would have resulted in changes in the locational price differentials for several delivery territories during 1994 and 1995.

The CBOT proposes to make the amendment effective for adjustments in the locational price differentials for the January 1997 and subsequent contract delivery months.

Copies of the proposed amendment will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

The materials submitted by the CBOT in support of the proposed amendment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendment should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on March 27, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–7971 Filed 3–30–95; 8:45 am]

BILLING CODE 6351–01–P

[3] The CBOT notes that a weekly average of 298 and 222 shipping certificates were outstanding during the 1992/93 and 1993/94 crop years, respectively.

DEPARTMENT OF DEFENSE

Office of the Secretary

Record of Decision for the Theater Missile Defense Extended Test Range Final Environmental Impact Statement

AGENCY: Ballistic Missile Defense Organization (BMDO).

ACTION: Record of Decision text is as follows:

INTRODUCTION: This document records [BMDO Director's] decision for the Ballistic Missile Defense Organization to conduct tests at two of four alternative test ranges. The potential for environmental impacts at these ranges was analyzed and documented in the Theater Missile Defense Extended Test Range Final Environmental Impact Statement (FEIS), and the public was notified of its availability on January 13, 1995. The following ranges were considered for extended range testing: White Sands Missile Range (WSMR), New Mexico, Eglin Air Force Base (AFB) Florida, Western Range, California, and Kwajalein Missile Range (KMR), U.S. Army Kwajalein Atoll (USAKA), Republic of the Marshall Islands.

In September 1993, [BMDO] issued [BMDO's] Record of Decision (ROD) for the TMD Final Programmatic Environmental Impact Statement which analyzed potential environmental impacts over the life-cycle of the TMD Program. That document addressed potential environmental consequences of the proposed research, development, testing and production, basing, and eventual decommissioning activities. It serves as the foundation for the TMD Extended Test Range FEIS. [BMDO Director] have also carefully considered the requirements of Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (Feb. 11, 1994), that this action not have a disproportionate impact on minority or low-income populations.

Need

The proposed extended range testing arises from compelling national security needs recognized by both the Congress and the Administration. Effective Theater Missile Defense (TMD) is necessary to protect forward deployed and expeditionary elements of the Armed Forces of the United States and U.S. friends and allies overseas. Extended range testing is critical to the development of an effective theater missile defense.

Purpose

Extended range tests for TMD must realistically test missile defense systems under circumstances similar to a theater of operations. This includes construction of target launch facilities; development and testing of sensors, Battle Management Command, Control, and Communications components, and defensive missiles; and intercepts of missiles over land and water areas. System operational needs require conducting target and other missile system flight tests and intercepts at altitudes and over distances, greater than can be accommodated by current ranges. These tests validate system design and operational effectiveness of ground-based interceptors to protect our forces and allies overseas from theater ballistic missiles.

Decision

[BMDO Director's] decision is to proceed with the extended range testing at the WSMR and the KRM. At WSMR, [BMDO Director] select the option to launch target missiles from Fort Wingate Depot Activity (FWDA) using Booster Drop Zone C, with intercepts over WSMR. It is part of [BMDO Director's] decision to take action to reserve a portion of FWDA for the proposed TMD activities. On February 28, 1994, the BMDO notified the Secretary of the Army of its potential need for sufficient property at FWDA to conduct missile launch activities, including provision

for security, safety, and access. The BMDO will confirm its need for property at FWDA and take other necessary actions to ensure such property is not disposed of under the provisions of the Base Realignment and Closure Act. [BMDO Director] have decided not to select sea-based target missile launches at this time. [BMDO Director] select only the land-based target launch option from Wake Island for the KMR alternative. Missile intercepts will take place over existing impact areas or open sea areas at KMR.

Proposed Action and Alternatives

Background: The proposed action analyzed in the TMD Extended Test Range FEIS was to conduct extended range tests of target missiles, defensive missiles, and sensor systems at one or more of four alternative test range areas. The tests would involve target and defense missile launches from existing test ranges and from off-range locations with intercepts over existing ranges or open ocean areas. Preparations and testing would begin in 1995 and continue into the next century. The FEIS compared the impacts of alternative test range areas and a no-action alternative.

As individual TMD system programs mature to the point of defining specific flight/intercept test requirements, the most appropriate test range area(s) capable of meeting test requirements will be identified. The proposed action includes safety measures and standard range operating procedures to ensure the safety of the public and the environment. Some of these safety measures include (1) activating new or existing restricted airspace, (2) the establishment and evacuation of launch hazard areas and booster drop zones, including temporary closure of associated roads, and (3) public notification of launch activities, including Notices to Airmen and Notices to Mariners.

No-Action Alternative: Ongoing activities and operations would continue to be performed at all locations. The development of ground based TMD missile and sensor systems would continue, with missile flight tests and target intercepts being conducted utilizing existing test ranges. Testing for TMD would likely increase at WSMR and possibly at the KMR. Ground-based TMD testing of missile and sensor systems at Eglin AFB and the Western Range would not occur. The missile testing restrictions associated with existing ranges, particularly with shorter range missile flights conducted at WSMR, place artificial limits on system test capabilities. This would make it impossible to fully validate system design and operational effectiveness in a variety of realistic theater environments. Although this alternative is the environmentally preferable alternative, it was not selected because it fails to meet BMDO's mission requirements. A comparison of the impacts at the four ranges revealed the least impacts to resources at the KMR. Impacts to resources at Western Range, Eglin AFB, are roughly equivalent. The greatest potential impacts were identified for the WSMR alternative and are primarily related to land use, cultural, and transportation issues associated with the initial booster drop zones analyzed in the Draft EIS.

White Sands Missile Range Candidate Test Area Alternative: This alternative included defensive missile launches from WSMR, New Mexico, and Fort Bliss, Texas, and off-range target missile launches from FWDA, New Mexico, and the Green River Launch Complex (GRLC), Utah, with intercepts over WSMR. Testing of TMD radars, positioned on WSMR, would occur during these flight tests. This option also included Army tactical missile launches from FWDA with impacts on WSMR. [BMDO Director] anticipate approximately 6 to 8 launches per year from FWDA.

Two potential booster Drop Zones (A and B) were analyzed in the Draft EIS for both the FWDA and GRLC target launch options. Substantial concerns were raised over the use of these drop zones. Although a number of mitigations could have been implemented to minimize the land use and other impacts, they could have become significant. In addition, [BMDO Director] am sensitive to general concerns about missile overflight of substantial areas of Native American lands in Utah and New Mexico. Accordingly, other booster drop zones were identified and analyzed for both the FWDA and GRLC options in a supplement to the Draft EIS. In both cases, these drop zones were further away from the launch position and further along the flight path and required smaller launch hazard areas at the launch site due to a less vertical trajectory at launch. This enabled the respective launch hazard areas to be reduced in size, responsive to the concerns about proximity to schools, residences, and other potential users of surrounding areas at FWDA. It also avoided the requirement to close Interstate 70 and portions of the Green River during launches for the GRLC option.

In the case of the GRLC target launch options, both Booster Drop Zones A and B would have created significant land use problems associated with restricting access to Canyonlands National Park and Dead Horse State Park. Use of either of these drop zones would also have necessitated temporary closure of Interstate 70 and portions of the Green River adjacent to the launch area, due to the requirement for a large launch hazard area. The new Booster Drop Zones C1 and C2 for GRLC included Bureau of Land Management (BLM) state of Utah, and private land, as well as the Bridger Jack Mesa and Fish Creek Canyon Wilderness Study Areas. Concerns included restrictions on public access for recreation, and hunting. Booster impacts within the wilderness study area could be avoided, and missile launches could be timed so as to minimize impacts to recreation and avoid nesting and breeding seasons of sensitive species. However, the authority to use BLM lands for military purposes, including the proposed missile tests involving booster drops, would require a lengthy process that would not be responsive to current testing needs. Consequently GRLC options are not under current consideration.

In the case of the FWDA option, use of either Booster Drop Zone A or B would require a launch hazard area extending up to 4½ miles from the launch site. This caused substantial safety concerns for the local community about a nearby school and residences and other areas at FWDA. In addition, Booster Drop Zone B included portions of the El Malpais National Monument and the El Malpais National Conservation Area, which encompassed wilderness and wilderness study areas. Use of this drop zone would be considered significant because it restricts access to recreational areas and conflicts with the statutory purposes for these special use areas. Booster drop zones A and B will not be used.

The new Booster Drop Zone C for FWDA includes U.S. Forest Service and private land. Both the public land manager and private owner have expressed their willingness to allow use of these lands for booster drops. Use of this booster drop zone greatly reduces the launch hazard area at FWDA and significantly improves safety for nearby schools and residences, in keeping with the purpose of E.O. 12898 to avoid disproportionate impacts on minorities, such as the Indian communities in the Fort Wingate area. No significant environmental impacts have been identified associated with this drop zone.

Kwajalein Missile Range, USAKA, Republic of the Marshall Islands

Alternative: This alternative included missile launches and sensor testing at KMR and Wake Island. USAKA would be primarily used for launching defensive missiles, however, there is a possibility that target missiles may be launched from USAKA. Wake Island would primarily be used for target missile launches, however, it also could be used for defensive missile launches. Technical difficulties with launches and costs removed sea-based target missile launches from consideration. Existing facilities at KMR and at Wake Island and planned construction of Wake Island (analyzed in the Wake Island Environmental Assessment, 1994) would be adequate for TMD interceptor and target launching activities; therefore minimal environmental impacts are anticipated. Issues of concern included potential impacts on sensitive plant and animal species at the KMR and Wake Island, particularly in undisturbed areas, the potential for damage, destruction, or vandalism of cultural resources, and safety issues. Mitigations included avoidance of areas of native vegetation and sea turtle nesting areas. consultation with appropriate U.S. and Marshallese officials to establish procedures to protect cultural resources such as data recovery, and avoidance. Mitigations also establish hazard areas and place operating restrictions on radars to avoid significant impacts. No significant environmental impacts are predicted with the use of KMR or Wake Island.

Eglin Air Force Base Candidate Test Area Alternative: This alternative would include missile launches and sensor testing at Eglin AFB on Santa Rosa Island and at Cape San Blas, Florida, with missile launches from a sea-based platform in the Gulf of Mexico. No significant impacts are predicted with the use of Eglin AFB. Health and safety and airspace impacts would be avoided by the issuance of Notices to Airmen and Notices to Mariners, and ensuring that the launch, booster drop, and intercept debris impact areas are clear of air and water traffic before proceeding with the test flights. This alternative is not selected at this time because test objectives could be met at other ranges, sea-launch capabilities will not be available, and additional test instrumentation is needed.

Western Range Test Area Alternative: This alternative would include missile launches and sensor testing at Vandenberg AFB, San Nicolas Island of the Naval Air Warfare Center Weapons Division, and San Clemente Island of the Naval Air Station North Island, California, with off-range missile launches from a sea-based platform in the Pacific Ocean. No significant impacts are predicted with the use of Western Range. Health and safety and airspace impacts would be avoided by the issuance of Notices to Airmen and Notices to Mariners, and ensuring that the launch, booster drop, and intercept debris impact areas are clear of all air traffic before proceeding with the test flights. This alternative is not selected at this time because test objectives could be met at other ranges, sea-launch capabilities will not be available, and additional test instrumentation is needed.

Alternatives Considered But Not Carried Forward: Initially eleven candidate test range areas were considered for TMD testing. Criteria used to evaluate candidate test ranges included weather, scheduling, range instrumentation, range safety, and debris recovery. All but the four ranges analyzed in the FEIS were eliminated by the criteria established at the beginning of the selection process.

Mitigation, Monitoring, and Enforcement

All practicable means to avoid and minimize environmental harm will be taken. [BMDO Director] direct BMDO Deputies and Program Executive Officers to monitor extended range testing activities and ensure the following mitigation measures described in the TMD Extended Test Range FEIS are implemented. Specifically, at the WSMR, and the associated FWDA, mitigations will include implementing the Evacuation Plan, Booster Recovery Plan, and Emergency Response Plan. Launches will be avoided during weather conditions that would have adverse effects on air quality or on test safety. To the extent possible, launches will be scheduled to avoid major events such as major military maneuvers (i.e., Roving Sand Operations), holidays, hunting seasons, cattle roundups, or local festivities that could be effected by the testing activities. Maximum advance notice of launch activities will be provided to local communities, travelers, etc., as described in the FEIS. Prior to conducting launches and starting construction, consultation with appropriate Federal and state agencies, as discussed in the EIS will occur concerning specific debris impact areas, debris recovery activities, and prelaunch and preconstruction surveys in order to protect cultural resources and threatened and endangered species. American Indian concerns regarding access to and disturbance of sacred lands will be addressed during consultation with each affected American Indian group on a regular basis and prior to each missile launch. Consultation with local community groups will establish the procedures, and coordinate times for use of FWDA lands under BMDO control during periods of launch inactivity.

At the USAKA, the existing USAKA mitigation plan will be followed. Other mitigations include: International Notices to Airmen and Notices to Mariners, timely coordination with the International Civil Aviation Organization through the Federal Aviation Administration, adherence to established procedures for keep-out zones, hazard areas, and limitations on use of radars, and a scheduling plan will be implemented to minimize airspace and health and safety impacts. Preconstruction surveys and/or other mitigation measures will be accomplished in coordination with the appropriate Federal agencies and the Republic of the Marshall Islands Environmental Protection Authority to protect cultural resources and threatened and endangered species. [BMDO Director] will implement appropriate safeguards as subsequent decisions are made regarding system components and basing locations, and as their accompanying environmental documents elaborate specific requirements for monitoring and enforcement.

Date and Signature

Record of Decision was signed March 21, 1995 by Malcolm R. O'Neill, Lieutenant General, United States Army, Director, Ballistic Missile Defense Organization.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Lehner, BMDO/SRE, Washington, DC 20301–7100, (703) 695–8743.

Dated: March 27, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–7892 Filed 3–30–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the Commission on Roles and Missions of the Armed Forces.

The Commission is charged with providing an independent review of the roles and missions of the armed services

to Congress, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. The year-long review will identify changes that can be made to improve military effectiveness and eliminate unnecessary duplication among the services. The purpose of this meeting is to discuss some of the specific roles and missions issues that are being developed for consideration by the Commission. Material to be discussed will consist of both classified and unclassified information in a format that makes it impractical to separate the two.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–453, as amended (5 U.S.C. App II), it has been determined that this Commission on Roles and Missions meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that, accordingly, this meeting will be closed to the public.

DATES: April 9–10, 1995.

Dated: March 27, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–7882 Filed 3–30–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Unique Surveillance Technologies

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Unique Surveillance Technologies will meet in closed session on April 4–6, 1995, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review and evaluate Have Gaze and related surveillance technologies and to assess overall technological maturity, technical and operational issues, potential military utility, and appropriate technology investment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. § 552b(c) (1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 27, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–7891 Filed 3–30–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Base Closure and Realignment Commission Investigative Hearings

AGENCY: Defense Base Closure and Realignment Commission (a Presidentially appointed commission separate from and independent of DOD).

ACTION: Notice of General Accounting Office and Joint Cross-Service Investigative Hearings.

SUMMARY: Pursuant to Public Law 101–510, as amended, the Defense Base Closure and Realignment Commission announces a day of investigative hearings to be held in Washington, D.C. The purpose of these hearings is for the Commission to receive testimony from the General Accounting Office and Defense Department officials.

The specific dates, locations, and general topics follow:

April 17 (Location: Hart Senate Office Building, Room 216)

—The General Accounting Office formally presents the Commission its detailed analysis of the base-closure selection process and recommendations of the Secretary of Defense.

—Chairpersons of the Defense Department's Joint Cross Service Groups present testimony regarding their recommendations in the following areas:

—Military Depots
—Military Undergrade Pilot Training
—Military Hospitals
—Military Laboratories
—Military Test and Evaluation

The April 17 hearing will begin at 8:00 a.m. The building and room number is noted in parentheses following the date of the hearing. However, hearing location, date, and time are subject to change based upon availability of facilities.

FOR FURTHER INFORMATION CONTACT: Mr. Wade Nelson, Director of Communications, at (703) 696–0504.

SUPPLEMENTARY INFORMATION: Changes to the above schedule will be published in the Federal Register by the Commission. Please call the Commission to confirm dates, times, and locations prior to each event. Individuals needing special assistance should contact the Commission in advance of each event to facilitate their requirements.

Dated: March 27, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–7889 Filed 3–30–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Environmental Advisory Board; Meeting

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of open meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–403), this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB). The meeting is open to the public.

Dates: The meeting will be held from 8:00 am, Tuesday, April 11, 1995 to 11:00 am, Thursday April 13, 1995.

Meeting Location: Sheraton Premier Hotel, Tyson's Corner, 8661 Leesburg Pike, Vienna, Virginia.

Addresses: Office of Environmental Policy, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000.

For Further Information Contact: Mr. Paul Rubenstein, (202) 272–8731.

Agenda

The schedule and proposed agenda of the subject meeting on ''Planning for Tomorrow: Uniting the Army Corps of Engineers and the Environmental Community'' follows:

Tuesday, April 11, 1995

0800–0815 Welcome Ceremonies & Induction of New Board Members
0815–0845 Chief's Charge to the Board
0845–0900 EAB Chair Response
0900–0915 Overview of Meeting Structure
0915–1100 Session 1: ''Building New Partnerships—Applying Engineering Means to Achieve Environmental Ends''. A Moderated Panel Discussion using a discussion paper followed by comments and discussion:
Moderator: Dr. Lettie Wenner, EAB Chair, Northern Illinois University
Discussants: Dr. Benjamin Dysart, III, Dysart and Associates, Atlanta; Dr. Warren Viessman, Jr., University of Florida; Dr. Evan Vlachos, Colorado State University
1100–1200 Facilitated Group Discussion in Plenary (Facilitator: L. Aggens)

1200–1330 Conference Luncheon: Keynote speech by Major General Stanley Genega, Director of Civil Works on the History of Environmental Partnering in the U.S. Army Corps of Engineers.

1330–1530 Session 2: ''Environmental Decision-Making in the Corps—Involvement of Environmental, Community and Other Public Groups in Corps Decision-Making''. A Moderated Panel Discussion using prepared case studies examining who participates and how.

Moderator: Dr. James Regens, EAB Vice-Chair, Tulane University

Discussants: Dr. Stuart Langton, Challenge to Leadership, Boston; Mr. James R. Hanchey, USACE, Lower Mississippi Valley Division; Colonel Terrance Salt, South Florida Ecosystem Restoration Task Force; Mr. Joseph Browder, Everglades Coalition; Ms. Karen Illardo, National Audubon Society

1530–1630 Facilitated Group Discussion in Plenary (Facilitator: L. Aggens)

1630 Adjourn

Wednesday, April 12, 1995

0800–0830 Overview of the day.

0830–1000 Simultaneous Workshops on specific environmental programs.—Section 1135 Program

Moderators: Ms. Ellen Cummings, HQUSACE; Mr. Timothy Searchinger, Environmental Defense Fund

Moderators: Mr. Michael Davis, HQUSACE; Mr. Russell Shay, The Nature Conservancy—Methods to Integrate Economics and Environment

Moderators: Mr. Ken Orth, USACE Institute for Water Resources—Environmental Restoration

Moderators: Mr. Larry Lower, USACE Baltimore District; Ms. Constance Hunt, World Wildlife Fund—Flood Plan Management and Non-Structural Approaches

Moderators: Mr. Charles Moeslein, HQUSACE; Mr. Scott Faber, American Rivers—The Corps Partnership Kit

Moderator: Mr. Richard Sinclair, USACE Institute for Water Resources

1000–1030 Break

1030–1200 Simultaneous Workshops Repeated

1200–1330 Lunch

1330–1500 Session 3: A Facilitated Discussion of Issues, concerns and recommendations raised in the simultaneous workshops. (Facilitator: L. Aggens)

1830–2200 Conference Dinner and Special Plenary Session—''Twenty Five Years of the Chief of Engineers Environmental Advisory Board: Perspectives of the History-Makers on its Importance and Influence''

Moderator: Mr. Jimmy Bates, Deputy Director of Civil Works

Keynote Speaker: Dr. John Zirschky, Acting Assistant Secretary of the Army (Civil Works)

Panelists: Lieutenant General Arthur Williams, Chief of Engineers; Dr. Lettie Wenner, EAB Chair; Lieutenant General Frederick Clarke, USA (Ret.); Dr. Lynton Caldwell, EAB Charter Member; Lieutenant General E. R. Heilberg, USA (Ret.); Dr. Warren Viessman, Former EAB Chair; Dr. Beverly Wright, Incoming EAB Member

Guests: Lieutenant General John Morris, USA (Ret.); Lieutenant General Joseph Bratton, USA (Ret.); Lieutenant General Henry Hatch, USA (Ret.)

Thursday, April 13, 1995

0800–0900 Report of the EAB to the Chief

0900–0930 Break

0930–1000 Chief's Response

1000–1100 Public Comments

1100 Adjourn

This meeting is open to the general public but has limited seating.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–7998 Filed 3–30–95; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 *et seq.*). This listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department assistance requirements collected by the Department of Energy (DOE)

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (7) Affected public; (8) An estimate of the number of respondents per report period; (9) An estimate of the number of responses per respondent annually; (10) An estimate of the average hours per response; (11) The estimated total annual respondent burden; and (12) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before May 1, 1995. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Norma White, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Ms. White may be telephoned at (202) 254–5327.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–555
3. 1902–0098
4. Preservation of Records of Public Utilities and Licenses, Natural Gas Companies and Oil Pipeline Companies
5. Extension
6. Mandatory
7. Business or other for-profit
8. 500 responses
9. 1 response
10. 24,400 hours per response
11. 1,200,000 hours
12. The records retention regulations establish retention periods and necessary guidelines and requirements to sustain retention of applicable records for the 500 regulated public utilities, natural gas and oil pipeline companies subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statutory Authority: Sec. 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506(a) and (c)(1).

Issued in Washington, D.C., March 25, 1995.

Yvonee M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–7976 Filed 3–30–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP95–251–000]

Pacific Interstate Transmission Company; Notice of Application

March 27, 1995.

Take notice that on March 8, 1995, Pacific Interstate Transmission Company (PITCO), 633 West Fifth Street, Suite 5400, Los Angeles, California, 90071–2071, filed in Docket No. CP95–251–000, an application pursuant to Section 7(c) of the Natural Gas Act for authorization to establish an additional delivery point at Blanco, New Mexico for the sale of gas to PITCO's sole customer, Southern California Gas Company (SoCalGas), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Specifically, PITCO intends to establish an additional sale and delivery point at Blanco, New Mexico for the sale of Canadian gas to SoCalGas. PITCO states that the additional sale and delivery point is necessary because of El Paso Natural Gas Company's (El Paso) increasing inability to receive all of PITCO's natural gas supplies on a firm basis at the existing El Paso receipt point from Northwest Pipeline Corporation (Northwest) at Ignacio, Colorado. PITCO says the additional sale and delivery point will provide SoCalGas with greater flexibility concerning its purchases, and will eliminate unnecessary alternative transportation costs and construction of unnecessary pipeline additions.

PITCO states that the addition of new sale and delivery points is specifically provided by the General Terms and Conditions of PITCO's FERC Gas Tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 17, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for PITCO to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7901 Filed 3–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–203–000, et al.]

Tennessee Gas Pipeline Company, Notice of Informal Settlement Conference

March 27, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, April 5, 1995, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C. for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Dennis H. Melvin at (202) 208–0042 or Donald Williams at (202) 208–0743.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7900 Filed 3–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1545–000]

Calpine Power Marketing, Inc.; Notice of Issuance of Order

March 28, 1995.

On August 9, 1994 and February 8, 1995, Calpine Power Marketing, Inc. (CPMI) submitted for filing a rate schedule under which CPMI will engage in wholesale electric power and energy transactions as a marketer. CPMI also requested waiver of various Commission regulations. In particular, CPMI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by CPMI.

On March 9, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CPMI 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, CPMI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of CPMI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 10, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7951 Filed 3–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–300–000]

Wickland Power Services; Notice of Issuance of Order

March 28, 1995.

On December 20, 1994 and February 6, 1995, Wickland Power Services (WPS) submitted for filing a rate schedule under which WPS will engage in wholesale electric power and energy transactions as a marketer. WPS also requested waiver of various Commission regulations. In particular, WPS requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by WPS.

On March 16, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by WPS 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, WPS is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of WPS's issuances of securities or assumption of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 17, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7952 Filed 3–30–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4031–041 et al.]

Hydroelectric Applications, City of Peru, Illinois, et al.; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Amendment of License.

b. *Project No.:* 4031–041.

c. *Date filed:* September 9, 1994.

d. *Applicant:* City of Peru, Illinois.

e. *Name of Project:* Starved Rock.

f. *Location:* The project is located near Utica, Lasalle County, Illinois, approximate Illinois River mile 231.0.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mayor Donald F. Baker, City of Peru, 1715 Fifth Street, Peru, IL 61354, (815) 223–1148.

i. *FERC Contact:* Buu T. Nguyen, (202) 219–2913.

j. *Comment Date:* April 27, 1995.

k. *Description of Amendment:* The licensee, City of Peru, applied for an amendment of license to include a transmission line which was built in December of 1993. The transmission line is approximately 9.5 miles long. The transmission line travels down the upstream slope of the north embankment, and continues underwater (approximately 180 feet) to the north lock wall. The remaining of the line is overhead type beginning at Dee Bennett Road.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

2 a. *Type of Application:* Major New License.

b. *Project No.:* 1951–035.

c. *Applicant:* Georgia Power Company.

d. *Name of Project:* Sinclair Hydroelectric Project.

e. *Location:* on the Oconee River, near Milledgeville, Baldwin County, Georgia.

f. *Applicant Contact:* Don Holder, Georgia Power Company, 333 Piedmont Avenue, Bin No. 10170, Atlanta, GA 30308, (404) 526-7092.

g. *FERC Contact:* Kelly R. Fargo (202) 219-0231.

h. Georgia Power Company served a copy of the Preliminary DEA and Draft License Application on all parties on March 8, 1995, pursuant to 18 CFR 16.8(c)(4). The Commission received a copy of the Preliminary DEA and draft license application on March 8 and March 13, 1995, respectively.

Comments on the draft license application for the Sinclair Project should be sent to the Georgia Power Company with a copy to the Commission at the following address: Federal Energy Regulatory Commission, 825 North Capitol Street, Attn: Ms. Kelly Fargo, Mailstop HL 20.1, Room 1040, Washington, DC 20426.

i. As discussed in the Commission's letter to all parties on February 14, 1995, and pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 90 days from the date that Georgia Power served a copy of the preliminary DEA and draft license application to all parties and serve a copy of the request on the applicant. Any party interested in filing an additional study request must do so before June 13, 1995.

3 a. *Type of Application:* New Major License.

b. *Project No.:* 2389–010.

c. *Date Filed:* December 20, 1991.

d. *Applicant:* Edwards Manufacturing Company Inc.

e. *Name of Project:* Augusta Hydroelectric Project.

f. *Location:* On the Kennebec River in Kennebec County, in the City of Augusta, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)– 825(r).

h. *Applicant Contact:* Mr. Mark Isaacson, Vice President, Edwards Manufacturing, 42A North Elm Street, Yarmouth, ME 04096, (207) 846–3991.

i. *FERC Contact:* John S. Blair (202) 219–2845.

j. *Deadline Date:* May 15, 1995.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The project as licensed consists of the following: (1) The existing 917-foot-long, concrete-capped, timber crib dam composed of (a) a 850-foot long primary spillway topped by 4.5-foot-high wooden flashboards, (b) a 67-foot long bulkhead spillway abuts the primary spillway; (2) an existing impoundment with a surface area of 1,143 acres and a gross storage volume of 16,985 acre-feet; (3) an existing power canal, 450-feet long; (4) an existing 80-foot long and 24-foot-wide masonry gate house; (5) nine generating units with 3.5 mW total generating capacity housed in a combination of a structural steel and masonry building powerhouses.

The applicant proposes: (1) to install an inflatable rubber crest gate that would increase the elevation of the reservoir by one foot; (2) to retire two of the existing nine generating units and add one new vertical 8 mW Kaplan turbine housed in a new concrete and steel powerhouse, 140 feet long, 63 feet wide, and 50 feet high: the total installed new capacity would be 11 mW; (3) the impoundment would be increased to a total of 1,167 surface acres and a gross storage of 18,437 acre-feet.

The project dam and facilities are owned by the applicant. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C., 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Edwards Manufacturing, 42A North Elm Street, Yarmouth, ME 04096, (207) 846–3991.

4 a. *Type of Application:* Amendment of License.

b. *Project No.:* 2075–009.

c. *Date Filed:* February 7, 1995.

d. *Applicant:* Washington Water Power Company.

e. *Name of Project:* Noxon Rapids.

f. *Location:* On the Clark Fork River in Sanders County, Montana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:*

Larry La Bolle, Washington Water Power Company, E. 1411 Mission Avenue, P.O. Box 3727, Spokane, WA 99220–3737, (509) 482–4710.

William J. Madden, Jr., John A. Whittaker IV, Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005, (202) 371–5700.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* May 12, 1995.

k. *Description of the Request:* The licensee requests that its license expiration date be accelerated from April 30, 2005, to February 28, 2001.

l. This notice also Consists of the following standard paragraphs: B, C1, and D2.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11523–000.

c. *Date Filed:* March 1, 1995.

d. *Applicant:* Massachusetts Water Resources Authority.

e. *Name of Project:* Winsor Dam Hydro Project.

f. *Location:* On the Swift River in Hampshire, Franklin, and Worcester Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. William A. Brutsch, Director, Waterworks Division, Charleston Navy Yard, 100 First Avenue, Boston, MA 02129, (617) 242–6000.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* May 12, 1995.

k. *Competing Application:* Project No. 11505–000. *Date filed:* November 9, 1994.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 2,900-foot-long Winsor Dam; (2) an existing 25,216-acre reservoir; (3) a proposed water intake; (4) a proposed powerhouse containing a single 1200 kW generating unit; (5) a proposed 13.8-kV or equivalent transmission line; and (6) appurtenant facilities. Applicant estimates that the average annual generation would be 3,450 MWh and that the cost of the studies under the permit would be $56,000. The dam and water rights are owned by the Metropolitan District Commission, 20 Somerset Street, Boston, MA 02108. The project equipment is owned and operated by the Massachusetts Water Resource Authority, Division Director of Water Works, Charleston Navy Yard, 100 First Avenue, Boston, MA 02129. All power generated would be sold to Massachusetts Electric Company.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, and D2.

6 a. *Type of Filing:* Settlement Agreement for Permanently Mitigating Fish Mortality at the Ludington Project.

b. *Project No.:* 2680–017.

c. *Date Filed:* February 28, 1995.

d. *Licensees:* Consumers Power Company and The Detroit Edison Company.

e. *Name of Project:* Ludington (FERC No. 2680).

f. *Location:* The eastern shore of Lake Michigan: Mason County.

g. *Filed Pursuant to:* Order Modifying a Mitigative Plan for Turbine Mortality, issued August 11, 1987 (40 FERC ¶ 62,151).

h. *Licensee Contact:* Mr. William Lange, Consumers Power Company, 1016 16th Street, N.W., 5th Floor, Washington, DC 20036, (202) 293–5795.

i. *FERC Contacts:* Ms. Janet Oakley, (202) 208–0495; Dr. John M. Mudre, (202) 219–1208.

j. *Comment Date:* May 5, 1995.

k. *Description of Filing:* The licensees for the Ludington Project have entered into a settlement agreement with: the State of Michigan and the Michigan Department of Natural Resources; the United States Department of the Interior, on behalf of the Fish and Wildlife Service and as Trustee for Indian tribes, bands or communities with reserved treaty rights in the Michigan waters of Lake Michigan; the Michigan United Conservation Clubs; and the National Wildlife Federation. The settlement agreement provides for mitigation of fish mortality at the project by the seasonal installation of a barrier net around the project's intakes and other measures. The agreement also provides for the development of off-site angler access facilities to mitigate for the loss of angler access to the project jetties, which would be inside the barrier net.

7 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11517–000.

c. *Date Filed:* February 6, 1995.

d. *Applicant:* Androscoggin Hydroelectric Company, Inc.

e. *Name of Project:* Coos Hydropower Project.

f. *Location:* On the Androscoggin River in the Town of Gorham, Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. John N. Webster, Androscoggin Hydroelectric Company, Inc., P.O. Box 178, South Berwick, ME 03908, 207–384–5334.

i. *FERC Contact:* Michael Dees 202–219–2807.

j. *Comment Date:* May 12, 1995.

k. *Description of Project:* The proposed project would consist of: (1) A proposed earth and concrete dam 850 feet long; (2) a proposed 75 acre reservoir with a maximum water surface elevation of 854 feet MSL; (3) a proposed powerhouse, 100 feet by 50 feet housing two 3,000 kW hydropower units with a total capacity of 6,000 kW; (4) a proposed 34.5 kV transmission line 1200 feet long; and (5) appurtenant facilities. The applicant estimates that the annual energy generation would be 40 GWh and that the cost of the studies to be performed under the permit would be $100,000. The energy would be sold to businesses or public utility companies.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. Initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (May 15, 1995 for Project No. 2389-010). All reply comments must be filed with the Commission within 105 days from the date of this notice (June 28, 1995 for Project No. 2389-010).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or

''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: March 27, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–7953 Filed 3–30–95; 8:45 am]

BILLING CODE 6717–01–P

Federal Energy Regulatory Commission

[Docket Nos. ST95–1371–000 et al.]

Colorado Interstate Gas Company Notice of Self-Implementing Transactions

March 27, 1995.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's regulations, Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act.[1]

The ''Recipient'' column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The ''Part 284 Subpart'' column in the following table indicates the type of transaction.

A ''B'' indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to Section 284.102 of the Commission's regulations and Section 311(a)(1) of the NGPA.

A ''C'' indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.122 of the Commission's regulations and Section 311(a)(2) of the NGPA.

A ''D'' indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to Section 284.147(d) of the Commission's Regulations.

An ''E'' indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to Section 284.163 of the Commission's Regulations and Section 312 of the NGPA.

A ''G'' indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.222 and a blanket certificate issued under Section 284.221 of the Commission's regulations.

A ''G-I'' indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under Section 284.227 of the Commission's regulations.

A ''G-S'' indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to Section 284.223 and a blanket certificate issued under Section 284.221 of the Commission's regulations.

A ''G-LT'' or ''G-LS'' indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under Section 284.224 of the Commission's regulations.

A ''G-HT'' or ''G-HS'' indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.224 of the Commission's Regulations.

A ''K'' indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.303 of the Commission's Regulations.

A ''K-S'' indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to Section 284.303 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

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[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date com-menced	Projected termi-nation date
ST95–1371	Colorado Interstate Gas Co.	Montana Power Co	02–01–95	B	10,130	N	F	11–20–93	11–30–06
ST95–1372	Colorado Interstate Gas Co.	Montana Power Co	02–01–95	B	10,500	N	F	06–03–94	12–31–03
ST95–1373	Colorado Interstate Gas Co.	HS Resources, Inc	02–01–95	G–S	7,532	N	I	01–18–95	Indef.
ST95–1374	Columbia Gas Trans-mission Corp.	Pinnacle Energy Co	02–01–95	G–S	10,000	N	I	01–01–95	Indef.
ST95–1375	Columbia Gas Trans-mission Corp.	Aurora Natural Gas & Assoc. Prod.	02–01–95	G–S	20,000	N	I	01–09–95	Indef.
ST95–1376	Columbia Gas Trans-mission Corp.	NGO Development Corp.	02–01–95	G–S	N/A	N	I	01–17–95	Indef.
ST95–1377	ONG Transmission Co .	ANR Pipeline Co	02–02–95	C	50,000	N	I	01–18–95	Indef.
ST95–1378	Arkansas Western Pipeline Co.	Associated Natural Gas Co.	02–02–95	B	33,700	Y	I	07–01–93	06–03–94
ST95–1379	Transcontinental Gas P/L Corp.	City of Kings Mountain .	02–02–95	G–S	87	N	F	01–01–95	03–17–98
ST95–1380	Colorado Interstate Gas Co.	Montana Power Co	02–02–95	B	21,000	N	F	08–01–94	10–31–03
ST95–1381	Williston Basin Inter. P/L Co.	Western Sugar Co	02–03–95	G–S	9,000	A	I	01–05–95	07–31–96
ST95–1382	Transok, Inc	ANR Pipeline Co. et al .	02–03–95	C	25,000	N	I	01–20–95	Indef.
ST95–1383	Colorado Interstate Gas Co.	Montana Power Co	02–03–95	B	50,000	N	F	12–03–94	12–31–95
ST95–1384	Williams Natural Gas Co.	Mercado Gas Services, Inc.	02–03–95	G–S	2,200	N	I	12–01–94	Indef.
ST95–1385	Williams Natural Gas Co.	Natural Gas Trans-mission Service.	02–03–95	G–S	46,500	N	I	02–01–95	02–01–96
ST95–1386	Williams Natural Gas Co.	Trident NGL, Inc	02–03–95	G–S	20,000	N	I	01–19–95	09–30–03
ST95–1387	Williams Natural Gas Co.	Western Resources, Inc	02–03–95	G–S	27,758	N	F	10–01–94	Indef.
ST95–1388	Williams Natural Gas Co.	Western Resources, Inc	02–03–95	G–S	147,670	N	F	10–01–94	Indef.
ST95–1389	Williams Natural Gas Co.	Western Resources, Inc	02–03–95	G–S	26,231	N	F	10–01–94	10–01–95
ST95–1390	Williams Natural Gas Co.	Western Resources, Inc	02–03–95	G–S	271,450	N	F	10–01–94	Indef.
ST95–1391	Williams Natural Gas Co.	Missouri Gas Energy	02–03–95	G–S	4,792	N	F	10–01–94	Indef.
ST95–1392	Williams Natural Gas Co.	Missouri Gas Energy	02–03–95	G–S	6,435	N	F	10–01–94	Indef.
ST95–1393	Williams Natural Gas Co.	Missouri Gas Energy	02–03–95	G–S	160,341	N	F	10–01–94	11–01–98
ST95–1394	Williams Natural Gas Co.	Missouri Gas Energy	02–03–95	G–S	246,228	N	F	10–01–94	Indef.
ST95–1395	Columbia Gas Trans-mission Corp.	Volunteer Energy Corp	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1396	Columbia Gas Trans-mission Corp.	Riley Natural Gas Co ...	02–03–95	G–S	1,500	N	I	02–01–95	Indef.
ST95–1397	Columbia Gas Trans-mission Corp.	Texas Ohio Gas, Inc	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1398	Columbia Gas Trans-mission Corp.	Transfuel Marketing Co	02–03–95	G–S	4,300	N	I	02–01–95	Indef.
ST95–1399	Columbia Gas Trans-mission Corp.	Vineyard Oil & Gas Co	02–03–95	G–S	750	N	I	02–01–95	Indef.
ST95–1400	Columbia Gas Trans-mission Corp.	Interstate Gas Supply, Inc.	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1401	Columbia Gas Trans-mission Corp.	Cabot Oil & Gas Mar-keting Corp.	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1402	Columbia Gas Trans-mission Corp.	Arcadia Energy Corp	02–03–95	G–S	3,000	N	I	02–01–95	Indef.
ST95–1403	Columbia Gas Trans-mission Corp.	Iesco Industrial Energy Services Co.	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1404	Columbia Gas Trans-mission Corp.	Enron Access Corp	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1405	Columbia Gas Trans-mission Corp.	Appalachian Gas Sales Ags.	02–03–95	G–S	100,000	N	I	02–01–95	Indef.
ST95–1406	Columbia Gas Trans-mission Corp.	Equitable Resources Marketing Co.	02–03–95	G–S	10,000	N	I	02–01–95	Indef.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date com-menced	Projected termi-nation date
ST95–1407	Columbia Gas Transmission Corp.	Ivan Hall & Associates, Inc.	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1408	Columbia Gas Transmission Corp.	KCS Energy Marketing, Inc.	02–03–95	G–S	5,000	N	I	02–01–95	Indef.
ST95–1409	Columbia Gas Transmission Corp.	OGLS Operations, Inc ..	02–03–95	G–S	700	N	I	02–01–95	Indef.
ST95–1410	Columbia Gas Transmission Corp.	Columbia Energy Services Corp.	02–03–95	G–S	810	Y	I	02–01–95	Indef.
ST95–1411	Columbia Gas Transmission Corp.	Columbia Natural Resources, Inc.	02–03–95	G–S	600	Y	I	02–01–95	Indef.
ST95–1412	Columbia Gas Transmission Corp.	Eastern Marketing Corp	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1413	Columbia Gas Transmission Corp.	Atlas Gas Marketing	02–03–95	G–S	5,000	N	I	02–01–95	Indef.
ST95–1414	Columbia Gas Transmission Corp.	Atwood Resources, Inc	02–03–95	G–S	10,000	N	I	02–01–95	Indef.
ST95–1415	Columbia Gas Transmission Corp.	Belden & Blake Corp ...	02–03–95	G–S	1,000	N	I	02–01–95	Indef.
ST95–1416	Cypress Gas Pipeline Co.	Columbia Gulf Trans. Co., et al.	02–06–95	C	20,000	N	I	12–01–94	Indef.
ST95–1417	Acadian Gas Pipeline System.	Natural G/P/L Co. of Am., et al.	02–06–95	C	10,000	N	I	01–01–95	Indef.
ST95–1418	Tennessee Gas Pipeline Co.	Connecticut Natural Gas Corp.	02–06–95	G–S	3,000	N	F	01–24–95	Indef.
ST95–1419	Colorado Interstate Gas Co.	Montana Power Co	02–06–95	B	20,000	N	F	06–03–94	05–31–95
ST95–1420	Viking Gas Transmission Co.	Utilicorp United Inc	02–06–95	G–S	2,398	N	F	12–01–94	02–28–95
ST95–1421	Koch Gateway Pipeline Co.	CNB/Olympic Gas Services.	02–06–95	G–S	N/A	N	I	01–13–95	Indef.
ST95–1422	Koch Gateway Pipeline Co.	Cenergy Inc	02–06–95	G–S	N/A	N	I	01–26–95	Indef.
ST95–1423	Koch Gateway Pipeline Co.	Texaco Natural Gas Inc	02–06–95	G–S	45,000	N	F	01–10–95	01–10–96
ST95–1424	Koch Gateway Pipeline Co.	Mobil Natural Gas Inc ..	02–06–95	G–S	3,500	N	F	01–10–95	04–10–95
ST95–1425	Koch Gateway Pipeline Co.	Koch Gas Services Co .	02–06–95	G–S	150	Y	F	01–10–95	01–10–96
ST95–1426	Koch Gateway Pipeline Co.	Koch Gas Services Co .	02–06–95	G–S	40,000	Y	F	01–10–95	06–10–95
ST95–1427	Koch Gateway Pipeline Co.	Koch Gas Services Co .	02–06–95	G–S	10,000	Y	F	01–10–95	04–10–95
ST95–1428	Kentucky West Virginia Gas Co.	Mayo State Vocationl Tech. School.	02–06–95	G–S	100	N	I	11–01–94	Indef.
ST95–1429	East Tennessee Natural Gas Co.	Tennessee Gas Marketing Co.	02–06–95	G–S	100,000	N	I	03–01–94	Indef.
ST95–1430	El Paso Natural Gas Co	Transok Gas Co	02–07–95	G–S	103,000	N	I	01–14–95	Indef.
ST95–1431	Transcontinental Gas P/L Corp.	Conagra Energy Services.	02–07–95	G–S	100,000	N	I	01–20–95	Indef.
ST95–1432	East Tennessee Natural Gas Co.	Perry Gas Companies, Inc.	02–07–95	G–S	7,500	N	I	12–01–94	Indef.
ST95–1433	Northern Natural Gas Co.	Superior Water Light & Power Co.	02–07–95	B	1,300	N	F	10–01–94	10–31–08
ST95–1434	Northern Natural Gas Co.	Twister Transmission Co.	02–07–95	G–S	35,000	N	F	06–01–94	03–31–95
ST95–1435	Orange and Rockland Util., Inc.	Con Edison Gas Marketing, Inc.	02–08–95	G–LT	30,000	N	I	11–01–94	11–30–95
ST95–1436	Orange and Rockland Util., Inc.	Brooklyn Interstate Nat. Gas Corp.	02–08–95	G–LT	5,000	N	I	09–30–94	03–31–95
ST95–1437	Naturl Gas P/L Co. of America.	Valero Gas Marketing, L.P.	02–08–95	G–S	25,000	N	F	02–01–96	01–31–96
ST95–1438	Pacific Gas Transmission Co.	Equitable Resources Marketing Co.	02–09–95	G–S	100,000	N	I	01–19–95	Indef.
ST95–1439	Transwestern Pipeline Co.	Gas Co. of New Mexico	02–09–95	G–S	40,000	N	I	12–16–94	12–31–94
ST95–1440	Transwestern Pipeline Co.	KCS Energy Marketing	02–09–95	G–S	100,000	N	I	12–21–94	11–30–95
ST95–1441	Natural Gas P/L Co. of America.	Poco Petroleums Ltd	02–09–95	G–S	175,000	N	I	01–11–95	Indef.
ST95–1442	Chandeleur Pipe Line Co.	Union Oil Co. of California.	02–10–95	K–S	85,680	N	I	10–01–94	02–24–95

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date com-menced	Projected termi-nation date
ST95–1443	National Fuel Gas Supply Corp.	Capital Oil & Gas, Inc ..	02–10–95	G–S	10,000	N	I	02–01–95	02–01–20
ST95–1444	National Fuel Gas Supply Corp.	Public Service Electric and Gas Co.	02–10–95	B	10,000	N	I	01–02–95	01–02–95
ST95–1445	Tennessee Gas Pipeline Co.	Energynorth Natural Gas Inc.	02–10–95	G–S	3,000	N	F	02–05–95	Indef.
ST95–1446	Tennessee Gas Pipeline Co.	Virginia Electric & Power Co.	02–10–95	G–S	7,450	N	F	02–01–95	Indef.
ST95–1447	Tennessee Gas Pipeline Co.	Coastal Gas Marketing Co.	02–10–95	G–S	4,000	N	F	02–01–95	Indef.
ST95–1448	Tennessee Gas Pipeline Co.	Co Energy Trading Co .	02–10–95	G–S	7,121	N	F	02–05–95	Indef.
ST95–1449	Colorado Interstate Gas Co.	Oxy USA, Inc	02–10–95	G–S	20,000	N	F	02–01–95	12–31–01
ST95–1450	Colorado Interstate Gas Co.	Meridian Oil Trading Inc	02–10–95	G–S	5	N	I	01–11–95	Indef.
ST95–1451	Midwestern Gas Transmission Co.	Mobil Natural Gas Inc ..	02–13–95	G–S	9,000	N	F	02–01–95	Indef.
ST95–1452	Florida Gas Transission Co.	Citrus Trading Corp	02–13–95	G–S	600,000	Y	I	01–13–95	Indef.
ST95–1453	Panhandle Eastern Pipe Line Co.	Natural Gas Resources LP.	02–13–95	G–S	100,000	N	I	02–01–95	07–31–96
ST95–1454	Wyoming Interstate Co., Ltd.	Midcon Marketing Corp	02–13–95	G–S	15,000	N	I	02–01–94	Indef.
ST95–1455	Wyoming Interstate Co., Ltd.	Amoco Production Co ..	02–13–95	G–S	5,000	N	I	02–01–94	10–31–96
ST95–1456	Wyoming Interstate Co., Ltd.	Western Gas Resources, Inc.	02–13–95	G–S	15,500	N	I	04–01–94	Indef.
ST95–1457	Colorado Interstate Gas Co.	Public Service Co. of Colorado.	02–13–95	B	543,066	N	F	12–01–94	09–30–96
ST95–1458	Colorado Interstate Gas Co.	Montana Power Co	02–13–95	B	69,700	N	I	05–01–94	Indef.
ST95–1459	U–T Offshore System ..	Tartan Energy Resources, L.C.	02–13–95	K–S	145,000	N	I	01–21–95	Indef.
ST95–1460	U–T Offshore System ..	Coast Energy Group	02–13–95	K–S	7,000	N	F	01–06–95	01–31–95
ST95–1461	U–T Offshore System ..	Cng Energy Services Corp.	02–13–95	K–S	8,000	N	F	01–01–95	01–31–95
ST95–1462	U–T Offshore System ..	Coast Energy Group	02–13–95	K–S	60,000	N	F	01–01–95	01–31–95
ST95–1463	U-T Offshore System ...	CNG Energy Services Corp..	02–13–95	K–S	45,000	N	F	01–01–95	01–31–95
ST95–1464	U-T Offshore System ...	Vastar Gas Marketing, Inc.	02–13–95	K–S	20,497	N	F	01–01–95	01–31–95
ST95–1465	Williston Basin Inter. P/L Co.	Mountain Gas Resources, Inc..	02–13–95	G–S	100,000	A	I	01–14–95	12–31–96
ST95–1466	Kansok Partnership	Riverside Pipeline co ...	02–13–95	C	20,000	N	I	01–01–95	Indef.
ST95–1467	Panhandle Eastern Pipe Line Co.	Texarkoma Transportation Co.	02–14–95	G–S	10,000	N	I	02–02–95	01–31–97
ST95–1468	Panhandle Eastern Pipe Line Co.	Anadarko Petroleum Co	02–14–95	G–S	21,000	N	F	02–01–95	02–28–95
ST95–1469	Panhandle Eastern Pipe Line Co.	OXY USA Inc	02–14–95	G–S	10,000	N	F	02–01–95	03–31–95
ST95–1470	Noram Gas Transmission Co.	Cranford Construction Co.	02–14–95	G–S	500	N	F	02–01–95	Indef.
ST95–1471	Noram Gas Transmission Co.	Porocel Corp	02–14–95	G–S	600	N	F	02–01–95	Indef.
ST95–1472	Noram Gas Transmission Co.	Lincoln Automotive	02–14–95	G–S	460	N	F	02–01–95	Indef.
ST95–1473	Noram Gas Transmission Co.	Thompson Industries	02–14–95	G–S	148	N	F	02–01–95	Indef.
ST95–1474	Noram Gas Transmission Co.	Welsco, Inc	02–14–95	G–S	260	N	F	02–01–95	Indef.
ST95–1475	Noram Gas Transmission Co.	Hot Springs Rehabilitation Center.	02–14–95	G–S	356	N	F	02–01–95	Indef.
ST95–1476	Noram Gas Transmission Co.	Pilgrim's Pride Industries.	02–14–95	G–S	400	N	F	02–01–95	Indef.
ST95–1477	Noram Gas Transmission Co.	Pilgrim's Pride Industries.	02–14–95	G–S	200	N	F	02–01–95	Indef.
ST95–1478	Noram Gas Transmission Co.	Arkansas Children's Hospital.	02–14–95	G–S	100	N	F	02–01–95	Indef.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST95–1479	Noram Gas Transmission Co.	Pepsi Cola Bottling Co .	02–14–95	G–S	180	N	F	02–01–95	Indef.
ST95–1480	Noram Gas Transmission Co.	J.I. Case Co	02–14–95	G–S	225	N	F	02–01–95	Indef.
ST95–1481	Noram Gas Transmission Co.	J.P. Emco, Inc	02–14–95	G–S	500	N	F	02–01–95	Indef.
ST95–1482	Questar Pipeline Co	Conoco, Inc	02–14–95	G–S	3,600	N	F	02–01–95	02–28–95
ST95–1483	Columbia Gas Transmission Corp.	Marco Pipeline Enterprises LLC.	02–14–95	G–S	6,500	N	I	02–04–95	Indef.
ST95–1484	Columbia Gas Transmission Corp.	Dayton Power & Light Co.	02–14–95	G-S	10,499	N	F	11–01–94	Indef.
ST95–1485	Columbia Gas Transmission Corp.	Corning Incorporated ...	02–14–95	G-S	1,000	N	F	02–07–95	Indef.
ST95–1486	Colorado Interstate Gas Co.	Montana Power Co	02–14–95	B	10,250	N	I	12–01–94	Indef.
ST95–1487	Colorado Interstate Gas Co.	Montana Power Co	02–14–95	B	18,727	N	I	01–04–95	Indef.
ST95–1488	Colorado Interstate Gas Co.	Montana Power Co	02–14–95	B	3,412	N	I	11–30–93	Indef.
ST95–1489	Colorado Interstate Gas Co.	Montana Power Co	02–14–95	B	20,990	N	I	03–12–94	Indef.
ST95–1490	Northern Border Pipeline Co.	Phibro Energy USA, Inc	02–15–95	G–S	50,000	Y	I	12–01–94	07–31–96
ST95–1491	Northern Border Pipeline Co.	U.S. Gas Transportation Inc.	02–15–95	G–S	100,000	Y	I	01–07–95	02–29–96
ST95–1492	ONG Transmission Co .	Noram Gas Transmission Co.	02–15–95	C	50,000	N	I	01–24–95	Indef.
ST95–1493	ONG Transmission Co .	Noram Gas Transmission Co.	02–15–95	C	50,000	N	I	01–21–95	Indef.
ST95–1494	ONG Transmission Co .	Phillips Gas Pipeline Co	02–15–95	C	50,000	N	I	01–24–95	Indef.
ST95–1495	Transok, Inc	ANR Pipeline Co., et al.	02–16–95	C	10,000	N	I	02–04–95	Indef.
ST95–1496	Trunkline Gas Co	Cargill, Inc	02–16–95	G–S	100,000	N	I	02–04–95	Indef.
ST95–1497	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	06–01–94	Indef.
ST95–1498	East Texas Gas Systems.	Arkla Energy Co	02–16–95	C	50,000	N	I	04–01–93	Indef.
ST95–1499	K N Interstate Gas Trans. Co.	Retex Gathering Co., Inc.	02–16–95	G–S	5,000	N	F	02–01–95	01–31–96
ST95–1500	K N Interstate Gas Trans. Co.	Parker and Parsley Development Co.	02–16–95	G–S	10,000	N	I	01–05–95	Indef.
ST95–1501	K N Interstate Gas Trans. Co.	CON AGRA Energy Services.	02–16–95	G–S	10,000	N	I	01–01–95	Indef.
ST95–1502	Transok, Inc	ANR Pipeline Co., et al	02–16–95	C	10,000	N	I	02–04–95	Indef.
ST95–1503	Texas Gas Transmission Corp.	Dayton Power and Light Co.	02–16–95	G–S	37,190	N	F	12–01–94	Indef.
ST95–1504	K N Interstate Gas Trans. Co.	Con Agra Energy Services.	02–16–95	G–S	3,300	N	F	01–01–95	01–31–95
ST95–1505	East Texas Gas Systems.	Southern Natural Pipeline co.	02–16–95	C	50,000	N	I	07–01–94	Indef.
ST95–1506	East Texas Gas Systems.	Arkla Energy Co	02–16–95	C	50,000	N	I	08–01–92	Indef.
ST95–1507	East Texas Gas Systems.	Arkla Energy Co	02–16–95	C	50,000	N	I	02–01–92	Indef.
ST95–1508	East Texas Gas Systems.	Koch Gateway Pipeline Co.	02–16–95	C	50,000	N	I	07–01–94	Indef.
ST95–1509	East Texas Gas Systems.	Koch Gateway Pipeline Co.	02–16–95	C	50,000	N	I	04–01–94	Indef.
ST95–1510	East Texas Gas Systems.	Koch Gateway Pipeline Co.	02–16–95	C	50,000	N	I	07–01–94	Indef.
ST95–1511	East Texas Gas Systems.	Arkla Energy Co	02–16–95	C	50,000	N	I	08–01–94	Indef.
ST95–1512	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	05–01–93	Indef.
ST95–1513	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	01–01–93	Indef.
ST95–1514	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	10–01–93	Indef.
ST95–1515	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	01–01–93	Indef.
ST95–1516	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	12–01–93	Indef.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST95–1517	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	01–01–93	Indef.
ST95–1518	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	06–01–93	Indef.
ST95–1519	Eastrans Limited Partnership.	Natural Gas P/L Co. of America.	02–16–95	C	50,000	N	I	08–01–93	Indef.
ST95–1520	East Texas Gas Systems.	Koch Gateway Pipeline Co.	02–16–95	C	50,000	N	I	10–01–94	Indef.
ST95–1521	Tennessee Gas Pipeline Co.	Philbro Division of Salomon, Inc.	02–17–95	G–S	200,000	N	I	01–18–95	Indef.
ST95–1522	Tennessee Gas Pipeline Co.	Appalachian Gas Sales	02–17–95	G–S	7,500	N	F	02–09–95	Indef.
ST95–1523	Tennessee Gas Pipeline Co.	Forcenergy Gas Exploration, Inc.	02–17–95	G–S	N/A	N	I	01–20–95	Indef.
ST95–1524	Midwestern Gas Transmission Co.	Tenngasco Corp	02–17–95	G–S	1,000,000	Y	I	01–21–95	Indef.
ST95–1525	Alabama-Tennessee Natural Gas Co.	Alatenn Energy Marketing Co., Inc.	02–17–95	G–S	678	N	F	01–25–95	10–31–95
ST95–1526	Freeport Pipeline Co	Koch Gateway Pipeline Co.	02–17–95	C	1,900	N	I	05–01–95	Indef.
ST95–1527	Western Resources, Inc	Panhandle Eastern P/L Co., et al.	02–17–95	C	2,500	N	I	10–01–94	Indef.
ST95–1528	Western Resources, Inc	Panhandle Eastern P/L Co., et al.	02–17–95	C	20,000	N	I	06–01–94	Indef.
ST95–1529	Northwest Pipeline Corp.	Washington Water Power Co.	02–17–95	G–S	22,000	N	F	01–03–95	Indef.
ST95–1530	Florida Gas Transmission Co.	Indiantown Gas Co., Inc	02–17–95	G–S	685	N	I	01–24–95	Indef.
ST95–1531	Sea Robin Pipeline Co .	Superior Natural Gas Corp.	02–17–95	G–S	150,000	Y	I	02–01–95	Indef.
ST95–1532	Texas Eastern Transmission Corp.	Aurora Natural Gas & Assoc. Prod.	02–17–95	G–S	5,000	N	I	02–01–95	Indef.
ST95–1533	Texas Eastern Transmission Corp.	CNG Gas Services Corp.	02–17–95	G–S	45,000	N	I	02–01–95	Indef.
ST95–1534	Texas Eastern Transmission Corp.	Seitel Gas & Energy Corp.	02–17–95	G–S	25,000	N	I	02–01–95	Indef.
ST95–1535	Texas Eastern Transmission Corp.	Seitel Gas & Energy Corp.	02–17–95	G–S	25,000	N	I	02–01–95	Indef.
ST95–1536	Texas Eastern Transmission Corp.	Aurora Natural Gas & Assoc. Prod.	02–17–95	G–S	40,000	N	I	02–01–95	Indef.
ST95–1537	Texas Eastern Transmission Corp.	Aurora Natural Gas & Assoc. Prod.	02–17–95	G–S	40,000	N	I	02–01–95	Indef.
ST95–1538	Texas Eastern Transmission Corp.	Texas-Ohio Gas, Inc	02–17–95	G–S	70,000	N	I	02–01–95	Indef.
ST95–1539	Texas Eastern Transmission Corp.	Texas-Ohio Gas, Inc	02–17–95	G–S	70,000	N	I	02–01–95	Indef.
ST95–1540	Texas Eastern Transmission Corp.	KCS Energy Marketing, Inc.	02–17–95	G–S	16,500	N	I	02–01–95	Indef.
ST95–1541	Texas Eastern Transmission Corp.	KCS Energy Marketing, Inc.	02–17–95	G–S	16,500	N	I	02–01–95	Indef.
ST95–1542	Texas Eastern Transmission Corp.	Colonial Gas Co	02–17–95	G–S	110	N	F	02–01–95	Indef.
ST95–1543	Natural Gas P/L Co. of America.	Tartan Energy Resources, L.C.	02–21–95	G–S	40,000	N	I	01–21–95	Indef.
ST95–1544	Pacific Gas Transmission Co.	NGC Transportation, Inc.	02–21–95	G–S	100,000	N	I	02–01–95	Indef.
ST95–1545	Pacific Gas Transmission Co.	Canwest Gas Supply USA Inc.	02–21–95	G–S	100,000	N	I	02–12–95	Indef.
ST95–1546	Pacific Gas Transmission Co.	Pan-Alberta Gas Ltd	02–21–95	G–S	60,000	N	I	01–27–95	Indef.
ST95–1547	Pacific Gas Transmission Co.	Associated Gas Services, Inc.	02–21–95	G–S	100,000	N	I	01–01–95	Indef.
ST95–1548	Rocky Mountain Natural Gas Co.	Northwest Pipeline Corp., et al.	02–21–95	G–HT	5,000	N	I	12–16–95	Indef.
ST95–1549	Noram Gas Transmission Co.	Louis Dreyfus Natural Gas Corp.	02–21–95	G–S	50,000	N	I	03–14–94	Indef.
ST95–1550	Noram Gas Transmission Co.	Aratex Services	02–21–95	G–S	80	N	F	10–01–94	Indef.
ST95–1551	Noram Gas Transmission Co.	Safelite Glass Corp	02–21–95	G–S	325	N	F	10–01–94	Indef.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date com-menced	Projected termi-nation date
ST95–1552	Noram Gas Trans-mission Co.	Grede Equndries	02–21–95	G–S	400	N	F	10–01–94	Indef.
ST95–1553	Midwestern Gas Trans-mission Co.	Aluminum Co. of Amer-ica.	02–21–95	G–S	4,850	N	F	02–01–95	Indef.
ST95–1554	Midwestern Gas Trans-mission Co.	Woodward Marketing, Inc.	02–21–95	G–S	50,000	N	I	02–10–94	Indef.
ST95–1555	Midwestern Gas Trans-mission Co.	Northern Indiana Public Service Co.	02–21–95	G–S	31,830	N	F	09–01–93	Indef.
ST95–1556	Midwestern Gas Trans-mission Co.	Northern Indiana Public Service Co.	02–21–95	G–S	10,000	N	F	09–01–93	Indef.
ST95–1557	Tennessee Gas Pipe-line Co.	Co Energy Trading Co .	02–21–95	G–S	3,166	N	F	02–01–93	Indef.
ST95–1558	Tennessee Gas Pipe-line Co.	Appalachian Gas Sales	02–21–95	G–S	7,500	N	F	02–04–95	Indef.
ST95–1559	Tennessee Gas Pipe-line Co.	Chevron USA, Inc	02–21–95	G–S	250,000	N	I	01–28–95	Indef.
ST95–1560	Tennessee Gas Pipe-line Co.	Co Energy Trading Co .	02–21–95	G–S	18,024	N	F	02–01–95	Indef.
ST95–1561	Transcontinental Gas P/L Corp.	Pinnacle Energy Co	02–21–95	G–S	40,000	N	I	02–01–59	Indef.
ST95–1562	Transcontinental Gas P/L Corp.	City of Greer	02–21–95	G–S	87	N	F	02–06–95	03–17–98
ST95–1563	Transcontinental Gas P/L Corp.	Shell Offshore Inc	02–21–95	G–S	5,000	N	I	02–01–95	Indef.
ST95–1564	Transcontinental Gas P/L Corp.	ANR Production Co	02–21–95	G–S	360,000	N	I	02–01–95	Indef.
ST95–1565	Louisiana Resources P/L Co., L.P.	ANR Pipeline Co., et al	02–21–95	C	21,000	N	I	07–01–94	Indef.
ST95–1566	Louisiana Resources P/L Co., L.P.	ANR Pipeline Co., et al	02–21–95	C	50,000	N	I	09–01–94	02–01–96
ST95–1567	Louisiana Resources P/L Co., L.P.	ANR Pipeline Co., et al	02–21–95	C	50,000	N	I	08–01–94	Indef.
ST95–1568	Louisiana Resources P/L Co., L.P.	ANR Pipeline Co., et al	02–21–95	C	40,000	N	I	06–01–94	Indef.
ST95–1569	Louisiana Resources P/L Co., L.P.	ANR Pipeline Co., et al	02–21–95	C	50,000	N	I	09–15–94	Indef.
ST95–1570	Amoco Gas Co	Florida Gas Trans-mission Co.	02–21–95	G–HT	6,000	N	I	12–22–94	01–01–96
ST95–1571	Transok, Inc	ANR Pipeline Co., et al	02–21–95	C	10,000	N	I	01–27–95	Indef.
ST95–1572	Michigan Consolidated Gas Co.	Phibro Energy	02–21–95	G–HT	30,000	N	I	02–01–94	Indef.
ST95–1573	Michigan Consolidated Gas Co.	Kimball/Trippe Energy Associates.	02–21–95	G–HT	10,000	N	I	03–01–94	Indef.
ST95–1574	Michigan Consolidated Gas Co.	Gaz Metropolitan, Inc ...	02–21–95	G–HT	20,000	N	F	11–01–90	Indef.
ST95–1575	Michigan Consolidated Gas Co.	Coastal Gas Marketing Co.	02–21–95	G–HT	10,000	N	I	02–12–93	Indef.
ST95–1576	Michigan Consolidated Gas Co.	AIG Trading Corp	02–21–95	G–HT	2,000	N	F	02–01–94	Indef.
ST95–1577	Michigan Consolidated Gas Co.	AIG Trading Corp	02–21–95	G–HT	250,000	N	I	06–01–93	Indef.
ST95–1578	Michigan Consolidated Gas Co.	Minnegasco	02–21–95	G–HT	100,000	N	I	02–01–94	Indef.
ST95–1579	Michigan Consolidated Gas Co.	Western Gas Market-ing, Inc.	02–21–95	G–HT	50,000	N	I	02–01–92	Indef.
ST95–1580	Michigan Consolidated Gas Co.	Union Gas Limited	02–21–95	G–HT	78,333	N	F	05–01–88	Indef.
ST95–1581	Michigan Consolidated Gas Co.	Northridge Petroleum Marketing, Inc.	02–21–95	G–HT	15,000	N	F	01–30–90	Indef.
ST95–1582	Michigan Consolidated Gas Co.	Unigas Corp	02–21–95	G–HT	100,000	N	I	06–15–90	Indef.
ST95–1583	Michigan Consolidated Gas Co.	Oryx Gas Marketing Limited Part.	02–21–95	G–HT	50,000	N	I	02–01–92	Indef.
ST95–1584	Michigan Consolidated Gas Co.	Howard Energy Co	02–21–95	G–HT	50,000	N	I	10–01–91	Indef.
ST95–1585	Columbia Gas Trans-mission Corp.	Dayton Power & Light Co.	02–22–95	G–S	218,604	N	F	11–01–94	Indef.
ST95–1586	Columbia Gas Trans-mission Corp.	Midcon Gas Services Corp.	02–22–95	G–S	N/A	N	I	02–10–95	Indef.
ST95–1587	Columbia Gas Trans-mission Corp.	Pinnacle Energy Co	02–22–95	G–S	10,000	N	I	01–01–95	Indef.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST95–1588	Columbia Gas Transmission Corp.	Dayton Power & Light Co.	02–22–95	G–S	218,604	N	F	04–01–94	Indef.
ST95–1589	Columbia Gas Transmission Corp.	Enron Access Corp	02–22–95	G–S	20,000	N	I	02–03–95	Indef.
ST95–1590	Panhandle Eastern Pipe Line Co.	Centana Gathering Co	02–22–95	G–S	13,967	Y	F	02–01–95	07–31–95
ST95–1592	Natural Gas P/L Co. of America.	NGC Transportation, Inc.	02–22–95	G–S	20,000	N	F	02–01–95	02–28–95
ST95–1593	Natural Gas P/L Co. of America.	NGC Transportation, Inc.	02–22–95	G–S	40,000	N	F	02–01–95	02–28–95
ST95–1594	Natural Gas P/L Co. of America.	NGC Transportation, Inc.	02–22–95	G–S	30,000	N	F	02–01–95	02–28–95
ST95–1595	Florida Gas Transmission Co.	Jacksonville Electric Authority.	02–22–95	G–S	20,000	N	F	02–01–95	Indef.
ST95–1596	CNG Transmission Corp.	Columbia Gas of Pennsylvania.	02–22–95	G–S	40,000	N	I	02–02–95	03–31–95
ST95–1597	CNG Transmission Corp.	Stand Energy Corp	02–22–95	G–S	1,000	N	I	01–26–95	03–31–95
ST95–1598	Williston Basin Inter. P/L Co.	Montana-Dakota Utilities Co.	02–23–95	G–S	50,000	A	I	01–24–95	01–12–97
ST95–1599	Trailblazer Pipeline Co	Texaco Gas Marketing Inc.	02–23–95	G–S	353,000	N	I	02–01–94	Indef.
ST95–1600	Natural Gas P/L Co. of America.	NCX Co., Inc	02–23–95	G–S	100,000	N	I	02–01–95	Indef.
ST95–1601	Natural Gas P/L Co. of America.	Appalachian Gas Sales	02–23–95	G–S	25,000	N	I	02–09–95	Indef.
ST95–1602	Natural Gas P/L Co. of America.	H & N Gas LTD	02–23–95	G–S	1,000	N	F	02–01–95	11–30–00
ST95–1603	Trailblazer Pipeline Co	Koch Gas Services Co	02–23–95	G–S	353,000	N	I	09–01–94	Indef.
ST95–1604	Natural Gas P/L Co. of America.	National Gas Resources Limited Part.	02–23–95	G–S	5,745	N	F	02–01–95	02–28–95
ST95–1605	El Paso Natural Gas Co	Interenergy Gas Services Corp.	02–23–95	G–S	30,900	N	I	01–27–95	Indef.
ST95–1606	Columbia Gulf Transmission Co.	Boston Gas Co	02–23–95	G–S	100,000	N	I	02–01–95	Indef.
ST95–1607	Columbia Gulf Transmission Co.	CMS Gas Marketing Co	02–23–95	G–S	5,000	N	F	02–01–95	05–31–95
ST95–1608	Columbia Gulf Transmission Co.	Pinnacle Energy Co	02–23–95	G–S	50,000	N	I	02–01–95	Indef.
ST95–1609	Natural Gas P/L Co. of America.	Nichols-Homeshield	02–24–95	G–S	200	N	F	02–01–95	2–28–95
ST95–1610	Natural Gas P/L Co. of America.	GM Hydrocarbons, Ltd	02–24–95	G–S	10,000	N	F	02–10–95	02–13–95
ST95–1611	Natural Gas P/L Co. of America.	Coastal Gas Marketing	02–24–95	G–S	10,000	N	F	02–08–95	02–28–95
ST95–1612	Panhandle Eastern Pipe Line Co.	Panhandle Storage Co	02–24–95	G–S	250,000	Y	I	02–04–95	01–31–97
ST95–1613	Ozark Gas Transmission System.	Comstock Natural Gas, Inc.	02–24–95	G–S	10,000	N	I	10–01–94	Indef.
ST95–1614	Providence Gas Co	Bay State Gas Co	02–24–95	G–LT	10,000	N	I	01–01–95	04–30–95
ST95–1615	Michigan Consolidated Gas Co.	Westcoast Gas Services (U.S.A.) Inc.	02–24–95	G–HT	25,000	N	I	06–01–90	Indef.
ST95–1616	Michigan Consolidated Gas Co.	Nomeco Oil and Gas Co.	02–24–95	G–HT	10,000	N	I	03–01–91	Indef.
ST95–1617	Koch Gateway Pipeline Co.	Western Gas Resources.	02–27–95	G–S	N/A	N	I	01–31–95	Indef.
ST95–1618	Koch Gateway Pipeline Co.	LGS Natural Gas Co	02–27–95	G–S	N/A	N	I	01–31–95	Indef.
ST95–1619	Koch Gateway Pipeline Co.	Louisiana-Nevada Transit Co.	02–27–95	G	N/A	N	I	01–31–95	Indef.
ST95–1620	Koch Gateway Pipeline Co.	Koch Gas Services	02–27–95	G–S	1,750	Y	F	01–31–95	Indef.
ST95–1621	Koch Gateway Pipeline Co.	Koch Gas Services	02–27–95	G–S	75	Y	F	01–31–95	11–01–95
ST95–1622	Mobile Bay Pipeline Co	Conoco, Inc	02–27–95	G–S	N/A	N	I	01–31–95	Indef.
ST95–1623	Mobile Bay Pipeline Co	Chevron U.S.A. Inc	02–27–95	G–S	N/A	N	I	01–31–95	Indef.
ST95–1624	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02–27–95	B	290	N	F	01–04–95	10–31–95
ST95–1625	Algonquin Gas Transmission Co.	Chesapeake Energy Corp.	02–27–95	G–S	100,000	N	I	01–24–95	Indef.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST95–1626	Algonquin Gas Transmission Co.	Yankee Gas Services Co.	02–27–95	B	39	N	F	01–04–95	Indef.
ST95–1627	Algonquin Gas Transmission Co.	New Jersey Natural Gas Co.	02–27–95	B	10,000	N	I	01–04–95	Indef.
ST95–1628	Algonquin Gas Transmission Co.	Selkirk Cogeneration Partners L.P.	02–27–95	G–S	15,000	N	I	01–04–95	01–05–95
ST95–1629	Williston Basin Inter. P/L Co.	Montana-Dakota Utilities Co.	02–28–95	G–S	443	A	F	02–01–95	01–31–05
ST95–1630	Williston Basin Inter. P/L Co.	Koch Gas Services Co .	02–28–95	G–S	277	A	F	02–01–95	01–31–00
ST95–1631	Williston Basin Inter. P/L Co.	Rainbow Gas Co	02–28–95	G–S	2,259	A	F	02–01–95	02–28–95
ST95–1632	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	02–28–95	G–S	30,000	A	I	02–01–95	03–31–96
ST95–1633	Columbia Gulf Transmission Co.	Noram Energy Services, Inc.	02–28–95	G–S	100,000	N	I	02–01–95	Indef.
ST95–1634	Tennessee Gas Pipeline Co.	Co Energy Trading Co .	02–28–95	G–S	7,500	N	F	02–05–95	Indef.
ST95–1635	Tennessee Gas Pipeline Co.	Project Penny Producers.	02–28–95	G–S	5,000	N	F	02–01–95	Indef.
ST95–1636	Tennessee Gas Pipeline Co.	Co Energy Trading Co .	02–28–95	G–S	7,500	N	F	02–09–95	Indef.
ST95–1637	Tennessee Gas Pipeline Co.	Smith Petroleum Corp ..	02–28–95	G–S	N/A	N	I	02–04–95	Indef.
ST95–1638	Tennessee Gas Pipeline Co.	Aurora Natural Gas Assoc. Products.	02–28–95	G–S	4,833	N	F	02–01–95	Indef.
ST95–1639	Tennessee Gas Pipeline Co.	Texas-Ohio Gas Inc	02–28–95	G–S	5,000	N	F	02–01–95	Indef.
ST95–1640	Midwestern Gas Transmission Co.	H&N Gas Ltd	02–28–95	G–S	3,372	N	F	02–01–95	Indef.
ST95–1641	Transcontinental Gas P/L Corp.	SONAT Marketing Co ..	02–28–95	G–S	50,000	N	I	02–17–95	Indef.
ST95–1642	Transcontinental Gas P/L Corp.	Tartan Energy Resources, L.C.	02–28–95	G–S	85,000	N	I	02–17–95	Indef.

[1] Notice of Transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).
[2] Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.
[3] Affiliation of reporting company to entities involved in the transaction. A ''Y'' indicates affiliation, an ''A'' indicates marketing affiliation, and a ''N'' indicates no affiliation.

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BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5180–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 1, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, or a copy of this ICR, contact Sandy Farmer at (202) 260–2740, please refer to EPA ICR ι186.07.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Vinyl Chloride (40 CFR part 61, subpart F) (EPA ICR #186.07; OMB #2060–0071). This ICR requests renewal of the existing clearance.

Abstract: Owners or operators of polyvinyl chloride, ethylene dichloride, and vinyl chloride monomer plants must submit to EPA or the State regulatory authority an application for approval of construction or modification of their plants and a notification of start-up. They may apply for a waiver of the initial emission test, if desired. Owners and operators of the regulated facilities are required to submit quarterly reports of excess emissions. They must also report each relief valve and manual vent valve discharge within 10 days. Owners or operators must maintain records of leaks detected in accordance with an approved leak detection and elimination program. EPA or the delegated State authority use these data to determine the compliance status of sources, and to target inspections.

Burden Statement: Public reporting burden for this collection of information is estimated to average 50 hours per response for reporting and 140 hours per recordkeeper annually. This estimate includes time for reviewing instructions, searching existing data sources, gathering the data needed, and completing the collection of information.

Respondents: Owners and operators of polyvinyl chloride, ethylene dichloride and vinyl chloride monomer plants.

Estimated Number of Respondents: 45.

Estimated Total Annual Burden on Respondents: 16,000 hours.

Frequency of Collection: Quarterly and on occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR #186.07 and OMB #2060–0071) to:

Sandy Farmer, EPA ICR #0186.07, U.S. Environmental Protection Agency, Information Policy Branch (2136),401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, OMB #2060–0071, Office of Management and Budget, Office of Information and Regulatory Affairs,725 17th Street, NW., Washington, DC 20503.

Dated: March 27, 1995.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 95–7957 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5181–5]

Acid Rain Program: Notice of Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing, as a direct final action, written exemptions from the Acid Rain Program permitting and monitoring requirements to 69 utility units in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as a direct final action.

DATES: Each of the exemptions issued in this direct final action will be final on May 10, 1995, unless significant, adverse comments are received by May 1, 1995. If significant, adverse comments are timely received on any exemption in this direct final action, that exemption will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: Administrative Records. The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at the following locations:

For plants in Maine and Massachusetts: EPA Region 1, JFK Building, One Congress St., Boston, MA 02203.

For plants in Florida and South Carolina: EPA Region 4, 345 Courtland St., NE, Atlanta, GA, 30365.

For plants in Illinois, Indiana, Michigan, and Ohio: EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604.

For plants in Iowa: EPA Region 7, 726 Minnesota Ave., Kansas City, KS 66101; and at the Iowa Department of Natural Resources (attn: Wayne Wicksell) Henry A. Wallace Building, 900 E. Grand, Des Moines, IA 50319, (515) 281–9012.

For plants in Nebraska: EPA Region 7 (address above) and at the Nebraska Department of Environmental Quality (attn: Todd Ellis) State House Station, P.O. Box 94877, Lincoln, NE 68509–4877, (402) 471–4561.

Comments. Send comments to the following addresses:

For plants in Maine and Massachusetts: Linda Murphy, Division Director, Air, Pesticides and Toxics Management Division, EPA Region 1, (address above).

For plants in Florida and South Carolina: Brian Beals, Air, Pesticides and Toxics Management Division, EPA Region 4, (address above).

For plants in Illinois, Indiana, Michigan and Ohio: David Kee, Director, Air and Radiation Division, EPA Region 5, (address above).

For plants in Iowa and Nebraska, William A. Spratlin, Director, Air and Toxics Division, EPA Region 7, (address above).

Submit comments in duplicate and identify the exemption to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the exemption.

FOR FURTHER INFORMATION CONTACT: For plants in Maine and Massachusetts, Ian Cohen, (617) 565–3029; for plants in Florida and South Carolina, Scott Davis, (404) 347–5014; for plants in Illinois, Cecilia Mijares, (312) 886–0968; for plants in Indiana, Genevieve Nearmyer, (312) 353–4761; for plants in Michigan, Beth Valenziano, (312) 886–2703; for plants in Ohio, Franklin Echevarria, (312) 886–9653; for plants in Iowa and Nebraska, Jon Knodel, (913) 551–7599.

SUPPLEMENTARY INFORMATION: All public comment received on any exemption in this direct final action on which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of exemption based on the relevant draft exemption in the notice of draft written exemptions that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

Under the Acid Rain Program regulations (40 CFR 72.7), utilities may petition EPA for an exemption from permitting and monitoring requirements for any new utility unit that serves one or more generators with total nameplate capacity of 25 MW or less and burns only fuels with a sulfur content of 0.05 percent or less by weight. On the earlier of the date a unit exempted under 40 CFR 72.7 burns any fuel with a sulfur content in excess of 0.05 percent by weight or 24 months prior to the date the exempted unit first serves one or more generators with total nameplate capacity in excess of 25 MW, the unit shall no longer be exempted under 40 CFR 72.7 and shall be subject to all permitting and monitoring requirements of the Acid Rain Program.

EPA is issuing written exemptions, effective from January 1, 1995 through December 31, 1999, unless otherwise noted below, to the following new units:

Stock Island units D1 and D2 in Florida. The Designated Representative is Carl Jansen.

Breese unit 5 in Illinois. The Designated Representative is Matthew Johnson.

McLeansboro units 3 and 4 in Illinois. The Designated Representative is Dave McDaniels.

Omega JV3 diesel unit 1 in Ohio. The Designated Representative is Carroll Scheer.

30 engine generators owned and operated by Industrial Energy Applications in Iowa. The exemption is effective from January 1, 1996, through December 31, 2000. The Designated Representative is William Douglas.

Osage unit 7 in Iowa. The exemption is effective from January 1, 1996, through December 31, 2000. The Designated Representative is Dennis Fannin.

State Center units 1, 2, 3, 4, and 5 in Iowa. The exemption is effective from January 1, 1996, through December 31, 2000. The Designated Representative is Steven Oslund.

Sarpy County Station unit BSDG1 in Nebraska. The exemption is effective from January 1, 1996, through December 31, 2000. The Designated Representative is William Jones.

Additionally under the Acid Rain Program regulations (40 CFR 72.8), utilities may petition EPA for an exemption from permitting 72.8), utilities may petition EPA for an exemption from permitting requirements for units that are retired prior to the issuance of a Phase II Acid Rain permit. Units that are retired prior to the deadline for continuous emissions monitoring system (CEMS) certification may also petition for an exemption from monitoring requirements (40 CFR 75.67).

While the exempt retired units have been allocated allowances under 40

CFR part 73, units exempted under 40 CFR 72.8 must not emit any sulfur dioxide or nitrogen oxides on or after the date the units are exempted, and the units must not resume operation unless the designated representative submits an application for an Acid Rain permit and installs and certifies its monitors by the applicable deadlines.

EPA is issuing written exemptions from permitting requirements, effective from January 1, 1995, through December 31, 1999, and exemptions from monitoring requirements, effective from January 1, 1995, through December 31, 1999, unless otherwise noted below, to the following retired units:

Somerset units 1, 2, 3, 4, 5, and 6 in Massachusetts. The Designated Representative is Arthur Hatch.

Hagood units 1, 2, and 3 in South Carolina. The Designated Representatiave is W. Moore.

Elmer Stout units 1, 2, 3, 4, 5, 6, 7, and 8 in Indiana. The exemption from permitting requirements is effective from January 1, 1996 through December 31, 2000. The exemption from monitoring requirements is effective from January 1, 1995, through December 31, 2000. The Designated Representative is Robert McKnight.

Delray units 7, 8, 9, 10, 11, and 12 in Michigan. The exemption from permitting requirements is effective from January 1, 1996 through December 31, 2000. The exemption from monitoring requirements is effective from January 1, 1995, through December 31, 2000. The Designated Representative is Frank Agosti.

Dated: March 27, 1995.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95–7956 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5181–4]

Acid Rain Program: Notice of Draft Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing draft written exemptions from Acid Rain permitting and monitoring requirements to 69 utility units in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are also being issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register**.

DATES: Comments on the exemptions proposed by this action must be received on or before May 1, 1995.

ADDRESSES: *Comments.* Send comments to the following addresses:

For plants in Maine and Massachusetts: Linda Murphy, Division Director, Air, Pesticides and Toxics Management Division, EPA Region 1, JFK Building, One Congress St., Boston, MA 02203.

For plants in Florida and South Carolina: Brian Beals, Air, Pesticides and Toxics Management Division, EPA Region 4, 345 Courtland St., NE, Atlanta, GA, 30365.

For plants in Illinois, Indiana, Michigan and Ohio: David Kee, Director, Air and Radiation Division, EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604.

For plants in Iowa and Nebraska, William A. Spratlin, Director, Air and Toxics Division, EPA Region 7, 726 Minnesota Ave., Kansas City, KS 66101.

Submit comments in duplicate and identify the exemption to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the exemption.

FOR FURTHER INFORMATION CONTACT: For plants in Maine and Massachusetts, Ian Cohen, (617) 565–3029; for plants in Florida and South Carolina, Scott Davis, (404) 347–5014; for plants in Michigan, Beth Valenziano, (312) 886–2703; for plants in Illinois, Cecilia Mijares, (312) 886–0968; for plants in Indiana, Genevieve Nearmyer, (312) 353–4761; for plants in Ohio, Franklin Echevarria, (312) 886–9653; for plants in Iowa and Nebraska, Jon Knodel, (913) 551–7599.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft written exemptions and the exemptions issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any exemption, that exemption in the notice of written exemptions will be withdrawn and all public comment received on that exemption will be addresssed in a subsequent final notice based on the relevant exemption in this notice of draft written exemptions. Because the Agency will not institute a second comment period on this notice of draft written exemptions, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the exemptions, see the information provided in the notice of written exemptions elsewhere in today's **Federal Register**.

Dated: March 27, 1995.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95–7955 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–P

[ER-FRL–4721–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed March 20, 1995 Through March 24, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950101, DRAFT EIS, USA, MA, Army Material Technology Laboratory Reuse and Disposal, Implementation, Town of Watertown, Middlesex, Norfolk, Suffolk and Essex Counties, MA, Due: May 15, 1995, Contact: James Davidson (703) 274–5510.

EIS No. 950102, DRAFT EIS, USA, IN, Jefferson Proving Ground Disposal and Reuse, Implementation, Town of Madison, Jefferson, Jennings and Ripley Counties, IN, Due: May 15, 1995, Contact: James Davidson (703) 274–5510.

EIS No. 950103, FINAL EIS, IBR, AZ, Glen Canyon Dam Operation, Implementation, Colorado River Storage Project, Funding and COE Section 10 and 404 Permits, Coconino County, AZ, Due: May 01, 1995, Contact: Gordon S. Lind (801) 524–5479.

EIS No. 950104, DRAFT EIS, AFS, VT, Mad River Water Withdrawal and Sugarbush South Snowmaking and Trail Improvement Project, Approval, Special-Use and COE Section 404 Permit Issuance, Green Mountain National Forest, Washington County, VT, Due: May 15, 1995, Contact: Samuel M. Emmons (802) 747–6757.

EIS No. 950105, FINAL EIS, FHW, OR, Mill Creek/West Sixth Street Bridge Replacement, Funding, The Dalles,

Wasco County, OR, Due: May 01, 1995, Contact: Alan R. Steger (503) 399–5749.

EIS No. 950106, DRAFT EIS, NPS, WA, Mountain Goat Management Within Olympic National Park, Implementation, Clallan, Grays Harbor, Jefferson and Mason Counties, WA, Due: May 31, 1995, Contact: Paul Crawford (360) 452–4501.

EIS No. 950107, DRAFT EIS, AFS, OR, East Fork Deer Creek Long-Term Ecosystem Productivity Research Study, Implementation, Willamette National Forest, Blue River Ranger District, Lane County, OR, Due: May 15, 1995, Contact: Lynn Burditt (503) 822–3317.

EIS No. 950108, FINAL EIS, FHW, MD, US 29 Improvements, Sligo Creek Parkway to the Patuxent River Bridge, Funding and COE Section 404 Permit, Montgomery County, MD, Due: May 01, 1995, Contact: David Lawton (410) 962–4440.

EIS No. 950109, DRAFT SUPPLEMENT, COE, CA, Napa River Flood Control Project, Updated Information, Flood Improvement, City of Napa, Napa County, CA, Due: May 15, 1995, Contact: Thomas Bonetti (916) 557–6727.

EIS No. 950110, FINAL EIS, AFS, NM, Sipapu Ski Area Expansion, Master Development Plan Approval and Special Use Permit, Carson National Forest, Camino Real Ranger District, Taos County, NM, Due: May 01, 1995, Contact: Terry Dilts (505) 587–2255.

EIS No. 950111, DRAFT EIS, COE, VA, Grundy Flood Damage Reduction/ Highway Upgrade Project, Implementation, Town of Grundy, Buchanan County, VA, Due: May 15, 1995, Contact: Ben Borda (304) 529–5712.

EIS No. 950112, DRAFT EIS, COE, CA, Santa Paula Creek Flood Control Project, Improvements, Right-of-Way Grant, Ventura County, CA, Due: May 15, 1995, Contact: Jim Hutchison (213) 894–3057.

EIS No. 950113, FINAL EIS, DOE, CO, Flatiron-Erie 115-kV Electrical Transmission Line Replacement of Wood-Pole Structures, Construction, Operation and Right-of-Way Grant, City of Longmont, Larimer, Boulder and Weld Counties, CO, Due: May 01, 1995, Contact: Rodney Jones (303) 490–7200.

EIS No. 950114, DRAFT EIS, GSA, Pacific Highway Port of Entry (POE) Facility Expansion, Construction of WA–543 in Blaine, near the United States/Canada Border in Blaine, Whatcom County, WA, Due: May 15, 1995, Contact: Donna M. Meyer (206) 931–7675.

EIS No. 950115, FINAL EIS, BIA, SD, Rosebud and Cheyenne River Sioux Indian Reservations, Management of the Livestock Grazing and Prairie Dog Control, Funding, Todd and Mellette Counties, SD, Due: May 01, 1995, Contact: Wayland Lilly (605) 226–7621.

Amended Notices

EIS No. 950092, DRAFT EIS, FTA, PR, Tren Urbano Transit Project, Improvement, San Juan Metropolitan Area, Funding, U.S. Coast Guard Bridge Permit, NPDES Permit, COE Section 10 and 404 Permits, PR, Due: May 15, 1995, Contact: Roger Krahl (404) 347–7875. Published FR -3–24–95- Refiled/Due Date Correction

EIS No. 950009, DRAFT EIS, AFS, CA, Elsmere Solid Waste Management Facility, Implementation, Angeles National Forest (ANF) Land Adjustment Plan, Conditional Use and Oak Tree Permit, Los Angeles County, CA, Due: August 04, 1995, Contact: G. Lynn Spague (818) 574–1613. Published FR -02–03–95 Review period extended.

EIS No. 950034, DRAFT EIS, AFS, AZ, Carlotta Open-Pit Copper Mine Project, Construction and Operation, Plan of Operations and COE Section 404 Permit, Tonto National Forest, Gila and Pinal Counties, AZ, Due: May 11, 1995, Contact: Paul M. Stewart (602) 225–5200. Published FR -02–03–95 Review period extended.

Dated: March 28, 1995

B. Katherine Biggs

Associate Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 95–8009 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–U

[ER-FRL–4721–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 27, 1995 Through March 03, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1994 (59 FR 16807).

Draft EISs

ERP No. D-FHW-E40756–SC Rating EC2, Greenville Southern Connectors Construction and Operation, I–185 at I–85 south of Donaldson Center Industrial Air Park to I–385 at US 276 and SC–153 Connector from existing SC–153 at I–85 to the Southern Connector, Funding and COE Section 404 Permit, Anderson and Greenville Counties, SC.

Summary: EPA expressed environmental concerns and recommended caution at floodplain crossings. EPA also requested additional information on upland resource impacts.

ERP No. D-FRC-L05206–WA Rating EC2, Snoqualmie Falls Hydroelectric Project, (FERC. Project NO.2493), Relicensing, Snoqualmie River, King County, WA.

Summary: EPA raised environmental concerns over potential impacts to wetlands and groundwater and requested that additional information be included in the final EIS.

ERP No. D–FRC–L05207–WA Rating EO2, Nooksack River Basin Hydroelectric Projects, Seven Projects—(FERC No. 4628) (FERC No. 4738) (FERC No. 4270) (FERC No. 4282) (FERC No. 9231) (FERC No. 4312) and (FERC No. 3721) Construction and Operation, Licensing, Whatcom County, WA.

Summary: EPA expressed environmental objection and identified significant potential impacts to water quality, wetlands, and fish habitat from landslides, associated soil erosion and hydraulic modifications. Additional information is needed on the feasibility of mitigation measures, impacts on wetlands and fish populations.

ERP No. D–FRC–L05208–WA Rating EO2, Skagit River Basin Hydroelectric Projects, Nine Projects—(FERC No.10100) (FERC. No. 4437) (FERC No. 4376) (FERC. No. 3913) (FERC No.9787) (FERC No. 10311) (FERC No. 6984) and (FERC No. 10269 and No. 10416) Construction and Operation, Licensing, Whatcom and Skagit Counties, WA.

Summary: EPA expressed environmental objections and identified significant potential impacts to water quality, wetlands, and fish habitat from landslides, associated soil erosion and hydraulic modifications. EPA requested additional information on the feasibility of mitigation measures, slope failures risks, and effects to wetlands.

Final EISs

ERP No. F-COE-L39050–WA Southwest Harbor Cleanup and Redevelopment Project, Construction, COE Section 10/404 Permit and NPDES Permit Issuance, SW Spokane Street to Elliott Bay and Harbor Avenue SW to the

West Waterway, Port of Seattle, King County, WA.

Summary: EPA had no objections to the preferred alternative as described in the final EIS based on the new analyses and information presented in the final EIS.

ERP No. F-COE-L81000–WA Auburn Thoroughbred Horse Racing Facility, Construction and Operation, COE Section 404 Permit and NPDES Permit, City of Auburn, King County, WA.

Summary: EPA continued to have environmental concerns regarding the adequacy of wetland mitigation and water quality monitoring plans.

ERP No. F-FHW-E40746–NC US 421 Transportation Improvement just west of the South Fork New River to NC–1361 east of the Town of Deep Gap, Funding, Land Transfer and COE Section 404 Permit(s), Watauga County, NC.

Summary: EPA continued to have environmental concerns about the ability to adequately contain erosion and sedimentation during construction in the mountain terrain.

Dated: March 28, 1995

B. Katherine Biggs

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–8010 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5181–1]

National Technical Conference on Sanitary Sewer Overflows (SSOs)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency's (EPA) is sponsoring a technical conference on Sanitary Sewer Overflows (SSOs). This conference is sponsored by the EPA Office of Research and Development's Center for Environmental Research Information in Cincinnati, OH, in cooperation with the EPA Office of Wastewater Management in Washington, DC.

Background and Purpose

Thousands of municipalities across the nation are serviced by separate sanitary sewer systems. A chronic problem that faces many of these systems is the occurrence of sanitary sewer overflows (SSOs). Caused mainly by the infiltration and inflow of wet weather flows and blockages and flow restrictions in the sewer system, these SSOs can pose a risk to public health and the quality of our nation's waters. The U.S. Environmental Protection Agency (EPA) is currently in the initial stages of evaluating issues associated with SSOs. To bring together individuals from across the country to discuss the technical and institutional issues related to SSOs, EPA's Office of Research and Development is holding this conference on SSOs in cooperation with the EPA Office of Wastewater Management in Washington, DC. All interested persons are invited.

The purpose of this conference is to examine each major issue relating to SSOs by providing an open forum for the presentation of papers and discussions dealing with the technical and institutional issues related to the causes, effects, management and control of SSOs. This conference will include presentations and discussions of the following issues relating to SSOs:

- Problem definition and identification
- Monitoring and reporting
- Sewer system analysis and modeling
- Infiltration (including RII) and inflow sources
- Exfiltration
- Sewer system design and construction for SSO prevention
- Sewer system inspection, operation, maintenance and rehabilitation
- Building sewer inspection and maintenance
- Treatment plant issues
- Regulatory/institutional issues

DATES: The Conference will be held on April 24–26, 1995. On the 24th, the meeting will begin at approximately 10:00 a.m. EST and run until about 5:00 p.m. On the 26th, the meeting will run from about 9:00 a.m. until completion.

ADDRESSES: The Conference will be held at the Renaissance, Washington, DC Hotel—Downtown, 999 9th Street, NW., Washington, DC 20001, (202) 898–9000, Fax: 789–4213.

FOR FURTHER INFORMATION CONTACT: James F. Wheeler of EPA's Office of Wastewater Management, at (202) 260–5827.

Michael B. Cook,

Director, Office of Wastewater Management Designated Federal Official.

[FR Doc. 95–7869 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–40028; FRL–4936–7]

Conditional Exemptions from TSCA Section 4 Test Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is granting conditional exemptions from the Toxic Substances Control Act (TSCA), section 4 test rule requirements to certain manufacturers of chemical substances subject to these rules.

DATES: These conditional exemptions are effective on March 31, 1995.

FOR FURTHER INFORMATION CONTACT: James Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: This notice grants conditional exemptions from TSCA section 4 test rule requirements to all manufacturers of the chemical substances identified below who submitted exemption applications in accordance with 40 CFR 790.80. In each case, EPA has received a letter of intent to conduct the testing from which exemption is sought. Accordingly, the Agency has conditionally approved these exemption applications because the conditions set out in 40 CFR 790.87 have been met. All conditional exemptions thus granted are contingent upon successful completion of testing and submission of data by the test sponsors according to the requirements of the applicable test rule.

If the test requirements are not met and EPA terminates a conditional exemption under 40 CFR 790.93, the Agency will notify each holder of an affected conditional exemption by certified mail or **Federal Register** notice.

This conditional approval applies to all manufacturers which submitted exemption applications for testing of the chemical substances named in the final test rules listed below from January 1, 1994 through December 31, 1994. Any application received after that date will be addressed separately.

Chemicals	CAS No.	40 CFR Citation	Company
9,10-anthraquinone	84–65–1	799.500	Medson Farmers Service Co. Inchema Inc. RedEagle Chemicals Co. Zhonghua Chem Corp.
biphenyl	92–52–4	799.925	Nisseki Chemical Texas Inc.
cumene	98–82–8	799.1285	General Electric Co. Nisseki Chemical Texas Inc.
1,3 dichloropropanol (OSW)	96–23–1	799.5055	MacDermid Inc.
diethylene glycol monobutyl ether	112–34–5	799.1560	Cobane Corp.
2-ethylhexanol	104–76–7	799.1645	Lubrizol Corp. 3V Inc.
isopropanol	67–63–0	799.2325	Cobane Corp. Elf Atochem Guardman Products, Inc. Lubrizol Corp.
Office of Water Chemicals			
chloroethane	75–00–3	799.5075	General Motors Corp. Westlake Monomers Corp.
1,1-dichloroethane	75–34–3	799.5075	General Motors Corp. Westlake Monomers Corp.
1,1,2,2-tetrachloroethane	79–34–5	799.5075	General Motors Corp. Westlake Monomers Corp.
n-propylbenzene	103–65–1	799.5075	General Motors Corp. Westlake Monomers Corp.
1,3,5-trimethylbenzene	108–67–8	799.5075	Amoco Oil Co. BASF Corp. Conoco Inc. Exxon Chemical Americas General Motors Corp. Glidden Co. ICI Acrylics, Inc. Mitsubishi Gas Chemical America, Inc. Mobil Oil Corp. Shell Oil Co. Sun Company, Inc. Texaco Inc. Union Carbide Corp. Westlake Monomers Corp.
Multi-Substance Rule for the Testing of Neurotoxicity[1]			
acetone	67–64–1	799.5050	Courtaulds Aerospace Elf Atochem General Motors Corp.
n-amyl acetate	628–63–7	799.5050	Courtaulds Aerospace General Motors Corp.
1-butanol	71–36–3	799.5050	Courtaulds Aerospace General Motors Corp. W. R. Grace Co. Williams-Hayward Protective Coatings, Inc.
n-butyl acetate	123–86–4	799.5050	Courtaulds Aerospace Elf Atochem General Motors Corp. W. R. Grace Co. Olin Chemicals
diethyl ether	60–29–7	799.5050	Courtaulds Aerospace General Motors Corp.
2-ethoxyethanol	110–80–5	799.5050	Courtaulds Aerospace Elf Atochem W. R. Grace Co. General Motors Corp.
ethyl acetate	141–78–6	799.5050	Courtaulds Aerospace General Motors Corp. Tolson USA Inc. Vanity Fair

Chemicals	CAS No.	40 CFR Citation	Company
isobutyl alcohol	78–83–1	799.5050	Courtaulds Aerospace Elf Atochem General Motors Corp. W. R. Grace Co.
methyl isobutyl ketone	108–10–1	799.5050	Courtaulds Aerospace Elf Atochem General Motors Corp. W. R. Grace Co. Williams-Hayward Protective Coatings, Inc.
tetrahydrofuran	109–99–9	799.5050	Courtaulds Aerospace General Motors Corp.

[1] The Multi-Substance Rule for the Testing of Neurotoxicity has been revoked and replaced with an Enforceable Consent Agreement.

As provided in 40 CFR 790.80, processors are not required to apply for an exemption or conduct testing unless EPA so specifies in a test rule or in a special **Federal Register** notice.

Authority: 15 U.S.C. 2601, 2603.

Dated:March 24, 1995.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–7960 Filed 3–30–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority 5 CFR 1320.9

March 28, 1995.

The Federal Communications Commission is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320.9, authority delegated to the Commission by the Office of Management and Budget (OMB) on October 6, 1994. These collections were all previously approved by OMB and are unchanged. Public comments are invited on any of these collections for a period ending [thirty days from the date of publication in the Federal Register.] Persons wishing to comment on these information collections should contact Dorothy Conway, Federal Communications Commission, 1919 M Street NW Room 242–B, Washington, DC 20554. You may also send comments via Internet to DConway@fcc.gov. Upon approval FCC will forward supporting material and copies of these collections to OMB.

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, (202) 857–3800. For further information on these submissions contact Dorothy Conway, Federal Communications Commission, (202) 418–0217.

OMB Number: 3060–0422.

Title: Section 68.5 Waivers (Application Waiver of Hearing Aid Compatibility Requirement).

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 10 responses; 3 hours burden per response; 30 hours total annual burden.

Needs and Uses: Section 710(b) of the Communications Act requires that almost all telephones manufactured or imported into the country after August 16, 1989 be hearing aid compatible. Congress recognized however, that there may be technological and/or economic reasons why some new telephones may not meet the hearing aid compatibility requirement. Therefore, it provided for a waiver requirement for new telephones based on these grounds. Section 68.5 of the Commission rules provide the criteria for assess these waivers. Upon receipt of a waiver request the Commission will determine the merits of the requests and whether the public interest is served by granting a waiver.

OMB Number: 3060–0355.

Title: Rate of Return Reports.

Form No.: FCC 492, FCC 492A.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 193 responses; 8 hours burden per response; 1,544 hours total annual burden.

Needs and Uses: FCC Form 492 is filed by each local exchange carrier (LEC) or group of carriers who file individual access tariffs or who are not subject to Sections 61.41 and 61.49 of the Commission's Rules. Each LEC or group of affiliates subject to the previously stated sections file FCC Form 492A annually. These forms are necessary to monitor the access tariffs and to enforce maximum rate of return prescriptions and price cap earnings levels.

OMB Number: 3060–0357.

Title: Section 63.701 Request for Designation of a Recognized Private Operating Agency.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit

Frequency of Response: On occasion.

Estimated Annual Burden: 30 responses; 5 hours burden per response; 150 hours total annual burden.

Needs and Uses: Filing an application under Section 63.701 is required of those seeking U.S. Government recognition as providers of enhanced services between the U.S. and overseas points. The information is used by the Commission and the Department of State to identify entities which are operating in the name of the U.S, extract from them a promise to obey the ITU Convention and regulations and determine whether they are owned by a foreign government, foreign communications entity or any other foreign entity in the position to discriminate against U.S. suppliers of enhanced services.

OMB Number: 3060–00567.

Title: Section 76.962 Implementation of certification compliance.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 500 responses; 30 minutes burden per response; 250 hours total annual burden.

Needs and Uses: Section 76.962 requires cable operators to certify their compliance with Commission orders requiring prospective rate reductions, refunds, or other remedial relief to subscribers. They must include a description of precise measures taken to implement the remedies ordered by the Commission. This data is used by FCC to monitor the cable operators compliance with Commission orders.

OMB Number: 3060–0331.

Title: Section 76.615 Notification Requirements.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 2,100 responses; 30 minutes burden per response; 1050 hours total annual burden.

Needs and Uses: Section 76.615 requires that cable TV operators notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwith in any 160 microsecond of time equal to or greater than 10 –4 watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical frequency bands. This information is used by FCC to locate and eliminate harmful interference as it occurs, to help assure safe operation of aeronautical and marine radio services and to minimize the possibility of interference to these safety-of-life services.

OMB Number: 3060–0185.

Title: Section 73.3613.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 5,900 responses; 30 minutes burden per recordkeeper; 2,950 hours total annual burden.

Needs and Uses: Section 73.3613 requires licensees of TV and low power TV broadcast stations to file network affiliation contracts with FCC. All broadcast stations are required to file contracts relating to ownership or control and personnel. Radio licensees are required to file time brokerage agreements which result in arrangement being counted in compliance with local and national radio multiple ownership rules. Cetain contracts must be retained at station. The data is used by FCC to assure that the licensee maintains full control over the station.

OMB Number: 3060–0542.

Title: Frequency Coordinator Evaluation.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit; not-for-profit institutions; State, Local or Tribal Governments.

Frequency of Response: On occasion.

Estimated Annual Burden: 11,000 responses; 10 minutes per response; 1,826 hours total annual burden.

Needs and Uses: Report and Order #83–737 requires the Commission to monitor the performance and quality of frequency coordination committees designated for the Private Land Mobile Radio Service. This evaluation is used by FCC staff to evaluate the frequency coordinators process, and service to the public. The Commission will make recommendations on any necessary corrective actions.

OMB Number: 3060–0361.

Title: Section 80.29 Change during license term.

Action: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-Profit Institutions; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 250 responses; 1 hour burden per response; 250 hours total annual burden.

Needs and Uses: The information is used by the FCC to update the coast and ship station license files and data base concering current name and address of licensees. Information concerning changes in the names of vessels is also used to update the ITU List of Ship Stations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–8065 Filed 3–30–95; 8:45 am]

BILLING CODE 6712–01–F

[CC Docket No. 91–35; DA 95–620]

Request for Additional Comments on the Costs and Benefits of International Blocking for Residential Customers; Pleading Cycle Established

March 24, 1995.

Comments: April 24, 1995.

Reply Comments: May 8, 1995.

The Commission currently has under consideration in the above-referenced docket issues concerning the provision by local exchange carriers (LECs) of a service that automatically blocks international calls.[1]

In the Further Reconsideration and FNPRM in CC Docket 91–35, the Commission request comment on whether it should require LECs to provide international blocking to residential customers in order to prevent toll fraud. Interested parties commented on this issue, and the LECs also provided general information above the costs and difficulties that they would incur to provide this service to residential customers. Parties then commented on the LECs' cost claims. Parties have not, however, commented about any benefits that residential customers may receive by using international blocking for purposes other than toll fraud prevention.

Since this record was established, there has been a significant increase in the number of complaints the Commission has received about information services provided through international toll calls. Such calls are directly dialed by domestic telephone subscribers to information providers located in foreign countries who offer adult-oriented information services. These services arose after the Commission adopted its ''pay-per-call'' rules in 1991 governing 900 and other information services.[2] The use of international calls to provide domestic information services evades important consumer safeguards in our ''pay-per-call'' and other rules. Such safeguards include, for example, the requirement that LECs offer a service that blocks these calls and that they identify the calls separately on subscribers' bills. Moreover, the Federal Trade Commission's ''pay-per-call'' rules require information providers to include a preamble explaining the cost of the call and to allow the caller to hand up before charges commence. See 16 C.F.R. § § 308.5 (a) and (b).

The Commission hereby asks for comments on whether, and in what manner, residential customers would benefit from having the capability to block international calls. In particular, we request comments on whether residential customers would benefit from being able to block international calls in order to limit access to information services. We also solicit comments from the LECs on the costs that the LECs would incur to provide international blocking capability to

[1] See policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91–35, Notice of Proposed Rule Making, 6 FCC Rcd 1448 (1991), Report and Order and Further Notice of Proposed Rule Making, 6 FCC Rcd 4736 (1991); Second Report and Order, 7 FCC Rcd 3251 (1992); Order on Reconsideration, 7 FCC Rcd 4355 (1992); and Order on Further Reconsideration and Further Notice of Proposed Rulemaking, 8 FCC Rcd 2863 (1993) (Further Reconsideration and FNPRM).

[2] See Sections 64.1501 to 64.1515 of the Commission's rules, 47 C.F.R. § § 65.1501–64.1515.

residential customers. The LECs' comments on costs should include the categories of costs (e.g., switching, administration, etc.) that would be incurred to provide international blocking capability to all residential customers. They should also show the extent to which those costs would be reduced by not providing blocking in areas in which it would not be technically feasible and economically reasonable to do so. For each instance in which a LEC claims that it would not be technically feasible and economically reasonable to provide residential blocking, its comments should specify the type of equipment, the number of end offices affected, the nature of the problem (i.e., inadequate switch memory) and the percentage of residential access lines that would not receive international blocking. Also, the LEC should provide a timeable indicating when, under its current investment plans, it would become technically feasible and economically reasonable to offer international blocking to residential customers from those end offices.

Interested parties may file comments on these issues no later than April 24, 1995. Replies should be filed by May 8, 1995.

An original and four copies of all comments and replies must be filed in accordance with Section 1.51(c) of the Commission's Rules, 47 C.F.R. § 1.51(c). In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 and one copy with the Chief, Tariff Division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554.

For further information, contact Thomas G. David, Tariff Division, Common Carrier Bureau, (202) 418–1530.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–7950 Filed 3–30–95; 8:45 am]

BILLING CODE 6712–01–M

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, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–011495.

Title: ANZDL/Nedlloyd Space Charter Agreement.

Parties:

Australia-New Zealand Direct Line
Nedlloyd Lijnen, B.V.

Synopsis: The proposed Agreement permits the parties to charter space to and from each other on vessels operated in the trade between U.S Pacific Coast ports and inland and coastal points via such ports, on the one hand, and ports in Australia and New Zealand and inland and coastal points via such ports, on the other.

Agreement No.: 224–200278–001

Title: Port of Oakland/Hyundai Merchant Marine Co., Ltd., Marine Terminal Agreement

Parties:

Port of Oakland
Hyundai Merchant Marine Co., Ltd.

Synopsis: The proposed amendment removes provisions that require payment to the Port for empty containers loaded or discharged from User's vessels and the provisions for additional wharfage refunds to User in the event User has less than ten percent (10%) empty twenty foot equivalent units (TEUs) in a contract year.

Dated: March 28, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–7937 Filed 3–30–95; 8:45 am]

BILLING CODE 6730–01–7

FEDERAL RESERVE SYSTEM

Brazosport, Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 14, 1995.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Brazosport, Corporation, Freeport, Texas; to acquire First Commerce Mortgage Corporation, Corpus Christi, Texas, and thereby engage in making, acquiring, or servicing loans for itself or for others, and loan marketing and advisory services, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for these activities is Corpus Christi, Texas, Brazosport Area, which includes Freeport, Lake Jackson and Clute, Texas.

Board of Governors of the Federal Reserve System, March 27, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-7915 Filed 3-30-95; 8:45 am]

BILLING CODE 6210-01-F

Pikeville National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 24, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Pikeville National Corporation and Pikeville Acquisition Corporation, both of Pikeville, Kentucky; to acquire 100 percent of the voting shares of Woodford Bancorp, Inc., Versailles, Kentucky, and thereby indirectly acquire Woodford Bank and Trust Company, Versailles, Kentucky.

In connection with this application Pikeville Acquisition Corporation, Pikeville, Kentucky, has applied become a bank holding company by acquiring Woodford Bancorp, Inc., Versailles, Kentucky.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Mountain Company Profit Sharing/401k and First Mountain Company, both of Montrose, Colorado; to become bank holding companies by acquiring 100 percent of the voting shares of First Mountain State Bank, Montrose, Colorado.

Board of Governors of the Federal Reserve System, March 27, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-7916 Filed 3-30-95; 8:45 am]

BILLING CODE 6210-01-F

The Chase Manhattan Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 14, 1995

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Chase Manhattan Corporation, New York, New York; to merge with U.S. Trust Corporation, New York, New York, and thereby indirectly acquire United States Trust Company of New York, New York, New York.

In connection with this application, Applicant also has applied to acquire U.S. Trust Corporation's wholly-owned direct subsidiaries, Mutual Funds Services Company, Boston, Massachusetts, and U.S. Trust Company of Wyoming, Cody, Wyoming, and certain assets and liabilities associated with certain custodial relationships from the U.S. Trust Company of California, N.A., Los Angeles, California, and thereby engage in data processing and trust company activities, pursuant to §§ 225.25(b)(7) and (3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 27, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-7917 Filed 3-30-95; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Renewals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Antiviral Drugs Advisory Committee by the Commissioner of Food and Drugs. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463 (5 U.S.C. app.2)).

DATES: Authority for this committee will expire on February 15, 1997, unless the Commissioner formally determines that renewal is in the public interest.

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

Dated: March 24, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–7990 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–01–F

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those information collections recently submitted to OMB.

1. Hill-Burton Community Service Assurance Report—Extension with No Change—0990-0096—The Community Service Assurance Report provides information on community services provided by Hill-Burton recipients. The Public Health Service Act (Titles VI and XVI) requires that this information be obtained periodically to enable assessment of the compliance of recipient Hill-Burton health facilities with their community services assurances. Respondents: State or local governments, non-profit institutions; Total Number of Respondents: 6,300; Frequency of Response: once every three years; Average Burden per Response: 52.5 hours; Estimated Annual Burden: 110,250 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619–1053. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503.

Dated: March 21, 1995.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 95–7745 Filed 3–30–95; 8:45 am]

BILLING CODE 4150–04–M

Health Resources and Services Administration

Availability of Funds for the National Health Service Corps Loan Repayment Program and Grants for State Loan Repayment Programs

AGENCY: Health Resources and Services Administration, PHS.

ACTION: Notice of extension of application due date.

SUMMARY: This notice extends the due date previously published in the **Federal Register** on March 6, 1995 (60 FR 12242–12245) for applications to provide grants to States to assist them in operating programs for the repayment of educational loans of health professionals in return for practice in federally designated health professional shortage areas to increase the availability of primary health services. The new due date is May 15, 1995. All other information remains unchanged.

Dated: March 27, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–7868 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–15–M

Indian Health Service

Standing Notice of Availability of Funds for Health Professions Preparatory, Pregraduate and Indian Health Scholarship (Professions) Programs for Fiscal Years (FY's) 1995 and 1996; Notice Correction

In notice Doc. 95–3740 beginning on page 8663 in the issue of Wednesday, February 15, 1995, make the following corrections:

1. On page 8663 in the third column, ''**DATES:** The application deadline is April 1, 1995 and 1996.'' This line should be changed to read ''**DATES:** The application deadline is April 14, 1995 and April 1, 1996.''

2. One page 8666 in the first column, ''Y. Radiologic Technology: Associate and B.S.'' This line should be changed to read ''Y. Radiologic Technology; Associate, BS and Certificate programs.''

Dated: March 24, 1995.

Michel E. Lincoln,

Acting Director.

[FR Doc. 95–7866 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Microbiological and Immunological Sciences.

Date: April 20, 1995.

Time: 1 p.m.

Place: NIH, Westwood Building, Room 236A, Telephone Conference.

Contact Person: Dr. William Branche, Scientific Review Admin., 5333 Westbard Ave., Room 236A, Bethesda, MD 20892, (301) 594–7297.

Name of SEP: Microbiological and Immunological Sciences.

Date: April 21, 1995.

Time: 1 p.m.

Place: NIH, Westwood Building, Room 235, Telephone Conference.

Contact Person: Dr. Jean Hickman, Scientific Review Admin., 5333 Westbard Ave., Room 235, Bethesda, MD 20892, (301) 594–7078.

Name of SEP: Multidisciplinary Sciences.

Date: April 28, 1995.

Time: 12:00 noon.

Place: NIH, Westwood Building, Room 2A05, Telephone Conference.

Contact Person: Dr. Donald Schneider, Scientific Review Admin., 5333 Westbard Ave., Room 2A05, Bethesda, MD 20892, (301) 594–7053.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 27, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–7993 Filed 3–30–95; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meetings of the Board of Regents and the Extramural Programs Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on May 23–24, 1995, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Extramural Programs Subcommittee will meet on May 22 in Conference Room B, Building 38A, from 2 p.m. to approximately 3:30 p.m., and will be closed to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 4:30 p.m. on May 23 and from 9 a.m. to adjournment on May 24 for administrative reports and program discussions. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign-language interpretation or other reasonable accommodations, should contact Mrs. Karin Colton at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the entire meeting of the Extramural Programs Subcommittee on May 22 will be closed to the public from 2 p.m. to approximately 3:30 p.m., and the regular Board meeting on May 23 will be closed from approximately 4:30 p.m. to 5 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: March 27, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–7992 Filed 3–30–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Notice of Meeting, Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research, on June 4–6, 1995, at the National Institutes of Health, Medical Board Room, Building 10, Rm. 2C116, 9000 Rockville Pike, Bethesda, Maryland, 20892.

This meeting will be open to the public from 8:30 a.m. to 12:20 p.m. and from 1:30 p.m. to 5:00 p.m. on June 5th, and from 8:30 a.m. to 2:10 p.m. on June 6th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on June 4th and from 2:10 p.m. until adjournment on June 6th, for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Ms. Mary Whitehead, Federal Building, Room 1012, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Acting Executive Secretary, Dr. Harold Gainer, Acting Director, Division of Intramural Research, NINDS, Building 10, Room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496–4297, will furnish a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Acting Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: March 27, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–7991 Filed 3–30–95; 8:45 am]

BILLING CODE 4140–01–M

Opportunity For Licensing: HIV–1 Nucleocapsid Protein (p7nc) Capture Assay

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Department of Health and Human Services (DHHS), seeks licensee(s) to develop a novel immunological capture assay for the detection of human immunodeficiency virus (HIV). Scientists at the National Cancer Institute have identified a new screening assay based on the detection in biological samples of p7nc, an HIV nucleocapsid protein. The assay is free from interference by antigen-antibody complexes. Potential uses for this assay include determining the prognosis of disease in an HIV-infected person, monitoring the effectiveness of antiviral treatment, detecting HIV infection in infants born to HIV-infected mothers, and detecting and quantitating HIV in laboratory experiments, i.e., virus production, infectivity assays, neutralization assays and drug effectiveness assays. NIH intends to grant the selected firm(s) world-wide royalty-bearing license(s) to practice the inventions embodied in U.S. Patent Application Serial No. 07/967,658 from Dr. Larry O. Arthur and Dr. Louis E. Henderson entitled ''HIV Nucleocapsid Protein Capture Assay and Method of Use.'' The patent rights in these inventions have been assigned to the United States of America.

SUPPLEMENTARY INFORMATION: The current antigen capture assays for the detection of HIV–1 utilize the capsid antigen p24CA or the matrix protein p17MA. Antibodies to p24 and p17 found in HIV–1-infected persons interfere with the assays and limit their utility. The AIDS Vaccine Development Program at the National Cancer Institute-Frederick Cancer Research and Development Center has found that antibodies to p7 are not prevalent in HIV–1-infected individuals. This observation coupled with the fact that p7 is found in equal molar quantities to p24 in the virus, makes p7 an ideal candidate for an HIV antigen capture assay. A p7 capture assay has been developed and p7 assays of sera of seropositive individuals to which HIV–1 is added demonstrate that HIV–1 can be detected. Similar experiments using commercial p24 assays are negative. The assay may be used for samples containing bodily fluids, tissues, or cell culture fluid. Because the assay is capable of measuring the nucleocapsid protein concentration, which correlates

with the level of infectious HIV in an infected person, it provides a surrogate marker for AIDS progression. This simple, rapid, quantitative, inexpensive assay may be used (1) As a prognostic indicator of HIV–1 infection and progression to AIDS; (2) in monitoring the effectiveness of anti-viral treatments; (3) to determine HIV–1 infection in infants born to HIV-infected mothers; and (4) to determine if vaccinated persons are infected with HIV–1. In addition, the assay may be used to detect and quantitate HIV–1 in clinical and research laboratories such as propagation in cell culture, isolation from PBMCs, neutralization assays, drug-sensitivity assays, etc. The assay may serve as the basis for an ELISA or immunoblot kit.

The NIH seeks licensee(s), who in accordance with requirements and regulations governing the licensing of government-owned inventions (37 CFR part 404), have the most meritorious plan for the development of the assay to meet the needs of the public and with the best terms for the NIH. The criteria that NIH will use to evaluate exclusive or non-exclusive license applications will include those set forth by 37 CFR 404.7(a)(1)(ii)–(iv).

EFFECTIVE DATE: In view of the high priority for developing new drugs for the treatment of HIV infection, all proposals must be received by no later than May 30, 1995.

ADDRESSES: Requests for a summary of the technology or other questions and comments concerning the biomedical aspects of this technology should be directed to: Cindy Fuchs, J.D., Office of Technology Development, National Cancer Institute, 1003 West Seventh Street, P.O. Box B, Frederick, MD 21702–1201; Telephone 301/846–1501; Fax 301/846–6820.

Requests for a copy of the patent application, license application form, or other questions and comments concerning the licensing of this technology should be directed to: Steven M. Ferguson, Acting Chief, Infectious Disease Branch, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone 301/496–7735 ext 266; Fax 301/402–0220. A signed confidentiality agreement will be required to receive a copy of the patent application.

Dated: March 17, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–7994 Filed 3–30–95; 8:45 am]

BILLING CODE 4140–01–P

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Reports Clearance Office on (202) 690–7100.

The following requests have been submitted for review since the list was last published on Friday, March 24.

1. FY 1996 Substance Abuse Prevention and Treatment Block Grant Application Format—0930–0080—Revision—Public Law 102–321 authorized block grants to States for the purpose of providing prevention and treatment services. Under provisions of the law, States may receive allotments only after an application is approved by the Secretary. This submission provides the States with the forms and instructions for their applications so they can comply with the requirements of the law and the regulations implementing the law. Only minor changes are made to facilitate electronic submission, clarify instructions and reflect phase-in of requirements in the 1992 block grant legislation. Respondents: State, Local or Tribal Government; Number of Respondents: 60; Number of Responses per Respondent: 1; Average Burden per Response: 530 hours; Estimated Annual Burden; 31,800 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

2. Survey of Medical Schools to Investigate the Relationships Between Biomedical Research Funding and Specialty Choice—New—A brief survey of medical schools is proposed as part of a study of the relationship between level of funding for biomedical research and production of primary care graduates. Most data will be derived from secondary data sources: only four topics are covered in the survey. Respondents: Business or other for-profit; Not-for-profit institutions; Number of Respondents: 123; Number of Responses per Respondent: 1; Average Burden per Response: .5 hour; Estimated Annual Burden: 62 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

3. National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—Regulations and Forms (45 CFR Part 60)—0915–0126—Revision—Data identifying incompetent, unprofessional and unethical physicians and health practitioners will be shared with licensing boards, professional societies, and selected health providers. These data will be used to maintain and improve health care and will be obtained from insurers, licensure boards, peer review committees, hospitals, and other providers. Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Title	Number of respondents	Number of responses per respondent	Average burden per response
60.6 (a) Reporting Corrections of Errors and Omissions	2,800	1.04	.25 hour
60.6 (b) Reports of Revisions to Original Actions	350	1.06	.75 hour
60.7 (b) Reporting Medical Malpractice Payments	150	105.33	.75 hour
60.8 (b) Reporting Licensure Action by State Boards	125	21.02	.75 hour
60.9 (a) Reporting Privileging and Professional Society Actions	1,000	1.08	.75 hour
60.9 (c) Request for Hearings by Entities Found in Noncompliance	1	1	8 hours
60.10 (a)(1) Hospital Queries on Applicants; 60.11(a)(1) Other Hospital Queries; 60.11 (a)(6) Queries for Professional Review.	7,200	38.33	.08 hour per name
60.10 (a)(2) Biennial Queries by Hospitals	6,000	186.83	.08 hour per name
60.11 (a)(2) Practitioner Queries	29,000	1	.25 hour
60.11(a)(3) State Licensure Board Queries	70	171	.08 hour
60.11(a)(4) Queries by Nonhospital Health Care Entities	1,860	139.78	.08 hour

Title	Number of respondents	Number of responses per respondent	Average burden per response
60.11 (a)(5) Queries by Attorneys	10	1	.25 hour
60.11(a)(7) Queries for Research Purposes	100	1	1 hour
60.14 (b) Practitioner's Disputing Data Bank Reports	1,080	1	.17 hour
60.14(b) Practitioner Requests for Secretarial Review	100	1	8 hours
60.14(b) Practitioner Statements	2,700	1	1 hour
Biennial Entity Verification Document	5,750	1	.25 hour
Entity File Update	1,150	1	.25 hour

Note: Estimated Total Annual Burden: 167,489 hours.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: March 28, 1995.

James Scanlon,

Director, Data Policy Staff Office of the Assistant Secretary for Health and PHS, Reports Clearance Officer.

[FR Doc. 95–8022 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–01–M

Method for Evaluating and Establishing Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Service Regulations—Portland, Alaska, and Nashville Areas

AGENCY: Indian Health Service, HHS.

ACTION: Extension of Project Date.

SUMMARY: The termination date for the Portland Pilot Project now being conducted in the Portland, Alaska, and Nashville Areas to determine an alternative method of evaluating and establishing reimbursement rates for contract health services has been changed from March 31, 1995 to September 30, 1996.

FOR FURTHER INFORMATION CONTACT: J.T. Garrett, Ed.D., Acting Chief, Health Care Administration Branch, Division of Health Care Administration/Contract Health Services, Room 6A–41, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8373 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS) issued a general notice in 56 FR 10566 on March 13, 1991 to inform the public that the IHS was conducting a pilot project in the IHS Portland Area. This project is designed to determine whether an alternative method of evaluating and establishing reimbursement rates for contract health services will result in greater participation by health care providers and lower costs to IHS.

The project invited providers within the Portland Area to submit their most favorable rate quotations and was scheduled to end on March 31, 1992. The response was far greater than the expectations of the IHS. As a result of this greater than expected response, and the need to develop complex rate quotation analysis methodologies for facilities, outpatient and professional providers, and the need to develop preferred provider lists from these analyses, the termination date was extended to March 31, 1993, 57 FR 10671. The termination date was again extended to March 31, 1995, 58 FR 11864. Additionally, the IHS published notification on June 18, 1992, 57 FR 27262, that additional sites were being added to the pilot project to provide more information from a wide geographic area.

The evaluation of the facility component of the project was completed January 28, 1994. The overall results of the evaluation were positive. The formal review process of the professional provider component has not been completed. Extension of the project termination date to September 30, 1996 will allow the IHS time to complete the evaluation and to assess the results. Based upon the results of the evaluation, IHS will formulate, publish and implement a new payment and procurement policy for contract health services. We are, therefore, extending the termination date of this pilot project from March 31, 1995 to September 30, 1996.

This pilot project does not change the current IHS payment policy requirement that health care services be procured at rates which do not exceed prevailing Medicare rates.

Dated: March 24, 1995.

Michel E. Lincoln,

Acting Director.

[FR Doc. 95–7867 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–30]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: March 31, 1995.

ADDRESSES: For further information, contact David Pollack, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 24, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 95–7834 Filed 3–30–95; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–019–7123–5759–24–1A]

Emergency Closure Order; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands in the Hollister Resource Area to all motorized vehicle use.

SUMMARY: This emergency closure will close all public lands in Clear Creek Management Area, in San Benito and Fresno Counties, California (approximately 50,000 acres), to the use or operation of all motorized vehicles except as specified.

The purpose of this emergency closure is to protect human life and safety and to protect sensitive resources, including threatened plants and their habitat, soils, and wildlife habitat.

The authorized officer has determined that recent severe storms resulting in local flooding and slides, have made these areas unsafe for motorized use, and that additionally, any motorized use could result in serious damage to the resources mentioned above.

A map of the areas affected by this closure order is on file and can be viewed at the Hollister Area Office of the Bureau of Land Management.

The following persons are exempt from this closure order:

(1) Federal, State, or Local Law Enforcement Officers, while engaged in the execution of their official duties.

(2) BLM personnel or their representatives while engaged in the execution of their official duties.

(3) Authorized permittees, claimants, or private landowners.

(4) Any member of an organized rescue, fire-fighting force, Emergency Medical Services organization while in the performance and execution of an official duty.

(5) Any member of a federal, state or local public works department while in the performance of an official duty.

SUPPLEMENTARY INFORMATION: This closure is issued under the authority of 43 CFR 8364.1 and 43 CFR 8341.2. Persons violating this closure shall be subject to the penalties provided in 43 CFR 8360.0–7 and 8340.0–7, including a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months. Any vehicle or instrumentality used in a violation of this order is subject to seizure and possible forfeiture.

DATES: This order is in effect immediately. The closure for Clear Creek will remain in effect until rescinded by the Authorized Officer. The Order may be rescinded when it is determined that recreationists may safely visit the area and sensitive resources are not jeopardized.

FOR FURTHER INFORMATION CONTACT: Robert E. Beehler, Area Manager, Hollister Resources Area, Bureau of Land Management, 20 Hamilton Court, Hollister, CA 95023, (408) 637–8183.

Dated: March 16, 1995.

Robert E. Beehler,

Hollister Area Manager.

[FR Doc. 95–7885 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–40–M

[ID–942–04–1420–00]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., March 22, 1995.

The plat representing the dependent resurvey of portions of the north and west boundaries, and subdivisional lines, the subdivision of section 6, and a metes-and-bounds survey in section 6, T. 7 N., R. 23 E., Boise Meridian, Idaho, Group No. 899, was accepted, March 17, 1995.

The supplemental plat, prepared to correct the parenthetical distances, on the line between sections 7 and 18, T. 48 N., R. 1 W., was accepted March 20, 1995.

These surveys were executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: March 22, 1995.

Harry K. Smith,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–7883 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–GG–M

[ID–942–04–1420–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., March 23, 1995.

The plat representing the dependent resurvey of Homestead Entry Survey No. 147 and a portion of the subdivisional lines, T. 16 N., R. 19 E., Boise Meridian, Idaho, Group No. 890, was accepted March 17, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: March 23, 1995.

Harry K. Smith,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–7884 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–GG–M

[ID–943–1430–01; IDI–31261]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, had filed an application to withdraw 3,805.87 acres of National Forest System lands for protection of the Howell Canyon Recreation Complex. Publication of this notice in the **Federal Register** will close the land up to two years from location and entry under the United States mining laws. The land will remain open to all uses, other than the mining laws.

DATES: Comments and requests for a meeting should be received on or before June 29, 1995.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

SUPPLEMENTARY INFORMATION: On March 15, 1995, the United States Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Boise Meridian

T. 12 S., R. 24 E.,
  Sec. 36, SW¼NW¼, W½SW¼ and S½SE¼.
T. 12 S., R. 25 E.,
  Sec. 31, lot 4, NE¼NE¼, SW¼NE¼, W½SE¼NE¼, SE¼SW¼ and SE¼;
  Sec. 32, S½SE¼SW¼NW¼, SE¼NW¼ and N½SW¼.
T. 13 S., R. 24 E.,
  Sec. 1, N½ lot 1, lots 2 to 4 inclusive, S½NW¼ and SW¼;
  Sec. 2;

Sec. 3, lots 2 to 4 inclusive, S½N½, N½S½, SW¼SW¼ and SE¼SW¼;
Sec. 4, lots 1 and 2, S½NE¼, NE¼SW¼, NW¼SW¼, S½SW¼ and SE¼;
Sec. 5, SE¼;
Sec. 9, N½NE¼, SW¼NE¼, E½NW¼, NW¼NW¼, NE¼SW¼, N½SE¼ and SE¼NE¼;
Sec. 10, W½NW¼;
Sec. 11, NE¼;
Sec. 12, NW¼.

The areas described aggregate 3,805.87 acres in Cassia County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Idaho State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to this date. The temporary uses which may be permitted during this segregation period are leases, licenses, permits, rights-of-way, etc.

The temporary segregation of the lands in connection with this withdrawal application shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Department of Agriculture.

Dated: March 22, 1995.

M. William Weigand,

State Office Unit Leader for Realty Unit.

[FR Doc. 95–8019 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–GG–M

Record of Decision Documenting the Department of Interior's Approval for the Central Utah Water Conservancy District To Proceed With the Construction of the Diamond Fork Pipeline, Access Road and Appurtenant Facilities as Part of the Diamond Fork System of the Bonneville Unit of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary for Water and Science, Department of the Interior.

ACTION: Notice of availability of the Diamond Fork pipeline Record of Decision.

Record of Decision

January, 1995

I. Introduction

This document constitutes the Record of Decision (ROD) of the Department of the Interior (Department), documenting the Department's approval for the Central Utah Water Conservancy District (District) to proceed with the construction of the Diamond Fork Pipeline, Access Road and Appurtenant facilities (Diamond Fork Pipeline System) as part of the Diamond Fork System of the Bonneville Unit of the Central Utah Project, as presented in the Recommended Plan in the Final Supplement to the Final Environmental Impact Statement (INT–FES 90–7, dated February 22, 1990) (1990 FS–FEIS), prepared in compliance with the National Environmental Policy Act (NEPA). This project was authorized as a participating project of the Colorado River Storage Project by the Act of April 11, 1956 (70 Stat. 105).

In accordance with the Record of Decision signed by the Commissioner of Reclamation on July 20, 1990 (1990 ROD), copy attached, the Bureau of Reclamation (Reclamation) began implementing the Recommended Plan by constructing Syar Tunnel and the Sixth Water Aqueduct. However, pursuant to the Central Utah Project Completion Act (Titles II through VI of Public Law 102–575, 106 Stat. 4605, October 30, 1992), (CUPCA), the District has adopted the Recommended Plan for the Diamond Fork Pipeline System as described in the 1990 FS-FEIS, and agrees to comply with the environmental commitments, constraints (*e.g.*—pipeline capacity and diameter, annual transbasin diversion, and other operational conditions), and recommendations as described in the 1984 Final Environmental Impact Statement (1984 FEIS) and the 1990 FS-FEIS, and the January 5, 1995, Biological Opinion, copy attached, and to honor all applicable Federal and State laws, including the Drainage and Minor Construction (D&MC) contract dated November 28, 1994, and the Compliance and Cost Sharing Agreements between the United States and the District dated August 11, 1993.

II. Recommended Decision

The Program Director, CUP Completion Act Office recommends proceeding with the construction of the Diamond Fork Pipeline, Access Road, and Appurtenant facilities, as identified in the Recommended Plan in the 1990 FS–FEIS. The Recommended Plan is the most environmentally acceptable, and consistent with the authorized project plan. The Recommended Plan is briefly summarized in section V of this ROD.

III. Basis for Decision

Approval of Reclamation's Recommended Plan in the 1990 ROD was the direct result of a public consultation and coordination process. Of the three downsized alternatives presented in the 1990 FS–FES, the Recommended Plan is the most publicly acceptable method of meeting obligations of the 1980 Instream Flow Agreement while allowing for completion of the authorized project plan as provided for in CUPCA.

In accordance with Section 202(a)(6)(B) of CUPCA, the Department and the District executed a D&MC contract on November 28, 1994, that binds the District to provide the non-Federal cost sharing required in the CUPCA for the Diamond Fork Pipeline, Access Road, and Appurtenant facilities, to design and construct these facilities, and to comply with all Federal fish, wildlife, recreation and environmental laws in accordance with the August 11, 1993, Compliance Agreement.

In its Preconstruction Report that was submitted to the Department on December 12, 1994, copy enclosed, the District officially adopted the Recommended Plan and Mitigation plan, and agreed to comply with the environmental commitments that are identified in the 1990 FS–FEIS for the Diamond Fork System, and the applicable provision of Reclamation's 1990 ROD. Section VI, ''Environmental Commitments and Monitoring'', of this ROD summarizes the District's environmental commitments and obligations.

On December 19, 1994, the Department approved the District's Preconstruction report and documented again the District's obligations and environmental commitments, copy

attached. The approval of the Preconstruction Report and this ROD fulfills the final prerequisites contained in the August 11, 1993, Cost Sharing Agreement required prior to initiation of construction of the Diamond Fork Pipeline System.

IV. Decision

The Department's decision is to approve the District proceeding with the construction of the Diamond Fork Pipeline, Access Road, and Appurtenant facilities.

V. Recommended Plan

The Recommended Plan for the system would facilitate the transbasin diversion of an annual average of 101,900 acre-feet of Bonneville Unit water and 61,500 acre-feet of Strawberry Valley Project water from the Uinta Basin to the Bonneville Basin.

Additionally, the system would provide recreation and fishery benefits, wildlife mitigation measures, flood and water quality control, and potential hydroelectric power generation. The transbasin diversion (reduced by 37,900 acre-feet from the recommended plan in the 1984 FEIS) would fulfill the Instream Flow Agreement of 1980, the goal of which was to mitigate up to 50 percent of the fishery impact caused by the Bonneville Unit on streams in the Uinta Basin. The remaining 50 percent would be accomplished through the Aquatic Mitigation Plan developed for the Bonneville Unit. This plan was finalized in December 1988.

Under the Recommended Plan, the Diamond Fork Pipeline System would receive water from Strawberry Reservoir through the already completed Syar Tunnel. From the tunnel outlet, water would enter Sixth Water Aqueduct, which would include Sixth Water Pipeline, Sixth Water Shaft, and Sixth Water Tunnel, all of which have been completed. Water from the aqueduct would be discharged into Sixth Water Creek and subsequently enter the proposed Monks Hollow Reservoir. From the reservoir, a portion of the water would enter the proposed Diamond Fork Pipeline and be conveyed to a proposed bifurcation structure near the confluence of Diamond Fork and the Spanish Fork River. Monks Hollow Reservoir releases not conveyed in the Diamond Fork Pipeline would enter the Diamond Fork stream channel below Monks Hollow Dam and subsequently, the Spanish Fork River.

The Diamond Fork Pipeline, with a capacity of 510 cubic feet per second (cfs), is included in the Recommended Plan for the purpose of removing project water, as well as existing high irrigation flows, from the lower Diamond Fork stream channel. The pipeline would provide considerable enhancement of the Diamond Fork fishery. Under project conditions, the highest average monthly flow below Monks Hollow Reservoir would be 183 cfs. This compares to 294 cfs without the project. The lowest average monthly flow for the minimum year with the project is 5 cfs, as compared to 3 cfs without the project. Construction access will be provided by the existing Diamond Fork Road, which extends from U.S. Highway 6–89 at the mouth of the canyon northeast along the Diamond Fork stream channel. In many areas the Diamond Fork Pipeline will be located in the shoulder of the road. Consequently, in conjunction with the pipeline construction, about 7 miles of the road will be improved to a 24-foot-wide asphalt-surfaced road.

VI. Environmental Commitments and Monitoring

A. Environmental Commitments in the 1990 FS–FEIS

A list of the major environmental commitments made for the Diamond Fork Pipeline System is documented on pages 195–196 of the 1990 FS–FEIS. In the District's Preconstruction Report, the District committed to comply with all the environmental commitments associated with the construction of the Diamond Fork Pipeline System. This includes the following environmental commitments:

1. A total capacity of 510 cfs will be included in the Diamond Fork Pipeline for the purpose of removing project water, as well as existing high irrigation flows, from the lower Diamond Fork to mitigate potential project impacts and provide enhancement to the fishery resource.

2. Public fishing access will be acquired in the lower 2 miles of Diamond Fork.

3. A General Plan will be prepared by the District and approved by the Department and the managing agency for the mitigation measures involving land transfers to other agencies. Specific wildlife management plans will be prepared by the managing agencies for each management area. The General Plan and the specific wildlife management plans will be approved by the Department and the Fish and Wildlife Service before mitigation lands are developed or transferred to another agency for management.

4. The District will continue monitoring the nesting activity of golden eagles in the Diamond Fork area for a period of at least 5 years after completion of the project.

B. Environmental Requirements of the Central Utah Project Completion Act

The CUPCA and the documents executed pursuant to that Act (the two August 11, 1993, Agreements and the November 28, 1994, D&MC contract) set forth the District's additional environmental requirements.

Among the areas of concern are minimum flow requirements. It is anticipated that the Strawberry Valley Project would continue to operate as it does now. Under the M&I System plan, Reclamation stipulated that Bonneville Unit water conveyed through the Diamond Fork drainage would be limited to 30,000 acre-feet annually until the Diamond Fork Power System is in place. This limited delivery would take place during the off-peak and nonirrigation seasons and flows would be limited so as to not degrade the stream channels.

Title III of the CUPCA requires that minimum flows be maintained in the Diamond Fork stream between Monks Hollow Dam and the confluence with the Spanish Fork River. These required flows are 80 cubic-feet per second from May through September and 60 cubic-feet per second from October through April.

The CUPCA also authorizes funds for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainage. Under the CUPCA, the Utah Reclamation Mitigation and Conservation Commission has responsibility for administering the mitigation and conservation funds available under the Act.

C. Endangered Species—Conservation Recommendations

As part of its environmental compliance for the 1990 FS–FEIS, Reclamation determined that the construction and operation of the Diamond Fork System would not affect any listed nor candidate species identified under the Endangered Species Act. The U.S. Fish & Wildlife Service (Service) concurred in the no effect determination. Since the filing of the FS–FEIS, a plant known as Ute ladies'-tresses orchid (*Spiranthes diluvialis*) has been added to the endangered species list as a threatened species. Consequently, the District entered into Section 7 consultation with the Service and submitted a Biological Assessment to the Service for their determination of effect. The Service's January 5, 1995, Biological Opinion concludes that: (1) the water depletion

associated with construction of the Diamond Fork Pipeline System is 100 acre-feet or less, and sufficient progress has been attained by the Recovery Implementation Program to avoid the likelihood of jeopardy to the Colorado River endangered fish species; and (2) the construction of the pipeline and access road will affect, but is not likely to jeopardize the continued existence of the Ute ladies'-tresses orchid. The Service made six conservation recommendations pursuant to Section 7(a)(1) of the Endangered Species Act. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. In their January 5, 1995, letter to the Service, copy enclosed, and in their January 19, 1995, letter to the Program Director, copy enclosed, the District agreed to implement the following Conservation Recommendations included in the January 5, 1995, Biological Opinion. Those conservation recommendations are stated verbatim as follows:

1. The District should prepare an Environmental Commitment Checklist (ECC) detailing requirements for construction methods and associated activities that are designed to avoid or minimize environmental impacts of the construction project, including impacts to the Ute ladies'-tresses orchid. For example, the ECC should specify requirements that will prevent impacts to the orchid outside of the construction area; establish the minimum necessary boundaries of the construction zone; and, provide a qualified individual to monitor construction activity during stream crossings and at any other sensitive locations identified by the Service. The ECC should be prepared in consultation with cooperating environmental oversight agencies, including the Service. The Service recommends that the District provide this document for Service review and approval prior to initiation of construction.

2. The District should prepare a site rehabilitation/revegetation plan in consultation with, and acceptable to, both the Service and the Forest Service. The plan should include specifications for undesirable plant species monitoring and management.

3. The District should conduct surveys for the Ute ladies'-tresses orchid in areas to be disturbed during the flowering season immediately prior to construction. Plants should be counted and flagged.

4. The District should provide funds for the removal, holding, and transplanting of plants that will be impacted by construction. Plants should be transplanted to a holding facility approved by the Service, such as the Red Butte Garden and Arboretum of the University of Utah. Plants should be maintained there until the following activities occur under the direction of the Service:

a. Selected plants will be transplanted back into the areas from which they were taken when the sites have been rehabilitated and appropriate conditions created to ensure successful reestablishment.

b. Selected plants will be maintained in the holding facility, and serve as propagation stock as determined desirable, for future reintroduction to other areas in the Diamond Fork drainage or along the Wasatch Front. This will ensure that there is a source of genetically compatible individuals to augment or replace populations that may be impacted by the construction and operation of the Diamond Fork System on Diamond Fork and Spanish Fork drainage or Utah Lake caused by operation of the Diamond Fork System.

c. Plants selected by the Service would be available to researchers for conducting approved life history research.

5. After the identified plants have been removed from the impact area, surface substrates (top 6–12 inches) should be scraped off and stockpiled. Following construction, site rehabilitation activities should include replacing the removed surface materials. To the extent possible, compaction and contamination of surface soils with undesirable plant species or other materials should be avoided.

6. The District should prepare and implement a monitoring plan in consultation with, and acceptable to, the Service and the Forest Service. The monitoring plan should be for a minimum of 10 years and have the following objectives:

a. Document the presence and vigor of orchid individuals transplanted back into disturbed sites.

b. Determine the presence and number of new individuals that appear on disturbed sites.

c. Document hydrologic conditions, principally soil moisture and depth to groundwater, seasonally in disturbed sites.

d. Monitor the presence of undesirable plant species and effects of management activities for their control.

e. Over the 10 year monitoring period, document major changes in plant community composition, with particular focus on detecting and documenting changes from a wetland riparian community to a drier, upland riparian community.

D. Environmental Permits

Several water quality permits must be obtained prior to construction of the Diamond Fork Pipeline, Access Road, and Appurtenant facilities. The Clean Water Act of 1977 (P.L. 95–217) requires that Section 402 permits be obtained from Utah Department of Environmental Quality through authority granted by the Environmental Protection Agency for the discharge of any wastewater or process water. Section 404(r) of P.L. 95–217 contains provisions to exempt, in certain instances, congressionally authorized Federal projects from having to obtain a Section 404 Permit from the Army Corps of Engineers for discharge of dredged or fill material into waters of the United States. On November 29, 1994, the Department of the Interior's Program Director submitted the Diamond Fork 1984 FEIS and 1990 FS–FEIS to the Chairman of the U.S. Senate Appropriations Subcommittee on Energy and Water Development and the U.S. House of Representatives Appropriations Subcommittee on Energy and Water Development to ensure the project is in full compliance with Section 404(r) of the Clean Water Act, copies attached. The construction contract will not be awarded and no actual discharge of dredged or fill material in connection with the construction of the Diamond Fork Pipeline System will occur until fiscal year 1996 funds are appropriated by the Congress.

E. Environmental Commitment Plan

The District will prepare a detailed project Environmental Commitment Plan, documenting all mitigation measures and environmental commitments made in the 1984 FEIS and the 1990 FS–FEIS prior to the award of the construction contract of the Diamond Fork Pipeline System. The Environmental Commitment Plan will be developed during the final design and implemented during construction, and operation of the Recommended Plan.

FOR FURTHER INFORMATION: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237.

Dated: March 30, 1995.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 95–7995 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–RK–P

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group; Meeting

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

DATES: April 20–21, 1995, at 8:30 a.m.

ADDRESSES: First floor conference room, 645 ''G'' Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The agenda will include the review of small-parcel habitat protection efforts and a discussion of long-range restoration planning.

Dated: March 27, 1995.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 95–7943 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–RG–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The collection of information listed below has been submitted to the Office of Management and Budget (OMB) for reapproval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection and related forms may be obtained by contacting Dennis Jones at 303–231–3046. Comments and suggestions on this information collection should be made directly to the Bureau Clearance officer at the telephone number listed below and to the OMB, Paperwork Reduction Project (1010–0022), Washington, D.C. 20503, telephone 202–395–7340.

Title: Report of Sales and Royalty Remittance.

OMB Approval Number: 1010–0022.

Abstract: The Report of Sales and Royalty Remittance is submitted by those individual and companies producing minerals from leased Indian lands or from leased Federal onshore or offshore lands. Respondents report monthly the sales and royalties of oil, gas, and solid minerals taken from Federal and Indian lands. The Minerals Management Service (MMS) uses the data to monitor royalties received, for audits, and to compare reported sales data with production data reported in the MMS Production Accounting and Auditing System.

Bureau Form Number: MMS–2014.

Frequency: Monthly.

Description of Respondents: Companies producing and processing minerals from Federal onshore or offshore leases, and from Indian leases.

Estimated Completion Time: 3 or 7 minutes per reported line.

Annual Responses: 2,000.

Annual Burden Hours: 240,600.

Bureau Clearance Officer: Arthur Quintana 703–787–1101.

Dated: March 1, 1995.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 95–7996 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Reclamation

Draft Environmental Impact Statement for Proposed Acreage Limitation and Water Conservation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability on the draft environmental impact statement; INT–DES–95–13.

SUMMARY: In response to a September 1993 contract for settlement of a lawsuit filed by the Natural Resources Defense Council, National Wildlife Federation, California Natural Resources Federation, California Association of Family Farmers, California Action Network, League of Rural Voters, Inc., and County of Trinity, California (hereinafter NRDC et al.); and pursuant to the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a draft environmental impact statement (DEIS) on proposed acreage limitation and water conservation rules and regulations for implementing the Reclamation Reform Act of 1982 (RRA), as amended, throughout the 17 Western States.

The purpose of the DEIS is to evaluate potential impacts associated with the proposed rules and alternatives. As such, the DEIS presents an evaluation of five alternatives, including no action. This is accomplished at a programmatic level and provides the required environmental documentation for implementation of the RRA on a Westwide basis.

DATES: Written comments on the DEIS should be submitted to the Bureau of Reclamation by May 31, 1995. A recorded toll-free number (1–800–861–5443) will be available to make oral comments during the public review period. Comments received in this manner must include the commentor's name in order to be included in the official record. Address and affiliation are optional. Comments will be limited to 15 minutes per call.

ADDRESSES: Written comments on the DEIS and requests for copies should be addressed to: Mr. Ronald J. Schuster (D–5010), Westwide Settlement Manager, Bureau of Reclamation, PO Box 25007, Denver CO 80225. Requests for copies may also be made over the telephone at (303) 236–1061 extension 237.

Copies of the DEIS are available for inspection at the address above and also at the following locations:

- Office of the Commissioner, Bureau of Reclamation, Room 7612, 1849 C Street, NW, Washington DC 20240
- Reclamation Service Center, Bureau of Reclamation, Library, Room 167, Building 67, Denver Federal Center, Denver CO 80225
- Pacific Northwest Regional Office, Bureau of Reclamation, Room 214, 1150 North Curtis Road, Boise ID 83706
- Mid-Pacific Regional Office, Bureau of Reclamation, Library, Room W–1522, 2800 Cottage Way, Sacramento CA 95825
- Lower Colorado Regional Office, Bureau of Reclamation, Library, Room M117, Nevada Highway and Park Street, Boulder City NV 89005
- Upper Colorado Regional Office, Bureau of Reclamation, Library, Room 7101, 125 South State Street, Salt Lake City UT 84147
- Great Plains Regional Office, Bureau of Reclamation, Library, Room 2037, Federal Office Building, 316 North 26th Street, Billings MT 59101

Libraries

Arizona

Arizona Department of Water Resources Library, Phoenix
Arizona State Library, Department of Library, Archives and Public Records, Phoenix
Arizona State Regional Library for the Blind and Physically Handicapped, Phoenix
Arizona State University, Noble Science and Engineering Library, Tempe
Arizona State University, Hayden Library, Tempe
Flagstaff City-Coconino County Public Library, Flagstaff
Maricopa County Library, Phoenix
Mesa Public Library, Mesa
Northern Arizona University, Cline Library, Flagstaff
Phoenix Public Library, Phoenix
Scottsdale Public Library, Scottsdale
Tempe Public Library, Tempe
Tucson Pima Library, Tucson
University of Arizona Library, Tucson
Yuma County Library District, Yuma

California

Bay Area Library and Information System, Oakland

California State Library, Sacramento
California State University, Hayward Library, Hayward
California State University, University Library, Los Angeles
California State University Library, Sacramento
Colorado River Board of California Library, Glendale
Environmental Protection Agency, Region IX Library, San Francisco
Fresno County Free Library, Fresno
Fresno State University Library, Fresno
Kern County Library, Bakersfield
Los Angeles Public Library, Los Angeles
Los Angeles Public Library, Water and Power Section, Los Angeles
Sacramento Public Library, Sacramento
San Francisco Public Library, San Francisco
Stanford University Libraries, Stanford
University of California Water Resources Center Library, Berkeley
University of California, General Library, Berkeley
University of California, University Research Library, Los Angeles
University of California, Shields Library, Davis
University of Southern California, Doheny Memorial Library, Los Angeles

Colorado

Colorado State University Libraries, Fort Collins
Denver Central Library, Denver
University of Colorado at Boulder, Norlin Library, Boulder
University of Denver, Penrose Library, Denver
U.S. Air Force Academy, Academy Library, Colorado Springs
Grand Junction Public Library, Grand Junction

Idaho

University of Idaho Library, Moscow
Ada Community Library, Boise
Idaho State Library, Boise
Pocatello Public Library, Pocatello

Kansas

University of Kansas, Lawrence
Kansas State Library, Topeka
Topeka and Shawnee County Public Library, Topeka

Montana

University of Montana, Maurene and Mike Mansfield Library, Missoula
Billings Gazette Library, Billings
Parmly Billings Library, Billings
Missoula Public Library, Missoula

Nebraska

University of Nebraska, D.L. Love Memorial Library, Lincoln
Lincoln City Library, Lincoln
North Platte Public Library, North Platte
Omaha Public Library, Omaha

Nevada

Boulder City Library, Boulder City
Carson City Library, Carson City
Clark County Library District, Las Vegas
Nevada State Library, Carson City
University of Nevada, Reno Library, Reno
University of Nevada at Las Vegas, James Dickinson Library, Las Vegas
Washoe County Library, Reno

New Mexico

Albuquerque Public Library, Albuquerque
New Mexico State Library, Santa Fe
New Mexico State Library, Las Cruces
University of New Mexico, Albuquerque

North Dakota

Bismarck Public Library, Bismarck
Fargo Public Library, Fargo
North Dakota State University, Fargo
Minot Public Library, Minot

Oklahoma

Metropolitan Library System in Oklahoma County Area, Oklahoma City
Oklahoma Department of Libraries, Oklahoma City
Oklahoma State University, Edmon Low Library, Stillwater
University of Oklahoma, University Libraries, Norman

Oregon

Oregon Institute of Technology, Klamath Falls
Portland State University, Millar Library, Portland
University of Oregon Library, Eugene

South Dakota

Rapid City Public Library, Rapid City
Sioux Falls Public Library, Sioux Falls
South Dakota State Library, Pierre

Texas

Amarillo Public Library, Amarillo
Dallas Public Library, Dallas
El Paso Public Library, El Paso
Harris County Public Library, Houston
Texas State Library, Austin
Texas Technical University Library, Lubbock

Utah

Brigham Young University, Harold B. Lee Library, Provo
Cedar City Public Library, Cedar City
Salt Lake City Public Library, Salt Lake City
Salt Lake County Library System, Salt Lake City
Southern Utah State University Library, Cedar City
University of Utah, Marriott Library, Salt Lake City
Utah State University, Merrill Library, Logan
Utah State Library, Salt Lake City
Washington County Library, St. George
Weber State University, Stewart Library, Ogden

Washington

King County Library System, Seattle
Seattle Public Library, Seattle
Spokane Public Library, Spokane, Washington
University of Washington Libraries, Allen Library, Seattle
Washington State Library, Olympia
Yakima Valley Regional Library, Yakima

Wyoming

Laramie County Library System, Cheyenne
Rock Springs Public Library, Rock Springs
University of Wyoming, Coe Library, Laramie
Western Wyoming Community College, Rock Springs
Wyoming State Library, Cheyenne

Other States

District of Columbia Public Library, Washington DC
Library of Congress, Washington DC
Library Program Service, Government Printing Office, Washington DC
New York State Library, Albany, New York
New York Public Library, New York, New York
Research Libraries, New York, New York

FOR FURTHER INFORMATION CONTACT: Mr. Ronald J. Schuster (D–5010), Westwide Settlement Manager, Bureau of Reclamation, Denver Office, PO Box 25007, Denver CO 80225; telephone: (303) 236–9336 ext 237.

SUPPLEMENTARY INFORMATION: The Reclamation Act of 1902 established a Federal program for irrigation project construction and financing to create farming opportunities and thereby encourage the economic development of the arid West. In recognition of organizational, economic, and technological changes in farming that occurred since 1902, the Reclamation Reform Act of 1982 (RRA), Title II, Public Law 97–293 (96 Stat. 1263), was signed into law on October 12, 1982. The RRA revised the threshold of acres upon which a landowner could receive Reclamation irrigation water. RRA provisions established how much land upon which a landowner could receive Reclamation irrigation water, established reporting requirements and water conservation planning, and set specific criteria for the price at which an individual or legal entity could receive Reclamation water. Amendments to the RRA were included in the Omnibus Budget Reconciliation Act of December 22, 1987 (Reconciliation Act), Title V, Public Law 100–203 (101 Stat. 1330).

Rules and regulations for implementing the RRA, initially becoming effective on January 5, 1984, were amended in 1987, 1988, and 1991. Environmental assessments and associated supplements were prepared in 1983, 1987, and 1988 that resulted in ''Findings of No Significant Impact'' from implementation of the proposed rules and regulations.

A lawsuit was filed by NRDC et al., challenging in part the inadequacy of the environmental documentation prepared for the 1987 and 1988 amendments to the rules. In September 1993, NRDC et al., the Department of Justice, and the Department of the Interior entered into a contract for the settlement of the lawsuit. Reclamation agreed to comprehensively reexamine implementation of the RRA and existing regulations, possibly resulting in the adoption of revised regulations implementing RRA requirements on a Westwide basis.

The DEIS presents impact analyses of five alternatives, including no action, that encompass varying levels of regulation necessary to implement the RRA as it currently exists. A Proposed Rule Alternative reflects potential impacts associated with implementing the proposed rules and regulations.

Because the DEIS is programmatic, alternatives were not quantitatively analyzed. Specific assumptions were made to estimate changes to lands, soils, drainage, water, water quality, biological, socioeconomic, recreation, and cultural resources resulting from specific rule changes. While the significance of these impacts on a Westwide basis is small, localized impacts could be significant. Future site-specific actions resulting from any acreage limitation or water conservation provisions will be subject to all applicable Federal laws, including the National Environmental Policy Act.

Dated: March 17, 1995.

J. Austin Burke,

Director, Operations.

[FR Doc. 95–7864 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–94–P

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Fieldcrest Cannon, Inc., 326 East Stadium Drive, Eden, North Carolina 27288.

2. Wholly-owned subsidiaries which will participate in the operations, and State of incorporation: Fieldcrest Cannon Transportation, Inc., A Delaware Corporation.

B. 1. Parent corporation and address of principal office: Titan Wheel International, Inc., 2701 Spruce Street, Quincy, IL 62301.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Titan Wheel International, (State of Incorporation: Illinois).
Titan Tire Corporation, (State of Incorporation: Iowa).
Titan Wheel Walcott, (State of Incorporation: Iowa).
Titan Wheel Greenwood, (State of Incorporation: South Carolina).
Dico, Inc., (State of Incorporation: Iowa)
Dico, Inc., (State of Incorporation: Wisconsin)
Dico, Inc., (State of Incorporation: Georgia)
Dico, Inc., (State of Incorporation: Georgia)
Dico, Inc., (State of Incorporation: California)
Dico, Inc., (State of Incorporation: Texas)
Dico, Inc., (State of Incorporation: Florida)
Dico Tire, (State of Incorporation: Tennessee)
Nieman's, Ltd., (State of Incorporation: Iowa)
Nieman's of Elkhart, (State of Incorporation: Indiana)
Nieman's of Idaho, (State of Incorporation: Idaho)
TD Wheel Company, (State of Incorporation: Virginia)
Desert Wheel Corporation, (State of Incorporation: Nevada)
Tractech, (State of Incorporation: Michigan)
Automation International, (State of Incorporation: Illinois)
Automotive Wheels, (State of Incorporation: California)

Vernon A. Williams,

Secretary.

[FR Doc. 95–7924 Filed 3–30–95; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 388 (Sub-No. 2)]

Intrastate Rail Rate Authority—Arkansas

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Arkansas to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period. The recertification applies retroactively to December 14, 1994, the date when Arkansas' certification was scheduled to expire.

DATES: The effective date of the Commission decision is April 30, 1995. The recertification is retroactive to December 15, 1994, and will expire on January 12, 2005.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green, (202) 927–5269 or Beryl Gordon, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721.]

Decided: March 22, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary

[FR Doc. 95–7925 Filed 3–30–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32676]

Great Walton Railroad Company, Inc. d/b/a Hartwell Railroad Company—Trackage Rights Exemption—Hartwell Railroad Company

Hartwell Railroad Company (HRC) has agreed to grant 48.3 miles of local and bridge trackage rights to Great Walton Railroad Company, Inc. d/b/a Hartwell Railroad Company (GWRC), over the Toccoa-Elberton Line (Toccoa Line) in Elbert, Franklin, Hart, and Stephens Counties, GA.[1] The trackage rights are between milepost P 0.5 at Toccoa and milepost P 24.5 at Bowersville, where there is a connection to GWRC's tracks, and from there to a connection at milepost P 48.8 at Elberton.

The transaction was to be consummated on March 22, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: William A. Mullins, Troutman Sanders, 601 Pennsylvania Ave., NW., Washington, DC 20004.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: March 24, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–7926 Filed 3–30–95; 8:45 am]

BILLING CODE 7035–01–P

[1] HRC, a noncarrier, simultaneously filed a notice of exemption to acquire and operate the Toccoa Line in Hartwell Railroad Company—Acquisition and Operation Exemption—Line of Norfolk Southern Railway Company, Finance Docket No. 32675. The trackage rights agreement was necessary because HRC assertedly will not be prepared to provide immediate service to the line's shippers.

[Finance Docket No. 32675]

Hartwell Railroad Company—Acquisition and Operation Exemption—Line of Norfolk Southern Railway Company

Hartwell Railroad Company (HRC), a noncarrier, has filed a notice of exemption to acquire and operate approximately 48.3-miles of rail line, the Toccoa Line, owned by Norfolk Southern Railway Company.[2] The line extends from milepost P 0.5, near Toccoa, to milepost P 48.80, near Elberton, in Elbert, Franklin, Hart, and Stephens Counties, GA. The proposed transaction is to be consummated after the effective date of the notice of exemption and will result in HRC becoming a class III carrier.[3]

Any comments must be filed with the Commission and served on: William A. Mullins, Troutman Sanders, 601 Pennsylvania Ave., N.W., Washington, DC 20004.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 24, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–7927 Filed 3–30–95; 8:45 am]

BILLING CODE 7035–01–P

[2] In a concurrently filed notice of exemption, Great Walton Railroad Company, Inc. d/b/a Hartwell Railroad Company—Trackage Rights Exemption—Hartwell Railroad Company, Finance Docket No. 32676, HRC agrees to grant local and overhead trackage rights over the Toccoa Line to Great Walton Railroad Company, Inc., an unaffiliated carrier, because HRC assertedly will not be prepared to provide immediate service to the line's shippers.

[3] Under 49 CFR 1150.32(b), the notice of exemption is effective 7 days after it is filed. The notice was filed on March 15, 1995.

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP) No. 1047]

ZRIN: 1121–ZA10

Program Announcement, ''Nonparticipating State Program, Wyoming''

AGENCY: Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of program announcement.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to the provisions of section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.*, (hereinafter the JJDP Act), is issuing a program announcement and solicitation for applications from local public and private nonprofit agencies in the State of Wyoming. The State is not eligible to receive its fiscal years 1993 and 1994 Formula Grants Program allocations under Part B of Title II of the JJDP Act. Eligible applicants for this competitive program are limited to local public and private nonprofit agencies providing services or currently operating in the State. Such agencies are eligible to receive funds to be expended over a two year period. Multiple grants will be made available in amounts ranging from $100,000 to $471,829 per applicant of a total of $943,658 in fiscal year 1993 and 1994 Formula Grant funds that have been reallocated for award under this nonparticipating state program.

DATES: Applications under this program are due May 1, 1995.

ADDRESSES: State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For further information contact Mark A. Roscoe, State Representative, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 307–5924.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. Legislation

Pursuant to section 223(d) of the JJDP Act, the OJJDP Administrator must endeavor to make the Formula Grants Program fund allotment, under section 222(a) of the JJDP Act, to a State which is ineligible to participate in the Formula Grants Program available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used solely for the purpose(s) of achieving compliance with the following JJDP Act core State plan requirements:

1. Section 223(a)(12)(A), which provides that juveniles shall not be placed in secure detention or correctional facilities if (1) they are charged with or have committed offenses that would not be criminal if committed by an adult, (2) they are charged with or have committed offenses which do not constitute violations of valid court orders or Federal or State law prohibiting the possession of a handgun, or (3) they are non-offenders such as dependent or neglected children;

2. Section 223(a)(13), which provides that juveniles alleged or found to be delinquent, status offenders, and non-offenders shall not be detained or confined in any institution in which they have contact with adults convicted of a crime or awaiting trial on criminal charges;

3. Section 223(a)(14), which provides that no juvenile shall be detained or confined in any jail or lockup for adults, except criminal-type juvenile offenders awaiting an initial court appearance pursuant to an enforceable State law requiring such appearance within 24 hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which:

a. Are outside a Metropolitan Statistical Area,
b. Have no existing acceptable alternative placements available,
c. Provide for the sight and sound separation of juveniles and incarcerated adults; and

4. Section 223(a)(23), which provides that States must address efforts to reduce the proportion of juveniles detained or confined in secure facilities who are members of a minority group if such proportion exceeds the proportion such groups represent in the general population.

B. Definitions of Terms

1. *Adult jail.* A locked facility administered, by State, county, or local law enforcement and public or private correctional agencies. The purpose of such facility is to detain adults charged with violating criminal law pending trial. Facilities used to hold convicted adult criminal offenders, usually sentenced for less than one year, are also considered adult jails.

2. *Adult lockup.* Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

3. *Criminal-type offender.* A juvenile offender who has been adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

4. *Accused juvenile offender.* A juvenile on whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, (i.e., a criminal-type offender or a status offender), but no final adjudication has been made by the juvenile court.

5. *Adjudicated juvenile offender.* A juvenile who the juvenile court has determined through an adjudicative procedure is a juvenile offender, (i.e., a criminal-type offender or a status offender).

6. *Facility.* A place, an institution, a building or part thereof, a set of buildings or an area, whether or not enclosing a building or set of buildings, that is used for the lawful custody and treatment of juveniles and that may be owned and/or operated by public and private agencies.

7. *Juvenile offender.* An individual within a juvenile court's jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law (i.e., a criminal-type offender or a status offender).

8. *Lawful custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law, a judicial order or decree.

9. *Local private nonprofit agency.* A nonprofit organization that provides services within an identifiable unit(s) or a combination of units of general local government, but which is not under public supervision or control. A nonprofit organization means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

10. *Local public agency.* Any unit of local government, combination of such units, or any department, agency, or instrumentality of any such unit or combination of such units.

11. *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court—usually under abuse, dependency, or neglect statues—for reasons other than legally prohibited conduct of the juvenile.

12. *Nonparticipating State.* A State which chooses not to submit a plan, fails to submit a plan, or submits a plan which does not meet the requirements of section 223 of the JJDP Act and thus is not participating in the Formula Grants Program authorized by Part B of Title II of the JJDP Act for a particular fiscal year; or a State found ineligible to receive program funds because of failure to achieve or maintain substantial compliance with the JJDP Act, its implementing regulation (28 CFR part 23), or a plan or application submitted pursuant to Part B of Title II of the JJDP Act.

13. *Secure.* As used to define a detention or correctional facility this term describes residential facilities which include construction fixtures designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

14. *Status offender.* A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

15. *Valid Court Order.* The term means a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to a court order; who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States; and with respect to whom an appropriate public agency, before the issuance of such order—

(i) Reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

(ii) Determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

(iii) Determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

(iv) Submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii).

The requirements for using this exception can be found in the Formula Grants Regulation, 28 CFR 31.303(f), published in the **Federal Register** of March 10, 1995.

C. Problem to be Addressed

Many Wyoming communities have not been able to successfully address the core requirements of the JJDP Act due to State laws or local policies, lack of coordination, and/or a limited number of alternative resources available to communities. This situation has resulted in among other things, the State's ineligibility for JJDP Act Formula Grant Funds. Specifically, local jurisdictions are using secure facilities inappropriately for a number of reasons:

1. A lack of coordination and cooperation among juvenile justice system agencies including schools, law enforcement, prosecution, the judiciary, corrections, public and private service providers, and local public interest groups, which contributes to the inappropriate placement of juveniles in jails and lockups.

2. A lack of public awareness and policies regarding the issues of juveniles in jails and lockups, and the secure confinement of status offenders and nonoffenders;

3. The lack of a flexible network of services and programs that is responsive to local jurisdiction's needs and capabilities and focused upon jurisdictions with the most difficult barriers to overcome; and

4. The lack of alternative services which can be sustained over time with local resources, inclusive but not limited to:

a. Supervision of juveniles in secure facilities that conforms to the requirements set forth in the Formula Grants Regulation, 28 CFR part 31, as revised through March 10, 1995 (60 FR 13330–13340).

b. Intensive supervision in a child's home as a placement alternative.

c. Emergency foster care, shelter care, group care, and independent living arrangements.

d. Crisis intervention services and short-term residential crisis intervention programs that can be used for conflict mediation, emergency holding, and provision of emergency attention for youth with physical or emotional problems.

e. Objective intake criteria that are based upon a presumption of release, utilization of least restrictive alternatives, protection of the right to due process, and maintenance of a child's ties to the family and community.

f. Twenty-four (24) hour intake screening services.

II. Program Goals and Objectives

Pursuant to section 223(d) of the Act, the goal of this program is to assist Wyoming in developing a range of secure and nonsecure alternatives and revising associated policies to move the State toward compliance with section 223(a)(12)(A), the deinstitutionalization of status offenders and nonoffenders, section 223(a)(13), the separation of juveniles from adults in adult jails and lockups, section 223(a)(14), the removal of juveniles from adult jails and lockups, and section 223(a)(23), efforts to reduce disproportionate minority

confinement. To achieve these goals, and thus ensure a fair and effective system for juvenile custody, applicants must address one or more of the following objectives:

A. Enhancing systemwide coordination, cooperation and concentration of existing and new resources to develop community juvenile service systems that provide viable alternatives to the use of adult jails and lockups.

B. The development of a flexible statewide network of services and placement options for juvenile offenders and nonoffenders that will provide such juveniles with supervision and control, give them protection from victimization and exploitation, and hold them accountable for their offenses.

C. The development and implementation of objective intake criteria and operational policies and procedures that are consistent with nationally recognized standards and applicable to alleged juvenile offenders and nonoffenders who are awaiting court appearance.

D. An enhanced capacity for parents, schools, police and other private and public youth serving agencies to address juvenile custody issues problems without the use of jail and lockups. This would include, where appropriate, the establishment of local juvenile planning boards or commission to help ensure interagency, multidisciplinary planning and monitoring for juvenile justice system improvements related to custody issues.

E. An increased public awareness of the problems associated with inappropriate juvenile custody practices. It is expected that increased awareness will serve as impetus for the development of public policies to address such problems.

III. Program Strategy

OJJDP anticipates funding multiple applicants to implement the program in Wyoming. Applicants will develop a strategy and provide services in communities directly or through contracts for services designed to move the State or community toward compliance with one or more of the statutory goals.

Any nonprofit organization applicant shall establish an advisory committee that meets, to the degree appropriate, the provisions of section 223(a)(3) to oversee the implementation of program strategy. Where appropriate, consideration should be given to establishing a working relationship with the State Advisory Group and the Wyoming Department of Family Services.

Each applicant is expected to provide an assessment of detention and incarceration legislation, policies, procedures and practices, in the move the State or jurisdiction that is the target of the proposed program.

The strategy developed must support statewide and/or local jurisdictions efforts to coordinate, concentrate and redirect resources to improve services for the care and custody of juveniles. Major activities of a statewide applicant might consist of:

a. Preparing RFP's for local projects;

b. Reviewing applications, selecting finalists and making awards;

c. Convening project staff and advisory committee members to review strategy;

d. Providing training and technical assistance to projects supported under the initiative;

e. Developing and implementing a statewide public education program; and

f. Developing and implementing an assessment of the effectiveness of the overall program.

IV. Dollar Amount and Duration

A. The project period for this program is two years from the date of award. Recipients will be eligible for awards of up to 50% of the total available funds, or $471,829 of $943,658. Funds will be made available through a cooperative agreement. Financial assistance provided under this program requires no matching contribution with the exception of construction funds as provided by section 299C(a)(2) of the JJDP Act.

B. OJJDP anticipates that up to six applicants will be selected pursuant to the selection criteria established in this announcement.

C. No more than one-fourth of the funds received by a public or private organization may be used for construction or renovation purposes. Use of funds for construction is limited to innovative, community-based facilities for less than 20 persons and must be approved in advance by OJJDP. All construction funds must be matched dollar-for-dollar, in cash, by the local jurisdiction. The erection of new buildings or the construction of secure facilities is not permitted with funds acquired through this program.

V. Eligibility Criteria

Applications are invited from local public and private nonprofit agencies within the State of Wyoming that have knowledge and experience in developing and/or implementing programs and projects statewide or at the local level.

To be eligible for consideration, a statewide applicant must demonstrate in the application that it has experience in the following areas:

A. An understanding of the intent of the statutory requirements of the JJDP Act and the general approaches for implementing the requirements on the local level.

B. Knowledge of and experience with juvenile justice systems; local jails, lockups, and secure juvenile detention facilities; the specific problems, strategies, and program alternatives necessary to achieve the objectives of this program; and strategy development and implementation.

C. Capability to develop management and fiscal systems necessary for the proper administration of Federal funds.

D. Capability to fulfill the activities and responsibilities identified in the Program Strategy Section of this announcement.

E. Capability to work effectively with local and State elected public officials, key decision makers in the juvenile justice system and the boards of public and private youth service providers which exist within the State for the purpose of achieving the objectives of this program.

VI. Program Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance; Standard Form 424A, Budget Information; OJP Form 4000/3, Program Narrative and Assurances; and OJP Form 4061/6, Certifications. All applications must include the information required by this specific solicitation as well as the Standard Form 424. The SF–424 must appear as a cover sheet for the entire application. The project summary should follow the SF–424. All other forms must then follow.

Applicants should be sure to sign OJP forms 4000/3 and 4061/6, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements. The applicant's signature on this form provides for compliance with certification requirements under 28 CFR part 69, ''New Restrictions on Lobbying'' and 28 CFR part 67, ''Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).'' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement. Applicants are

requested to submit the original signed application (SF–424) and four copies to OJJDP. Applications that include proposed noncompetitive contracts for the provision of specific goods and services must include a sole source justification for any procurement in excess of $25,000.

Applicants that are receiving other funds in support of the proposed activity should identify other organizations that will provide financial assistance to the program and indicate the amount of funds to be contributed during the program period. Provide the title of the project, name of the public and private grantor, and amount to be contributed during the program period. Give a brief description of the program. In addition to the above requirements, the following information should be included in the application.

1. Is this program closely related to, a coordination of, or a revision of another current, recent, or expected project supported by funds awarded by another agency? If the answer is yes to any of the above questions, provide the following information:

a. List the names of any organizational units that will assist in any part of this other particular program activity.

b. Enter the title of the other project, the name of the public or private grantor, and the amounts requested or to be contributed during this program/budget period.

c. Give a brief description of the program.

Applications and copies must be sent to the following address: Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Room 543, Washington, DC 20531.

Applications must be received by mail or delivered to OJJDP by 5p.m., May 1, 1995. Applications that are delivered must be taken to the designated room at the above address between the hours of 8a.m. and 5p.m., except Saturdays, Sundays, and Federal holidays. Applications postmarked after the deadline date will not be considered.

OJJDP will notify applicants in writing that their applications have been received. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission has been selected for funding.

To comply with Executive Order 12372, applicants from State and local units of government or other organizations providing services within a State must submit a copy of their application to the State Single Point of Contact, if one exists, and if the program has been selected for reviews by the State.

When submitting joint applications with more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations that describe their working relationship as primarily cooperative or collaborative when developing products and delivering services will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated the payee and, as such, will receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicant. Under this arrangement, each organization would agree to be jointly and separately responsible for all project funds and services. Each co-applicant must sign the SF–424 and indicate their acceptance of the conditions of joint and separate responsibility with the other co-applicant.

Applications that include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $25,000. In addition to the requirements specified in the instructions for preparation of Standard Form 424, the following information must be included in the application:

VII. Civil Rights Compliance

A. All receipts of OJJDP assistance including any contractors, must comply with the nondiscrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitative Act of 1973 as amended; title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Nondiscrimination Regulations (28 CFR part 42, subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination, after a due process hearing, on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain and submit to OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which the primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under a grant award.

A. Program Goals

A succinct statement of your understanding of the goals and objectives of the program should be included. The application should also include a problem statement to include a discussion of the applicants understanding of: (a) The State's placement of juveniles in adult jails and lockups as well as status offenders and non-offenders in secure detention or correctional facilities and the issues surrounding the removal of such juveniles from the facilities, (b) State legislative, judicial and executive branch activities related to supervision and protection of status offenders and non-offenders and jail removal, (c) programs, community services, organizations and planning approaches which can be used in an effort to develop comprehensive community services and achieve the Act's core requirements, and (d) address efforts to reduce the disproportionate number of minorities held in secure facilities in excess of their proportion in the population.

B. Program Strategy

Applicants should describe the proposed approach for achieving their goals and objectives under the program. A discussion of how the goals and objectives of the program will be accomplished and a description of the products to be prepared, and other anticipated outcome should be included. A plan for assessing the effectiveness of the overall program must be described.

C. Program Implementation Plan

Applicants should prepare a plan that outlines the major activities involved in implementing the program and describes how they will allocate available resources to implement the program and how the program will be managed.

D. Organizational Capability

Applicants must demonstrate that they are eligible to compete for an award on the basis of eligibility criteria established in this solicitation.

1. Organizational Experience

Applicants must concisely describe their experience with respect to the eligibility criteria specified above. Applicants must demonstrate how their experience and capabilities will enable them to achieve the goals and objectives of this initiative.

2. Capability of Working with Other Organizations in the State

Applicants must demonstrate that they have discussed this program with local and State elected public officials or their staffs, key decision makers in the juvenile justice system such as juvenile court judges, associations of those involved in juvenile justice, the boards of public and private youth service providers, and other groups whose cooperation or participation is necessary to the success of the program. The applicant must certify that it is able to obtain the necessary cooperation or participation.

3. Financial Capability

In addition to the assurances provided in Part V, Assurances (SF–424), private nonprofit applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this announcement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP Form 7120/1).

Copies of the form will be provided in an application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

1. Time-Task Plan

Applicants must develop a time-task plan for the 24-month project period, clearly identifying major milestones. This must include designation of organizational responsibility and a schedule for the completion of the activities and products identified in the applicants Program Strategy.

VIII. Procedures and Criteria for Selection

All applicants will be evaluated and rated by an OJJDP staff panel according to general selection criteria below. Selection criteria determine each applicant's responsiveness to minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues related to project implementation. OJJDP staff reviewers will use the following criteria to rate applications.

1. Statement of the Problem. (20 points) The applicant includes a clear, concise statement of the problem addressed in this program.

2. Definition of Objectives. (20 points) The goals and objectives are clearly defined and the objectives are clear, measurable, and attainable.

3. Project Design. (20 points) The project design is sound and constitutes an effective approach to meeting the goals and objectives of this program. The design provides a detailed implementation plan with a timeline that indicates significant milestones in the project, due dates for products, and the nature of the products to be submitted. The design contains program elements directly linked to the achievement of the project.

4. Management Structure. (15 points) The project's management structure and staffing is adequate to successfully implement and complete the project. The management structure for the project is consistent with the project goals and tasks described in the application. Application explains how the management structure and staffing assignments are consistent with the needs of the program.

5. Organizational Structure. (15 points) The applicant organization's potential to conduct the project successfully must be documented. Applicant demonstrates knowledge of and experience in the juvenile justice field, particularly in the area of study the project addresses. Applicant demonstrates that staff members have sufficient substantive expertise and technical experience. The applications will be judged on the appropriateness of the position descriptions, required qualifications, and staff selection criteria.

6. Reasonables of Costs. (10 points) Budgeted costs are reasonable, allowable, and cost effective for the activities proposed, and are directly related to the achievement of the program objectives. All costs are justified in a budget narrative that explains how costs are determined.

OJJDP staff reviewer recommendations are advisory only and the final award decision will be made by the Administrator. OJJDP will negotiate specific terms of the award with the selected applicants.

IX. Submission Requirements

This program announcement is a request for proposals from local public and private nonprofit agencies in the State of Wyoming. The applications and necessary forms will be provided upon request. Applicants must submit an original signed application and three copies to OJJDP. Applications must be received by mail or hand delivered to the OJJDP by 5 p.m. EST on May 1, 1995. Those applications sent by mail should be addressed to: SRAD/OJJDP, United States Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the SRAD, Room 543, 633 Indiana Avenue, NW., Washington, DC between the hours of 8 a.m. and 5 p.m. except Saturdays, Sundays or Federal holidays.

OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their application has been selected for funding.

John J. Wilson,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 95–7967 Filed 3–30–95; 8:45 am]

BILLING CODE 4410–18–P

[OJP (OJJDP) No. 1046]

RIN 1121–ZA09

Program Announcement, "Nonparticipating State Program, Kentucky"

AGENCY: Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of issuance of competitive program announcement.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to the provisions of Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.*, (hereinafter the JJDP Act), is issuing a program announcement and solicitation for applications from local public and private nonprofit agencies in the State of Kentucky. The State is not eligible to receive its fiscal years 1992 and 1993 Formula Grants Program allocations

under Part B of Title II of the JJDP Act. Eligible applicants for this competitive program are limited to local public and private nonprofit agencies providing services or currently operating in the State. Such agencies are eligible to receive funds to be expended over a two year period. Multiple grants will be made available in amounts ranging from $100,000 to $693,000 per applicant of a total of $1,386,000 in fiscal year 1992 and 1993 Formula Grant funds that have been reallocated for award under this nonparticipating state program.

DATES: Applications under this program are due May 1, 1995.

ADDRESSES: State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For further information contact Thomas E. Bell, State Representative, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 307–5921.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. Legislation

Pursuant to section 223(d) of the JJDP Act, the OJJDP Administrator must endeavor to make the Formula Grants Program fund allotment, under section 222(a) of the JJDP Act, to a State which is ineligible to participate in the Formula Grants Program available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used solely for the purpose(s) of achieving compliance with the following JJDP Act core State plan requirements:

1. Section 223(a)(12)(A), which provides that juveniles shall not be placed in secure detention or correctional facilities if (1) they are charged with or have committed offenses that would not be criminal if committed by an adult, (2) they are charged with or have committed offenses which do not constitute violations of valid court orders or Federal or State law prohibiting the possession of a handgun, or (3) they are non-offenders such as dependent or neglected children;

2. Section 223(a)(13), which provides that juveniles alleged or found to be delinquent, status offenders, and non-offenders shall not be detained or confined in any institution in which they have contact with adults convicted of a crime or awaiting trial on criminal charges;

3. Section 223(a)(14), which provides that no juvenile shall be detained or confined in any jail or lockup for adults, except criminal-type juvenile offenders awaiting an initial court appearance pursuant to an enforceable State law requiring such appearance within 24 hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which:

a. Are outside a Metropolitan Statistical Area,

b. Have no existing acceptable alternative placements available,

c. Provide for the sight and sound separation of juveniles and incarcerated adults; and

4. Section 223(a)(23), which provides that States must address efforts to reduce the proportion of juveniles detained or confined in secure facilities who are members of a minority group if such proportion exceeds the proportion such groups represent in the general population.

B. Definitions of Terms

1. *Adult jail.* A locked facility administered, by State, county, or local law enforcement and public or private correctional agencies. The purpose of such facility is to detain adults charged with violating criminal law pending trial. Facilities used to hold convicted adult criminal offenders, usually sentenced for less than one year, are also considered adult jails.

2. *Adult lockup.* Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

3. *Criminal-type offender.* A juvenile offender who has been adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

4. *Accused juvenile offender.* A juvenile on whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, (i.e., a criminal-type offender or a status offender), but no final adjudication has been made by the juvenile court.

5. *Adjudicated juvenile offender.* A juvenile who the juvenile court has determined through an adjudicative procedure is a juvenile offender, (i.e., a criminal-type offender or a status offender).

6. *Facility.* A place, an institution, a building or part thereof, a set of buildings or an area, whether or not enclosing a building or set of buildings, that is used for the lawful custody and treatment of juveniles and that may be owned and/or operated by public and private agencies.

7. *Juvenile offender.* An individual within a juvenile court's jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law (i.e., a criminal-type offender or a status offender).

8. *Lawful custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law, a judicial order or decree.

9. *Local private nonprofit agency.* A nonprofit organization that provides services within an identifiable unit(s) or a combination of units of general local government, but which is not under public supervision or control. A nonprofit organization means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

10. *Local public agency.* Any unit of local government, combination of such units, or any department, agency, or instrumentality of any such unit or combination of such units.

11. *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court—usually under abuse, dependency, or neglect statutes—for reasons other than legally prohibited conduct of the juvenile.

12. *Nonparticipating State.* A State which chooses not to submit a plan, fails to submit a plan, or submits a plan which does not meet the requirements of section 223 of the JJDP Act and thus is not participating in the Formula Grants Program authorized by Part B of Title II of the JJDP Act for a particular fiscal year; or a State found ineligible to receive program funds because of failure to achieve or maintain substantial compliance with the JJDP Act, its implementing regulation (28 CFR part 23), or a plan or application submitted pursuant to Part B of Title II of the JJDP Act.

13. *Secure.* As used to define a detention or correctional facility this term describes residential facilities which include construction fixtures designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

14. *Status offender.* A juvenile offender who has been charged with or

adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

15. *Valid Court Order.* The term means a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to a court order; who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States; and with respect to whom an appropriate public agency, before the issuance of such order—

(i) Reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

(ii) Determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

(iii) Determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

(iv) Submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii).

The requirements for using this exception can be found in the Formula Grants Regulation, 28 CFR 31.303(f), published in the **Federal Register** of March 10, 1995.

C. Problem to be Addressed

Many Kentucky communities have not been able to successfully address the core requirements of the JJDP Act due to State laws or local policies, lack of coordination, and/or a limited number of alternative resources available to communities. This situation has resulted in among other things, the State's ineligibility for JJDP Act Formula Grant Funds.

Specifically, local jurisdictions are using secure facilities inappropriately for a number of reasons:

1. A lack of coordination and cooperation among juvenile justice system agencies including schools, law enforcement, prosecution, the judiciary, corrections, public and private service providers, and local public interest groups, which contributes to the inappropriate placement of juveniles in jails and lockups.

2. A lack of public awareness and policies regarding the issues of juveniles in jails and lockups, and the secure confinement of status offenders and nonoffenders;

3. The lack of a flexible network of services and programs that is responsive to local jurisdiction's needs and capabilities and focused upon jurisdictions with the most difficult barriers to overcome; and

4. The lack of alternative services which can be sustained over time with local resources, inclusive but not limited to:

a. Supervision of juveniles in secure facilities that conforms to the requirements set forth in the Formula Grants Regulation, 28 CFR part 31, as revised through March 10, 1995 (60 FR 13330–13340).

b. Intensive supervision in a child's home as a placement alternative.

c. Emergency foster care, shelter care, group care, and independent living arrangements.

d. Crisis intervention services and short-term residential crisis intervention programs that can be used for conflict mediation, emergency holding, and provision of emergency attention for youth with physical or emotional problems.

e. Objective intake criteria that are based upon a presumption of release, utilization of least restrictive alternatives, protection of the right to due process, and maintenance of a child's ties to the family and community.

f. Twenty-four (24) hour intake screening services.

II. Program Goals and Objectives

Pursuant to section 223(d) of the Act, the goal of this program is to assist Kentucky in developing a range of secure and nonsecure alternatives and revising associated policies to move the State toward compliance with section 223(a)(12)(A), the deinstitutionalization of status offenders and nonoffenders, section 223(a)(13), the separation of juveniles from adults in adult jails and lockups, section 223(a)(14), the removal of juveniles from adult jails and lockups, and section 223(a)(23), efforts to reduce disproportionate minority confinement. To achieve these goals, and thus ensure a fair and effective system for juvenile custody, applicants must address one or more of the following objectives:

A. Enhancing systemwide coordination, cooperation and concentration of existing and new resources to develop community juvenile service systems that provide viable alternatives to the use of adult jails and lockups.

B. The development of a flexible statewide network of services and placement options for juvenile offenders and nonoffenders that will provide such juveniles with supervision and control, give them protection from victimization and exploitation, and hold them accountable for their offenses.

C. The development and implementation of objective intake criteria and operational policies and procedures that are consistent with nationally recognized standards and applicable to alleged juvenile offenders and nonoffenders who are awaiting court appearance.

D. An enhanced capacity for parents, schools, police and other private and public youth serving agencies to address juvenile custody issues without the use of jail and lockups. This would include, where appropriate, the establishment of local juvenile planning boards or commissions to help ensure interagency, multidisciplinary planning and monitoring for juvenile justice improvements related to custody issues.

E. An increased public awareness of the problems associated with inappropriate juvenile custody practices. It is expected that increased awareness will serve as an impetus for the development of public policies to address such problems.

III. Program Strategy

OJJDP anticipates funding multiple applicants to implement the program in Kentucky. Applicants will develop a strategy and provide services in communities directly or through contracts for services designed to move the State or community toward compliance with one or more of the statutory goals.

Any nonprofit organization applicant shall establish an advisory committee that meets, to the degree appropriate, the provisions of section 223(a)(3) to oversee the implementation of program strategy. Where appropriate, consideration should be given to establishing a working relationship with the State Advisory Group and the Kentucky Justice Cabinet.

Each applicant is expected to provide an assessment of, and a strategy for modifying (as needed) juvenile detention legislation, policies, procedures and practices, in the move the State or jurisdiction that is the target of the proposed program.

The strategy developed must support statewide and/or local jurisdictions efforts to coordinate, concentrate and redirect resources to improve services for the care and custody of juveniles. Major activities of a statewide applicant might consist of:

a. Preparing RFP's for local projects;

b. Reviewing applications, selecting finalists and making awards;

c. Convening project staff and advisory committee members to review strategy;

d. Providing training and technical assistance to projects supported under the initiative;

e. Developing and implementing a statewide public education program; and

f. Developing and implementing an assessment of the effectiveness of the overall program.

IV. Dollar Amount and Duration

A. The project period for this program is two years from the date of award. Recipients will be eligible for awards of up to 50% of the total available funds, or $693,000 of $1,386,000. Funds will be made available through a cooperative agreement. Financial assistance provided under this program requires no matching contribution with the exception of construction funds as provided by section 299C(a)(2) of the JJDP Act.

B. OJJDP anticipates that up to six applicants will be selected pursuant to the selection criteria established in this announcement.

C. No more than one-fourth of the funds received by a public or private organization may be used for construction or renovation purposes. Use of funds for construction is limited to innovative, community-based facilities for less than 20 persons and must be approved in advance by OJJDP. All construction funds must be matched dollar-for-dollar, in cash, by the local jurisdiction. The erection of new buildings or the construction of secure facilities is not permitted with funds acquired through this program.

V. Eligibility Criteria

Applications are invited from local public and private nonprofit agencies within the State of Kentucky that have knowledge and experience in developing and/or implementing programs and projects statewide or at the local level.

To be eligible for consideration, a statewide applicant must demonstrate in the application that it has experience in the following areas:

A. An understanding of the intent of the statutory requirements of the JJDP Act and the general approaches for implementing the requirements on the local level.

B. Knowledge of and experience with juvenile justice systems; local jails, lockups, and secure juvenile detention facilities; the specific problems, strategies, and program alternatives necessary to achieve the objectives of this program; and strategy development and implementation.

C. Capability to develop management and fiscal systems necessary for the proper administration of Federal funds.

D. Capability to fulfill the activities and responsibilities identified in the Program Strategy Section of this announcement.

E. Capability to work effectively with local and State elected public officials, key decision makers in the juvenile justice system and the boards of public and private youth service providers which exist within the State for the purpose of achieving the objectives of this program.

VI. Program Application Requirements

All applicants must submit a completed Standard Form 424, Application for Federal Assistance; Standard Form 424A, Budget Information; OJP Form 4000/3, Program Narrative and Assurances; and OJP Form 4061/6, Certifications. All applications must include the information required by this specific solicitation as well as the Standard Form 424. The SF–424 must appear as a cover sheet for the entire application. The project summary should follow the SF–424. All other forms must then follow.

Applicants should be sure to sign OJP forms 4000/3 and 4061/6, Certifications Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements. The applicant signature on this form provides for compliance with certification requirements under 28 CFR part 69, ''New Restrictions on Lobbying'' and 28 CFR part 67, ''Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).'' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement. Applicants are requested to submit the original signed application (SF–424) and four copies to OJJDP. Applications that include proposed noncompetitive contracts for the provision of specific goods and services must include a sole source justification for any procurement in excess of $25,000.

Applicants that are receiving other funds in support of the proposed activity should identify other organizations that will provide financial assistance to the program and indicate the amount of funds to be contributed during the program period. Provide the title of the project, name of the public and private grantor, and amount to be contributed during the program period. Give a brief description of the program. In addition to the above requirements, the following information should be included in the application.

1. Is this program closely related to, a coordination of, or a revision of another current, recent, or expected project supported by funds awarded by another agency? If the answer is yes to any of the above questions, provide the following information:

a. List the names of any organizational units that will assist in any part of this other particular program activity.

b. Enter the title of the other project, the name of the public or private grantor, and the amounts requested or to be contributed during this program/budget period.

c. Give a brief description of the program.

Applications and copies must be sent to the following address: Office of Juvenile Justice, and Delinquency Prevention, 633 Indiana Avenue NW., Room 543 Washington, DC 20531

Applications must be received by mail or delivered to OJJDP by 5 p.m., May 1, 1995. Applications that are delivered must be taken to the designated room at the above address between the hours of 8 a.m. and 5 p.m., except Saturdays, Sundays, and Federal holidays. Applications postmarked after the deadline date will not be considered. OJJDP will notify applicants in writing that their applications have been received. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission has been selected for funding.

To comply with Executive Order 12372, applicants from State and local units of government or other organizations providing services within a State must submit a copy of their application to the State Single Point of Contact, if one exists, and if the program has been selected for reviews by the State.

When submitting joint applications with more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations that describe their working relationship as primarily cooperative or collaborative when developing products and delivering services will be considered co-applicants. In the event of a co-applicant submission, one co-applicant must be designated the payee and, as such, will receive and disburse project funds and be responsible for the

supervision and coordination of the activities of the other co-applicant. Under this arrangement, each organization would agree to be jointly and separately responsible for all project funds and services. Each co-applicant must sign the SF–424 and indicate their acceptance of the conditions of joint and separate responsibility with the other co-applicant. Applications that include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $25,000. In addition to the requirements specified in the instructions for preparation of Standard Form 424, the following information must be included in the application:

VII. Civil Rights Compliance

A. All receipts of OJJDP assistance including any contractors, must comply with the nondiscrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitative Act of 1973 as amended; title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Nondiscrimination Regulations (28 CFR part 42, subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination, after a due process hearing, on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs.

C. Applicants shall maintain and submit to OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which the primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under a grant award.

A. Program Goals

A succinct statement of your understanding of the goals and objectives of the program should be included. The application should also include a problem statement to include a discussion of the applicants understanding of: (a) The State's placement of juveniles in adult jails and lockups as well as status offenders and non-offenders in secure detention or correctional facilities and the issues surrounding the removal of such juveniles from the facilities, (b) State legislative, judicial and executive branch activities related to supervision and protection of status offenders and non-offenders and jail removal, (c) programs, community services, organizations and planning approaches which can be used in an effort to develop comprehensive community services and achieve the Act's core requirements, and (d) address efforts to reduce the disproportionate number of minorities held in secure facilities in excess of their proportion in the population.

B. Program Strategy

Applicants should describe the proposed approach for achieving their goals and objectives under the program. A discussion of how the goals and objectives of the program will be accomplished and a description of the products to be prepared and other anticipated outcomes should be included. A plan for assessing the effectiveness of the overall program must be described.

C. Program Implementation Plan

Applicants should prepare a plan that outlines the major activities involved in implementing the program and describes how they will allocate available resources to implement the program and how the program will be managed.

D. Organizational Capability

Applicants must demonstrate that they are eligible to compete for an award on the basis of eligibility criteria established in this solicitation.

1. Organizational Experience

Applicants must concisely describe their experience with respect to the eligibility criteria specified above. Applicants must demonstrate how their experience and capabilities will enable them to achieve the goals and objectives of this initiative.

2. Capability of Working with Other Organizations in the State

Applicants must demonstrate that they have discussed this program with local and State elected public officials or their staffs, key decision makers in the juvenile justice system such as juvenile court judges, associations of those involved in juvenile justice, the boards of public and private youth service providers, and other groups whose cooperation or participation is necessary to the success of the program. The applicant must certify that it is able to obtain the necessary cooperation or participation.

3. Financial Capability

In addition to the assurances provided in Part V, Assurances (SF–424), private nonprofit applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this announcement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP Form 7120/1).

Copies of the form will be provided in an application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. All questions are to be answered regardless of instructions (section C.I.B. note). The CPA certification is required only of those applicants who have not previously received Federal funding.

1. Time-Task Plan

Applicants must develop a time-task plan for the 24-month project period, clearly identifying major milestones. This must include designation of organizational responsibility and a schedule for the completion of the activities and products identified in the applicants Program Strategy.

VIII. Procedures and Criteria for Selection

All applicants will be evaluated and rated by an OJJDP staff panel according to general selection criteria below. Selection criteria determine each applicant's responsiveness to minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues related to project implementation. OJJDP staff reviewers will use the following criteria to rate applications.

1. Statement of the Problem. (20) The applicant includes a clear, concise statement of the problem addressed in this program.

2. Definition of Objectives. (20 points) The goals and objectives are clearly defined and the objectives are clear, measurable, and attainable.

3. Project Design. (20 points) The project design is sound and constitutes an effective approach to meeting the goals and objectives of this program. The design provides a detailed implementation plan with a timeline that indicates significant milestones in the project, due dates for products, and the nature of the products to be submitted. The design contains program elements directly linked to the achievement of the project.

4. Management Structure. (15 points) The project's management structure and staffing is adequate to successfully implement and complete the project. The management structure for the project is consistent with the project goals and tasks described in the application. Application explains how the management structure and staffing assignments are consistent with the needs of the program.

5. Organizational Structure. (15 points) The applicant organization's potential to conduct the project successfully must be documented. Applicant demonstrates knowledge of and experience in the juvenile justice field, particularly in the area of study the project addresses. Applicant demonstrates that staff members have sufficient substantive expertise and technical experience. The applications will be judged on the appropriateness of the position descriptions, required qualifications, and staff selection criteria.

6. Reasonables of Costs. (10 points) Budgeted costs are reasonable, allowable, and cost effective for the activities proposed, and are directly related to the achievement of the program objectives. All costs are justified in a budget narrative that explains how costs are determined.

OJJDP staff reviewer recommendations are advisory only and the final award decision will be made by the Administrator. OJJDP will negotiate specific terms of the award with the selected applicants.

IX. Submission Requirements

This program announcement is a request for proposals from local public and private nonprofit agencies in the State of Kentucky. The applications and necessary forms will be provided upon request. Applicants must submit an original signed application and three copies to OJJDP. Applications must be received by mail or hand delivered to the OJJDP by 5 p.m. EST on May 1, 1995. Those applications sent by mail should be addressed to: SRAD/OJJDP, United States Department of Justice, 633 Indiana Avenue, NW., Washington, DC 20531. Hand delivered applications must be taken to the SRAD, Room 543, 633 Indiana Avenue, NW., Washington, DC between the hours of 8 a.m. and 5 p.m. except Saturdays, Sundays or Federal holidays.

OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their application has been selected for funding.

John J. Wilson,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 95–7966 Filed 3–30–95; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 20 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. WI950042, WI950045, WI950046, WI950047, WI950048, and WI950050 dated FEB. 10, 1995, respectively.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision WI950041. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume III:

Florida
FL950098 (MAR. 31, 1995)
Tennessee
TN950061 (MAR. 31, 1995)
TN950062 (MAR. 31, 1995)
TN950063 (MAR. 31, 1995)

Volume IV:

Indiana
IN950042 (MAR. 31, 1995)
IN950043 (MAR. 31, 1995)
IN950044 (MAR. 31, 1995)
IN950045 (MAR. 31, 1995)
IN950046 (MAR. 31, 1995)
IN950047 (MAR. 31, 1995)
IN950048 (MAR. 31, 1995)
IN950049 (MAR. 31, 1995)
IN950050 (MAR. 31, 1995)
IN950051 (MAR. 31, 1995)
IN950052 (MAR. 31, 1995)
IN950053 (MAR. 31, 1995)
IN950054 (MAR. 31, 1995)
IN950055 (MAR. 31, 1995)
IN950056 (MAR. 31, 1995)
IN950057 (MAR. 31, 1995)
IN950058 (MAR. 31, 1995)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

New York
NY950007 (FEB. 10, 1995)
NY950011 (FEB. 10, 1995)
NY950040 (FEB. 10, 1995)
NY950060 (FEB. 10, 1995)

Volume II:

Maryland
MD950011 (FEB. 10, 1995)
MD950012 (FEB. 10, 1995)
MD950022 (FEB. 10, 1995)
Pennsylvania
PA950004 (FEB. 10, 1995)

Volume III:

Florida
FL950077 (FEB. 10, 1995)
Tennessee
TN950001 (FEB. 10, 1995)
TN950005 (FEB. 10, 1995)
TN950016 (FEB. 10, 1995)
TN950017 (FEB. 10, 1995)
TN950019 (FEB. 10, 1995)
TN950057 (FEB. 10, 1995)
TN950059 (FEB. 10, 1995)

Volume IV:

Wisconsin
WI950032 (FEB. 10, 1995)
WI950041 (FEB. 10, 1995)

Volume V:

Arkansas
AR950003(FEB. 10, 1995)
Iowa
IA950019(FEB. 10, 1995)
IA950020(FEB. 10, 1995)
IA950038(FEB. 10, 1995)
IA950049(FEB. 10, 1995)
IA950070(FEB. 10, 1995)
IA950072(FEB. 10, 1995)
IA950077(FEB. 10, 1995)
Kansas
KS950005(FEB. 10, 1995)
KS950014(FEB. 10, 1995)
New Mexico
NM950001(FEB. 10, 1995)
Oklahoma
OK950033(FEB. 10, 1995)
OK950034(FEB. 10, 1995)
OK950035(FEB. 10, 1995)
Texas
TX950003(FEB. 10, 1995)
TX950109(FEB. 10, 1995)

Volume VI:

Colorado
CO950001(FEB. 10, 1995)
Hawaii
HI950001(FEB. 10, 1995)

General Wage Determination Publication

General wage determination issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 24th day of March 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–7769 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners of any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 10, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 10, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment

Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (Union/ workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Tobin Hamilton Co., Inc. (Wkrs)	W. Bridge Water, MA.	03/20/95	01/08/95	30,815	Athletic footwear.
Whitestone Products, Inc. (UPIU)	Piscataway, NJ	03/20/95	03/06/95	30,816	Hospital supplies.
Formfit Rogers/I.Appel Corp (Wrks)	Lafayette, TN	03/20/95	03/02/95	30,817	Ladies' lingerie, bras and daywear.
Philips Technology—Airpax, Inc (Wrks)	Cambridge, MD	03/20/95	02/24/95	30,818	Circuit breakers.
AMSCO Basil Mfg. (UAW)	Wilson, NY	03/20/95	03/06/95	30,819	Industrial washing equipment.
General Electric Capitol Corp. (Wkrs)	Erie, PA	03/20/95	03/03/95	30,820	Providing testing of equipment.
Brenda's Sportswear Co., Inc. (Wrks)	Rock Island, TN	03/20/95	02/28/95	30,821	Ladies blouses.
Mosbacher Energy Co. (Wrks)	Houston, TX	03/20/95	02/28/95	30,822	Oil and gas.
Leslie Fay Inc. (ILGWU)	Wilkes-Barre, PA	03/20/95	03/01/95	30,823	Ladies' dresses.
Ricky Fashions (ILGWU)	Wilkes-Barre, PA	03/20/95	03/01/95	30,824	Ladies' dresses.
Red Eagle Resources Corp Wkrs)	Oklahoma City OK	03/20/95	03/06/95	30,825	Oil and gas.
Dresser Industrial Valve Operation (Co.)	Axexandria, LA	03/20/95	03/03/95	30,826	Industrial line valves.
Fairchild Aircraft, Inc (Wkrs)	San Antonio, TX	03/20/95	03/02/95	30,827	Electrical harnesses.
Greeneville Industries, Inc. (AEU)	Greeneville, TN	03/20/95	02/28/95	30,828	Dozer blades.
Lockheed Ft. Worth Co. (Wkrs)	Ft. Worth, TX	03/20/95	03/01/95	30,829	Wire harnesses for the F–16 aircraft.
Modoc Lumber Co. (Wkrs)	Klamath Falls, OR	03/20/95	03/07/95	30,830	Construction lumber.
National Semiconductor (Co)	South Portland, ME	03/20/95	03/03/95	30,831	Semi conductors.
Scotty's Fashions (ILGWU)	Lewistown, PA	03/20/95	03/07/95	30,832	Ladies' sportswear.
Simon Petroleum Technology Corp. (Co)	Houston, TX	03/20/95	03/07/95	30,833	Seismic data—oil and gas.
Sonat Exploration Company (Wkrs)	Houston, TX	03/20/95	02/22/95	30,834	Crude oil and natural gas.
United Defense, L.P (wkrs)	Aberdeen, SD	03/20/95	01/02/95	30,835	Missile canisters.
American Oil and Gas (Wrks)	Amarillo, TX	03/20/95	03/07/95	30,836	Natural gas-methane, ethane, etc.
American Oil & Gas (Wkrs)	Pampa, TX	03/20/95	03/07/95	30,837	Natural gas-methane, ethane, etc.
Black Box Corporation (Wrks)	Lawrence, PA	03/20/95	03/03/95	30,838	Cable and switches.
Dillon Manufacturing Co., Inc. (Wrks)	Mayfield, KY	03/20/95	03/08/95	30,839	Men's sportcoats and suit coats.
General Mills, Inc. (Union)	Chicago, IL	03/20/95	03/06/95	30,840	Breakfast cereals.
Highland Yarn Mills, Inc. (ACTWU)	High Point, NC	03/20/95	02/21/95	30,841	Combed cotton years.
Kresgeville, Mfg. Inc. (Wrks)	Kresgeville, PA	03/20/95	03/08/95	30,842	Ladies garments.
Print and Peel (Wrks)	Paterson, NJ	03/20/95	03/09/95	30,843	Pressure sensitive tape.
Pro Group, Inc.—Golf Bag Division (Co)	Pocahontas, AR	03/20/95	03/07/95	30,844	Golf bags.
Quantum Chemical, Hanson, PLC (Wrks)	Port Arthur, TX	03/20/95	02/15/95	30,845	Plastics.
Scotty's Fashions (Wkrs)	Kresgeville, PA	03/20/95	03/07/95	30,846	Ladies' sportswear.

[FR Doc. 95–7929 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,977]

Exxon Company, U.S.A. a/k/a Exxon Corporation, Corporate Headquarters Staff Located Throughout Houston, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification notice was issued on December 18, 1992 and published in the **Federal Register** on January 13, 1993 (57 FR 4186).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show a name change from Exxon Company, U.S.A. to Exxon Corporation and some of the workers had their unemployment insurance (UI) taxes paid to Exxon Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–27,977 is hereby issued as follows:

''All workers providing technical, marketing and administrative support for the domestic exploration and production of crude oil and natural gas at the Corporate Headquarters of Exxon Company, U.S.A. a/k/a Exxon Corporation, at various locations in Houston, Texas who became totally or partially separated from employment on or after August 13, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 21st day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7930 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,647]

Amerada Hess Corporation Headquartered in Houston, Texas and Operating at Various Locations in the Following States: TA–W–30,647A Oklahoma, TA–W–30,647B Louisiana, TA–W–30,647C North Dakota, TA–W–30,647D Texas (Except Houston); Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification was issued on March 7, 1995 and will soon be published in the Federal Register.

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred in other parts of Texas besides Houston.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The intent of the Department's certification is to include all workers of Amerada Hess Corporation, Houston, Texas who were adversely affected by increased imports of crude oil.

The amended notice applicable to TA–W–30,647 is hereby issued as follows:

''All workers of Amerada Hess Corporation, headquartered in Houston, Texas (TA–W–30,647) and operating at various locations in the following cited states who became totally or partially separated from employment on or after January 17, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974: TA–W–30,647A Oklahoma, TA–W–30,647B Louisiana, TA–W–30,647C North Dakota, TA–W–30,647D Texas, exc Houston''

Signed at Washington, DC, this 21st day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance

[FR Doc. 95–7931 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,799]

Huls America, Incorporated, Elizabeth, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 13, 1995 in response to a worker petition which was filed on behalf of workers and former workers at Huls America, Incorporated, Elizabeth, New Jersey (TA–W–30,799).

The petitioners have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 22nd day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7932 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,182]

Exxon Co., U.S.A., a/k/a Exxon Corporation, Southwestern Production Division, Midland, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification notice was issued on October 6, 1994 and published in the **Federal Register** on October 21, 1994 (59 FR 53211).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show a name change from Exxon Company, U.S.A. to Exxon Corporation and some of the workers had their unemployment insurance (UI) taxes paid to Exxon Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–30,182 is hereby issued as follows:

''All workers of Exxon Company, U.S.A. a/k/a Exxon Corporation, Southwestern Production Division, Midland, Texas who became totally or partially separated from employment on or after August 8, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 21st day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7938 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,472 and TA–W–30,472A]

Exxon Company, U.S.A. a/k/a Exxon Corporation Santa Ynez Production Division Thousand Oaks, CA, and Exxon Company, U.S.A. a/k/a Exxon Corporation Houston/Corpus Christi Production Division, Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification notice was issued on December 15, 1994 and published in the **Federal Register** on January 20, 1995 (60 FR 4195).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show a name change from Exxon Company, U.S.A. to Exxon Corporation and some of the workers had their unemployment insurance (UI) taxes paid to Exxon Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–30,472 is hereby issued as follows:

''All workers of Exxon Company, U.S.A. a/k/a Exxon Corporation, Santa Ynez Production Division, Thousand Oaks, California and the Houston/Corpus Christi Production Division, Houston, Texas who became totally or partially separated from employment on or after October 25, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 21st day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–7928 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–30–M

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

March 28, 1995.

The Department of Labor has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act (44 U.S.C.

Chapter 35) of 1980, as amended (P.L. 96–511). Copies may be obtained by calling the Department of Labor Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the ICRs listed below should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10102, Washington, DC 20503 ((202) 395–7316). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Certification by School Official.
OMB Number: 1215–0061.
Agency Number: CM–981.
Frequency: Annually.
Affected Public: Not-for-profit institutions; State, Local or Tribal Government.
Number of Respondents: 1,500.
Estimated Time Per Respondent: 10 minutes.
Total Burden Hours: 250.
Description: The CM–981 is completed by school officials to verify whether a beneficiary's dependent, aged 18 to 23, qualifies as a full-time dependent student.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Claim for Reimbursement—Assisted Reemployment.
OMB Number: 1215–0178.
Agency Number: CA–2231.
Frequency: Four times per year.
Affected Public: Businesses or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.
Number of Respondents: 180.
Estimated Time Per Respondent: 30 minutes.
Total Burden Hours: 360.
Description: The CA–2231 is the form employers submit to the Office of Worker's Compensation Program to claim reimbursement for wages paid under the assisted reemployment demonstration project. The form summarizes terms of employment of Federal employees who acquired a disability through an on-the-job injury and the amount of wages to be reimbursed to their new employer for a prompt decision on payment, and to expedite the project.

Type of Review: Revision.
Agency: Bureau of Labor Statistics.
Title: Employment, Wages, and Contribution (ES–202) Report.
OMB Number: 1220–0012.
Frequency: Quarterly.
Affected Public: State, Local or Tribal Government.
Number of Respondents: 53.
Estimated Time Per Respondent: 4,680 hours.
Total Burden Hours: 992,160.
Description: The ES–202 report, which is provided to the Bureau of Labor Statistics by State Employment Security Agencies, is used by the Employment and Training Administration in the administration of Unemployment Insurance (UI) programs; by the Bureau of Economic Analysis as the input to Gross Domestic Product and personal income estimates; by the Bureau of Labor Statistics as an employment benchmark and as the sampling frame for its establishment surveys; and by public and private researchers.

Type of Review: Revision.
Agency: Bureau of Labor Statistics.
Title: Response Analysis Survey of BLS 790 and ES–202 Reports.
OMB Number: 1220–0089.
Agency Number: CES/UI RAS.
Frequency: On occasion.
Affected Public: State, Local or Tribal Governments; Businesses or other for-profit; Not-for-profit institutions.
Number of Respondents: 1,080.
Estimated Time Per Respondent: 30 minutes.
Total Burden Hours: 540.
Description: The Current Employment Statistics Survey and Employment and Wages Program are the primary sources of employment and wage information used to measure economic performance. The Response Analysis Survey continues the Bureau of Labor Statistics' efforts to review the sources of information available to respondents, to better match available records to program definitions, and to improve the quality of the data.

Signed at Washington, DC this 28th day of March 1995.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 95–7968 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–24–27

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: April 13, 1995, 10:00 am–12:00 noon, U.S. Department of Labor, Room S–1011, 200 Constitution Ave., NW., Washington, D.C. 20210.

PURPOSE: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Director, Trade Advisory Group. Phone: (202) 219–4752.

Signed at Washington, DC, this 27th day of March 1995.

Joaquin Otero,

Deputy Under Secretary, International Affairs.

[FR Doc. 95–7933 Filed 3–30–95; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL CAPITAL PLANNING COMMISSION

Environmental Assessment; Availability, etc.: Washington, DC, Sports and Entertainment Arena, Construction and Operation

AGENCY: National Capital Planning Commission.

ACTION: Proposed construction and operation of a sports and entertainment arena in Washington, DC; environmental assessment: notice of availability.

SUMMARY: The National Capital Planning Commission (Commission) announces the availability of a Draft Environmental Assessment (Draft EA) prepared by the District of Columbia as part of the submission requirement in support of Commission action on a proposed modification to the Urban Renewal Plan for the downtown Urban Renewal Area and site and building plans for the proposed construction and operation of a sports and entertainment arena in downtown Washington, DC. The Draft EA has been prepared in conjunction with the DC Government.

DATES: All written comments on issues regarding the environmental review of the proposed sports and entertainment arena must be postmarked by close of business May 1, 1995 and sent to the National Capital Planning Commission, 801 Pennsylvania Avenue, NW, Suite 301, Washington, DC 20576. Attention: Mr. Maurice Foushee, Community Planner, Phone: (202) 724–0174.

FOR FURTHER INFORMATION PLEASE CONTACT:
National Capital Planning Commission, 801 Pennsylvania Avenue, NW, Suite 301, Washington, DC 20576. Attention: Ms. Sandra H. Shapiro, General Counsel, Phone: (202) 724–0187.

SUPPLEMENTARY INFORMATION: This Notice of Availability initiates a 30-day agency and public review period for this document. It is important that Federal, regional and local commenting agencies, and interested and affected individuals and groups take this opportunity to review the draft environmental document and provide written comment on environmental issues.

Copies of the Draft EA will be available for inspection at the offices of the National Capital Planning Commission at 801 Pennsylvania Avenue NW; the lobby of One Judiciary Square at 441 Fourth Street, NW; the District Building at 1350 Pennsylvania Avenue NW; at Martin Luther King, Jr. Memorial Library at 901 G Street, NW, and upon request. Notice of the availability of the Draft EA will be published in local papers and copies of this notice will be mailed to those individuals who left a legible address at the public scoping meeting held on February 13, 1995, on this project.

Under the provisions of Section 106 of the National Historic Preservation Act (NHPA), the Commission is required to consult with the DC State Historic Preservation Office and determine the effect of the proposed project on historic properties. A separate document addressing the Commission's responsibilities under NHPA will be available in several weeks.

Sandra H. Shapiro,

General Counsel, National Capital Planning Commission.

[FR Doc. 95–7975 Filed 3–30–95; 8:45 am]

BILLING CODE 7502–02–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: April 14–15, 1995, 8:30 a.m.–5:00 p.m.

Location: Room 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Charles Keith, C–RUI Program Coordinator, Division of Biological Instrumentation and Resources, Room 615, NSF, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals received in response to the first Collaborative Research at Undergraduate Institutions competition being run by the BIO and MPS directorates.

Reason for Closing: The proposals being reviewed include information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7880 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Cognitive, Psychological and Language Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cognitive, Psychological and Language Sciences (#1758).

Date and Time: April 19–21, 1995; 9:00 a.m.–6:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 390, Arlington, VA 22230.

Type of Meeting: Part-Open.

Contact Person: Dr. Paul G. Chapin, Program Director for Linguistics, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1731.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: Friday, April 21, 1995; 9:00 a.m.–12:00 p.m.

Closed session: April 19–20, 1995, 9:00 a.m.–6:00 p.m. and April 21, 1995, 12:00 p.m.–6:00 p.m. To review and evaluate linguistics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7879 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Anthropological and Geographic Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following Seven meetings.

Name: Advisory Panel for Anthropological and Geographic Sciences #1757.

Date and Time: May 7–8, 1995; 9:00 a.m.–5:00 p.m.

Place: The Minneapolis Hilton and Towers, 1001 Marquette Avenue South, Minneapolis, Minnesota 55403–2440.

Contact Person: John E. Yellen, Program Director for Archaeology, National Science Foundation, 4201 Wilson Boulevard, Room 995, Arlington, VA 22230. Telephone: (703) 306–1759.

Agenda: To review and evaluate archaeology proposals as a part of the selection process for awards.

Date and Time: April 24, 1995; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 920, Arlington, VA 22230.

Contact Person: John E. Yellen, Program Director for Archaeometry, National Science Foundation, 4201 Wilson Boulevard, Room 995, Arlington, VA 22230. Telephone: (703) 306–1759.

Agenda: To review and evaluate archaeometry proposals as part of the selection process for awards.

Date and Time: May 1, 1995; 1:00 p.m. (EST).

Place: Via Conference call with Program Director.

Contact Person: John E. Yellen at the National Science Foundation, 4201 Wilson Boulevard, Room 995, Arlington, Virginia 22230. Telephone: (703) 306–1759.

Agenda: To review and evaluate systematic collections proposals as part of the selection process for awards.

Date and Time: May 4–5, 1995; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 370, Arlington, VA 22230.

Contact Person: Dr. Stuart Plattner, Program Director for Cultural Anthropology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1758.

Agenda: To review and evaluate cultural anthropology proposals as part of the selection process for awards.

Date and Time: April 17, 1995; 10:00 a.m.–8:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 370, Arlington, VA 22230.

Contact Person: Dr. Stuart Plattner, Director for Cultural Anthropology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1758.

Agenda: To review and evaluate cultural dissertation proposals as part of the selection process for awards.

Date and Time: April 24–25, 1995; 8:00 a.m.-5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. James W. Harrington, or David Kirtland, Program Directors for Geography, National Science Foundation, 4201 Wilson Boulevard, Room 995, Arlington, VA 22230. Telephone: (703) 306–1754.

Agenda: To review and evaluate geography proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7878 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry and Molecular Structure and Function; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory panel for Biochemistry and Molecular Structure and Function. (1134)

Date and Time: Wednesday, Thursday and Friday, April 19, 20, 21, 1995 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Marcia Steinberg or Dr. Jack Cohen, Program Directors, Molecular Biochemistry, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to the Molecular Biochemistry Program of the Division of Molecular and Cellular Biosciences at NSF for financial support.

Agenda: To review and evaluate molecular biochemistry proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7876 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Neuroscience (1158.)

Date and Time: April 20–21, 1995, 9:00 am. to 5:00 p.m.

Place: National Science Foundation, Rm 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. James Koening, Program Director, Neuroendocrinology; Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 21, 11:00 a.m. to 12:00 p.m., To discuss research trends and opportunities in Neuroendocrinology. Closed Session: April 20, 9:00 a.m. to 5:00 p.m.; April 21, 1995, 9:00 a.m. to 11:00 a.m., 12:00 p.m. to 5:00 p.m.; To Neuroendocrinology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7877 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel Meeting for Genetics and Nucleic Acids; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetics & Nucleic Acids (#1149).

Date and Time: Wednesday April 19, thru Friday April 21, 1995, at 8:30 am to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA, Room 370.

Type of Meeting: Closed.

Contact Person: DeLill Nassar Program Director for Eukaryotic Genetics, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1439.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Eukaryotic Genetics Program in the Division of Molecular & Cellular Biosciences at NSF as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7875 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: DOE/NSF Nuclear Science Advisory Committee (1208).

Date and Time: April 19, 1995 from 3:00 p.m. to 8:00 p.m.

Place: National Science Foundation, Room 1295, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: John W. Lightbody, Program Director for Nuclear Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1890.

Minutes: May be obtained from the contract person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda:

* Presentation of Interim Report of the Long Range Plan Working Group (E. Moniz)
* Discussion of the essential components of the recommendations to the agencies
* Discussion of progress and plans for completion of the Long Range Plan
* Discussion of the transmittal of the Subcommittee Report on RHIC Experimental Equipment
* Public Comment (*)

(*) Persons wishing to speak should make arrangements through the Contact Person identified above.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7870 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Transport Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190).

Date and Time: April 17–18, 1995; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 390, 580, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Maria K. Burka, Program Director, Chemical Reaction Processes, CTS, Room 525 (703) 306–1371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluation nominations for the NSF Microwave-Induced Reaction Initiative Panel as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7871 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: Wednesday, April 19th, 8:00 a.m.

Place: National Science Foundation, Room 310, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: G.X. Tessema, DMR, H. Hollis Wickman, DMR, 703–306–1995.

Purpose of Meeting: To provide advice and recommendations concerning support for DMR 1995 Faculty Early Career Development (CAREER) Program proposals.

Agenda: Evaluation of proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 95–7872 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Physiology and Behavior (#1160).

Date and Time: April 18, and 19, 1995, 8:30 am to 5:00 pm.

Place: Room 380, National Science Foundation, 420 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Machi F. Dilworth, Program Director, Integrative Plant Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, 22230. Telephone: (703) 306–1422.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Integrative Plant Biology proposals as part of the selection process for awards.

Open Session: April 18, 1995, 1:30 to 2:30 pm—To discuss research trends and opportunities in Integrative Plant Biology.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7873 Filed 3–30–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Engineering; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Advisory Committee for Engineering (#1170).

Date and Time:

April 20, 1995/9:30 am—5:00 pm

April 21, 1995/8:30 am—12 Noon

Place: Room 1235 National Science Board Meeting Room), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. William S. Butcher, Advisory Committee for Engineering, National Science Foundation, Room 505, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1330.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

Dated: March 27, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–7874 Filed 3-30–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

High-Way Engineering & Survey Co. et al; Order

In the Matter of High-Way Engineering & Survey Co. and Art High, dba High-Way Engineering & Survey Co.; Docket No. 030–32271, License No. IDA–234 (Expired) EA No. 95–024.

Order to Cease and Desist Use and Possession of Regulated Byproduct Material

I

High-Way Engineering & Survey Co. (Licensee), is the holder of expired Byproduct Materials License No. IDA–234 (License) which was issued by the State of Idaho and subsequently became a Nuclear Regulatory Commission (NRC or Commission) license on April 26,

1991, when the State of Idaho discontinued its regulation of radioactive materials. Mr. Art High (owner) is the president of the Licensee. The License authorized the possession and use of 10 millicuries of cesium-137 and 50 millicuries of americium-241:beryllium in sealed sources in gauges. The License expired on June 30, 1991.

II

On January 24, 1995, the Licensee informed the NRC that it still has a Campbell-Pacific nuclear gauge in its possession, which is currently stored in a locked storage shed on the Licensee's property near Bonners Ferry, Idaho. The Licensee neither submitted an application for renewal of the License prior to its expiration on June 30, 1991, as required by 10 CFR 30.37 nor notified the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License. Mr. Art High, the owner and Radiation Safety Officer, stated the Licensee's intention to terminate the License in telephone conversations on February 27 and March 23, 1992, and again on January 19, 1995. As of the date of this order, the Licensee has neither transferred the licensed material to an authorized recipient nor applied for an NRC license.

The Licensee was notified of the pending expiration of its License in telephone conversations with the NRC Region IV Office staff prior to the License expiration on June 30, 1991. The NRC also corresponded with the Licensee concerning the status of its NRC license. Specifically, an NRC letter dated February 28, 1992, reiterated the Licensee's stated intent to divest itself of the Campbell-Pacific Nuclear Model MC–3 series moisture density gauge and requested that by March 20, 1992, the Licensee transfer all licensable material to a properly authorized recipient and provide a completed NRC Form 314 to assure that the transfer has been completed. A second NRC letter dated March 25, 1992, again reiterated the Licensee's intent to divest itself of the gauge and asserted the basis for the NRC's authority to license byproduct materials and to charge fees. The Licensee also stated its intent during a May 4, 1992 telephone conversation with the NRC to either transfer the byproduct material to another licensee or become properly licensed.

On March 17, 1994, a special, unannounced inspection was conducted by the NRC. The results of the inspection were documented in an April 15, 1994 letter. During the inspection, the Licensee stated that it possessed one gauge which was maintained in locked storage and that it planned to sell the gauge and terminate the License.

During a January 19, 1995 telephone conversation, the Licensee stated that the reasons it had not divested itself of the gauge was that it had been unable to sell the gauge and that the manufacturer wanted a significant amount of money to take possession of the gauge. On January 24, 1995, the Licensee was again contacted by telephone and, despite being told that the gauge manufacturer would take possession of the gauge for no charge, the Licensee refused to transfer it.

III

The Licensee remains in possession of NRC-licensed byproduct material with an expired NRC license. Possession of such material is prohibited. At the time the License expired, 10 CFR 30.36(c) required NRC licensees, in the absence of a timely request for license renewal, to terminate licensed activities and to properly dispose of licensed material on or before the expiration date of the license. The Licensee has violated this requirement by continuing to possess a Campbell-Pacific Nuclear Model MC–3 series moisture density gauge after its License expired on June 30, 1991.

Improper handling of the cesium-137 and americium-241:beryllium sealed sources can result in an unnecessary exposure to radiation. The Atomic Energy Act and the Commission's regulations require that possession of NRC-licensed material be under a regulated system of licensing and inspection. The Licensee's possession of NRC-licensed material without a valid NRC license and its unwillingness to respond to numerous NRC written and verbal communications to apply for an NRC license, demonstrate that it is either unable or unwilling to comply with NRC requirements.

Given the circumstances surrounding the Licensee's possession of the byproduct material and its failure to respond to communications with the NRC, I lack the requisite reasonable assurance that the health and safety of the public will be protected while the Licensee remains in possession of the radioactive material without the required NRC license.

IV

Accordingly, in accordance with Section 8, 161b, 161c, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and 10 CFR parts 20 and 30, IT IS HEREBY ORDERED THAT High-Way Engineering & Survey Co. and Mr. Art High, dba High-Way Engineering & Survey Co. shall:

A. Immediately cease and desist from any further use of byproduct material now in their possession, with the exception that sealed source(s) containing cesium-137 or americium-241:beryllium shall be tested for leakage by a person authorized to perform the test prior to transfer of the source(s) to another person or entity, if a leak test has not been performed within the last six months prior to the transfer.

B. Maintain safe control over the byproduct material, as required by 10 CFR part 20, by keeping the material in locked storage and not allowing any person access to the material, except for purposes of assuring the material's continued safe storage and the testing required by Paragraph A, until the material is transferred to a person authorized to receive and possess the material in accordance with the provisions of this Order and the Commission's regulations.

C. Transfer all byproduct material in their possession within 30 days to a person authorized to receive and possess the material. If the Licensee does not have sufficient funds to complete the transfer, the Licensee must provide, within 10 days of this Order, evidence supporting such a claim by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555: (1) An estimate of the cost of the transfer and the basis for the estimate, including the license numbers and identities of the persons who have provided estimates of the cost of the transfer; (2) written statements from at least two banks stating that neither Art High, nor High-Way Engineering & Survey Co., qualify for a loan to pay for the transfer; (3) copies of the Federal income tax returns of Art High, and High-Way Engineering & Survey Co., for the years 1993, 1992, 1991, and 1990: and (4) a signed statement agreeing to allow the NRC to receive credit information on Art High and High-Way Engineering & Survey Co., from a credit agency. In addition, if the Licensee has not been able to find an authorized person who will accept the byproduct material, the Licensee must provide to the Director, Office of Enforcement, at the address stated above, within 10 days of the date of this Order, the names of the persons who have been contacted regarding acceptance of the byproduct material and the dates that the contacts were made. A SUBMITTAL OF EVIDENCE SUPPORTING THE LACK OF SUFFICIENT FUNDS DOES NOT EXCUSE NONCOMPLIANCE WITH THIS ORDER.

D. At least two working days to the date of the transfer of the byproduct

material, notify Dr. D. Blair Spitzberg, Chief, Nuclear Materials Licensing Branch, NRC, Region IV, by telephone (817–860–8191) so that the NRC may, if it elects, observe the transfer of the material to the authorized recipient.

E. Within seven days following completion of the transfer, provide to the Regional Administrator, Region IV, in writing, under oath or affirmation: (1) Confirmation on NRC Form 314, as required by 10 CFR 30.36(c) at the time the License expired, that the cesium-137 and americium-241:beryllim byproduct material have been transferred, (2) the last date that the byproduct material was used, (3) a copy of the survey performed in accordance with 10 CFR 30.36, as required by the regulation at the time the License expired, and (4) a copy of the certification from the authorized recipient that the source has been received.

Copies of the response to this Order shall be sent to the Regional Administrator, Region IV, 611 Ryan Plaza Dr., Suite 400, Arlington, Texas 76011–8064, and to the Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with NRC requirements.

Dated at Rockville, Maryland this 24th day of March 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 95–7921 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

[License No. 19089–01]

Advanced Medical Systems, Inc; Notice of Amendment to Byproduct Materials and Opportunity for Hearing

This provides notice to the public that the U.S. Nuclear Regulatory Commission has issued a license amendment to Byproduct Material License No. 34–19089–01 issued to Advanced Medical Systems, Inc. for possession and use of byproduct material, cobalt-60 and cesium-137, at the licensee's Cleveland, Ohio facility. The licensee requested the amendment by letter dated March 1, 1995, to establish plans and schedules for (1) dealing with the accumulation of ground water in and around the AMS facility basement and that stored in above ground tanks, (2) immobilizing and/or remediating contamination that has collected in below ground sewage piping and manholes, and (3) processing ground water that may build up around the facility in the future. The amendment requires that these activities begin immediately and be completed within 90 days. The license amendment references letters from the licensee dated January 27, February 2, 10, 14, and March 1, 3, 8, and 10, 1995.

The NRC hereby provides notice and an opportunity for a hearing on the license amendment under the provisions of 10 CFR part 2, subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to Section 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with section 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The licensee, Advanced Medical Systems, Inc., to the attention of Seymour S. Stein, Ph.D., President, 121 North Eagle Street, Geneva, Oh 44041; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail Commission, Washington, DC 20555.

For further details with respect to this action, see the licensee's request for license amendment dated March 1, 1995, and the letters referenced above, which are available for inspection at the Commission's Region III Office, 801 Warrenville Road, Lisle, Illinois.

Dated: at Lisle, Illinois, this 24th day of March, 1995.

John A Grobe,

Chief, Nuclear Materials Inspection, Section 2, Division of Radiation Safety and Safeguards, RIII.

[FR Doc. 95–7923 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Entergy Operations, Inc.; Grand Gulf Nuclear Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. NPF–29, issued to Entergy Operations, Inc. (the licensee), for operation of the Grand Gulf Nuclear Station, Unit 1 (GGNS), located in Claiborne County, Mississippi.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated October 24, 1994, for exemption from certain requirements of 10 CFR 73.55, ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.'' The exemption would allow implementation of a hand geometry biometric system for site access control such that picture badges and access control cards for certain non-employees can be taken offsite.

The Need for the Proposed Action

Pursuant to 10 CFR 73.55, paragraph (a), the licensee shall establish and maintain an onsite physical protection system and security organization.

10 CFR 73.55(d), ''Access Requirements,'' paragraph (1), specifies that ''licensee shall control all points of personnel and vehicle access into a protected area.'' 10 CFR 73.55(d)(5) specifies that ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.'' 10 CFR 73.55(d)(5) also states that an individual not employed

by the licensee (i.e., contractors) may be authorized access to protected areas without escort provided the individual ''receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area * * *''

Currently, employee and contractor identification badges, coupled with their associated access control cards, are issued and retrieved on the occasion of each entry to and exit from the protected areas of the Grand Gulf site. Station security personnel are required to maintain control of the badges while the individuals are offsite. This practice has been in effect at the Grand Gulf Nuclear Station since the operating license was issued. Security personnel retain each identification badge, as well as the associated access control card, when not in use by the authorized individual, within appropriately designed storage receptacles inside a bullet-resistant enclosure. An individual who meets the access authorization requirements is issued an individual picture identification card and an individual access control card which allows entry into preauthorized areas of the station. While entering the plant in the present configuration, an authorized individual is ''screened'' by the required detection equipment and by the issuing security officer. Having received the badge, the individual proceeds to the access portal, inserts the access control card into the card reader, enters a personal identification number (PIN), and passes through the turnstile which unlocks if the preset criteria are met. Once inside the station, the individual's PIN is not required in order to further utilize the access authorization card.

This present procedure is labor intensive since security personnel are required to verify badge issuance, ensure badge retrieval, and maintain the badges in orderly storage until the next entry into the protected area. The regulations permit employees to remove their badges from the site, but an exemption from 10 CFR 73.55(d)(5) is required to permit contractors to take their badges offsite instead of returning them when exiting the site.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the licensee's application. Under the proposed system, all individuals authorized to gain unescorted access will have the physical characteristics of their hand (hand geometry) recorded with their badge number. Since the hand geometry is unique to each individual and its application in the entry screening function would preclude unauthorized use of a badge, the requested exemption would allow employees and contractors to keep their badges at the time of existing the protected area. The process of verifying badge issuance, ensuring badge retrieval, and maintaining badges could be eliminated while the balance of the access procedure would remain intact. Firearm, explosive, and metal detection equipment and provisions for conducting searches will remain as well. The security officer responsible for the last access control function (controlling admission to the protected area) will also remain isolated within a bullet-resistant structure in order to assure his or her ability to respond or to summon assistance.

Use of a hand geometry biometrics system exceeds the present verification methodology's capability to discern an individual's identity. Unlike the photograph identification badge, hand geometry is nontransferable. During the initial access authorization or registration process, hand measurements are recorded and the template is stored for subsequent use in the identity verification process required for entry into the protected area. Authorized individuals insert their access authorization card into card reader and the biometrics system records an image of the hand geometry. The unique features of the newly recorded image are then compared to the template previously stored in the database. Access is ultimately granted based on the degree to which the characteristics of the image match those of the ''signature'' template.

Since both the badge and hand geometry would be necessary for access into the protected area, the proposed system would provide for a positive verification process. Potential loss of a badge by an individual, as a result of taking the badge offsite, would not enable an unauthorized entry into protected areas.

The access process will continue to be under the observation of security personnel. The system of identification badges coupled with their associated access control cards will continue to be used for all individuals who are authorized access to protected areas without escorts. Badges will continue to be displayed by all individuals while inside the protected area. Addition of a hand geometry biometrics system will provide a significant contribution to effective implementation of the security plan at each site.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of Grand Gulf Nuclear Station, Unit 1.

Agencies and Persons Consulted

In accordance with its stated policy, the staff consulted with the Mississippi State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this proposed action, see the request for exemption dated May 27, 1994, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120.

Dated at Rockville, Maryland this 27th day of March 1995.

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulations.

[FR Doc. 95–7920 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Safety Research Review Committee; Meeting of Waste Subcommittee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

The NSRRC Waste Subcommittee will hold a meeting on May 1, 1995 in Room C–103, Main Building, Department of Energy Federal Building, 2753 South Highland, Las Vegas, Nevada.

The meeting will be open to public attendance.

The subject of review will be research addressed to assessing the safety of high-level waste disposal.

The agenda will be as follows:

8:00–8:15—Introductory remarks.
8:15–9:45—Research program overview.
10:00–12:00—Review of key technical uncertainties and their relationship to specific research projects (regional hydrologic processes, rock mechanics, performance assessment).
1:15–5:30—Review of key technical uncertainties and their relationship to specific research projects, continued (geochemical natural analogs, sorption mechanisms, integrated waste package experiments, tectonics, volcanic systems).
5:30–6:00—Subcommittee discussion.

The Subcommittee will report to the full Committee on the facts and analyses discussed at the meeting

A detailed agenda will be made available at the meeting.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Subcommittee. Questions may be asked only by members of the Committee and the staff. Persons desiring to make oral statements should notify the Nuclear Regulatory Commission staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and NRC contractors regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to Mr. George Sege (telephone 301/415–6593) between 8:00 a.m. and 4:30 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two business days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 27, 1995.

George Sege,

Technical Assistant to the Director, Office of Nuclear Regulatory Research.

[FR Doc. 95–7919 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

All Licensees; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a letter dated March 8, 1995 from Thomas J. Saporito, Jr., to the Executive Director for Operations, the NRC received a Petition under 10 CFR 2.206 requesting that all licensees be required to review their operating procedures in order to ascertain whether those procedures place any restrictions on the ability of employees to bring safety concerns directly to the NRC without following the normal chain of command. The Petition requests that each licensee be required to report to the Commission, under oath or affirmation, that the review has been completed, that its employees are free to bring concerns to the NRC without following the normal chain of command, and that this information has been communicated to all of its employees.

Petitioner's request is being considered pursuant to 10 CFR 2.206 of the Commission's regulations. Action will be taken on these requests within a reasonable time. A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland this 23rd day of March 1995.

For the Nuclear Regulatory Commission.

Joseph R. Gray,

Deputy Director, Office of Enforcement.

[FR Doc. 95–7918 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

Draft Report on Responsiveness to the Public; Availability

The Nuclear Regulatory Commission (NRC) has published its Draft Report on Responsiveness to the Public. It has been a long-standing policy of the NRC to conduct its business activities in an open and public manner, and in recent years NRC has moved to be even more open and responsive to the public. The public is defined as individual citizens, public interest groups, petitioners, licensees, industry groups, contractors, the Congress, and others with whom NRC does business.

Recent initiatives to be more responsive to the public have included increased use of public workshops for rulemaking activities, participatory rulemaking, a pilot program opening enforcement conferences to the public, surveys of licensees to identify ways to reduce the regulatory burden on licensees, and the Cost Beneficial Licensing Action Program. While these initiatives represent significant improvements, the NRC has not heretofore given responsiveness to the public priority attention in all NRC programs nor had there been a systematic review of NRC business activities to identify potential improvements.

The National Performance Review has placed new emphasis on Federal agencies ''placing the customer first.'' More can be done to broaden and institutionalize public responsiveness and openness as an underpinning tenet of how NRC does business. In this spirit, on July 27, 1994, the Executive Director for Operations launched the Public Responsiveness Initiative asking NRC program directors to identify the business activities where public interaction is relatively frequent and to develop Public Responsiveness Improvement Plans. The draft report reflects the initial results of that effort and contains improvement plans prepared by the offices. The improvement plans are being published for public comment so that NRC can consider comments and make adjustments and improvements in the plans as implementation proceeds.

Those considering public comment may obtain a free single copy of draft NUREG/BR–0199 by writing to the U.S. Nuclear Regulatory Commission, Office of Administration, Printing and Mail

Services Section, Washington, DC 20555–0001. In addition, this draft report is available through the Internet World Wide Web server, which can be accessed by using the Uniform Resource Locator, (URL)http:/www.nrc.gov. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, DC 20555–0001.

Written comments should be mailed to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Comments may also be submitted over the Internet to: secy@nrc.gov. Comments must be submitted by May 30, 1995.

Dated at Rockville, Maryland, this 27th day of March, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–7935 Filed 3–30–95; 8:45 am]

BILLING CODE 7590–01–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Sunbow/Sunbow 2, San Diego County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Sunbow/Sunbow 2, located in Chula Vista, San Diego County, California, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990 as specified below.

DATES: Written notice of serious interest to purchase or effect other transfer of all or any portion of this property may be mailed or faxed to the RTC until June 29, 1995.

ADDRESSES: Copies of detailed descriptions of this property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. E. Ted Hine, Resolution Trust Corporation, California Field Office, 4000 MacArthur Boulevard, 2nd Floor, West Tower, Newport Beach, CA 92660–2516, (714) 263–4648; Fax (714) 852–7623.

SUPPLEMENTARY INFORMATION: The Sunbow/Sunbow 2 property is located east of Interstate Highway 805 and south of Telegraph Canyon Road in Chula Vista, California. The site consists of approximately 604 acres of undeveloped land with coastal sage scrub habitat. This property contains wetlands and habitat for the Federally-listed endangered California gnatcatcher. The site is adjacent to Greg Rogers Park which is managed by the City of Chula Vista for recreational purposes. This property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, P.L. 101–591 (12 U.S.C. 1441a–3).

Written notice of serious interest in the purchase or other transfer of all or any portion of this property must be received on or before June 29, 1995 by the Resolution Trust Corporation at the appropriate address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal Government;

2. Agencies or entities of State or local government; and,

3. ''Qualified organizations'' pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest must be submitted in the following form:

Notice of Serious Interest

Re: [insert name of property]

Federal Register Publication Date:

_____

[Insert Federal Register publication date]

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in the Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the United States Internal Revenue Service regarding the organization's status under section 170(h)(3) of the U.S. Internal Revenue Code (26 U.S.C. 170(h)(3)).

3. Brief description of proposed terms of purchase or other offer for all or any portion of the property (e.g., price, method of financing, expected closing date, etc.).

4. Declaration of entity that it intends to use the property for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes (12 U.S.C. 1441a–3(b)(4)), as provided in a clear written description of the purpose(s) to which the property will be put and the location and acreage of the area covered by each purpose(s) including a declaration of entity that it will accept the placement, by the RTC, of an easement or deed restriction on the property consistent with its intended conservation use(s) as stated in its notice of serious interest.

5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects: Environmental protection.

Dated: March 27, 1995.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 95–7894 Filed 3–30–95; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35534; File No. SR-AMEX–94–52]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange, Inc. Relating to S&P MidCap 400 Depository Receipts

March 24, 1995.

I. Introduction and Background

On November 22, 1994, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''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 list and trade Standard & Poor's (''S&P'') MidCap 400 Depository Receipts. Notice of the proposal appeared in the **Federal Register** on December 28, 1994.[3] No comments were received on the proposed rule change set forth in the Notice. This order approves the Exchange's proposal.

II. Description of the Proposal

The Amex proposes to list and trade under Amex Rules 1000 *et seq.* S&P MidCap 400 Depositary Receipts. In addition, the Exchange proposes to amend Amex Rule 1000(b)(1) to include a reference to the alternative reinvestment of periodic cash payments to holders to reflect the availability of the DTC Dividend Reinvestment Service (''DRS'') to holders of Portfolio Depository Receipts (''PDRs''), and to amend the Amex Rule 1004 disclaimer provision so that it applies to the S&P MidCap 400 Index.[4]

A. Portfolio Depository Receipts

On December 11, 1992, the Commission approved Amex Rules 1000 *et seq.*[5] to accommodate trading on the Exchange of PDRs, which are securities that represent interests in a unit investment trust (''Trust'') operating on an open-end basis and holding a portfolio of securities. The Trust

[1] 15 U.S.C. § 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1994).

[3] Securities Exchange Act Release No. 35127, (December 20, 1994), 59 FR 66982.

[4] The S&P MidCap 400 Index is a capitalization-weighted index of 400 actively traded securities that includes issues selected from a population of 1,700 securities, each with a year-end market-value capitalization of between $200 million and $5 billion. The issues included in the Index cover a broad range of major industry groups, including industrials, transportation, utilities, and financials.

[5] See Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253.

sponsor (''Sponsor'') of each series of PDRs is PDR Services Corporation, a wholly-owned subsidiary of the Amex.[6] The purpose of each Trust is to allow investors to purchase PDRs, securities that represent proportionate undivided interests in a Trust's underlying securities portfolio, that trade like shares of common stock, and that pay to PDR holders periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses, as described in the applicable Trust prospectus. PDRs are issued by a Trust in a specified minimum aggregate quantity (''Creation Unit'') in return for a deposit consisting of specified numbers of shares of stock plus a cash amount. The first Trust to be formed in connection with the issuance of PDRs was based on the S&P 500 Composite Stock Price Index (''S&P Index''), known as Standard & Poor's Depository Receipts (''SPDRs''). SPDRs have been trading on the Exchange since January 29, 1993.

The Exchange now proposes to list and trade under Rules 1000 *et seq.* Standard & Poor's MidCap 400 Depositary Receipts (''MidCap SPDRs'').[7] The Sponsor will enter into a trust agreement with a trustee in accordance with Section 26 of the Investment Company Act of 1940. PDR Distributors, Inc. (''Distributor'') will act as underwriter of MidCap SPDRs on an agency basis. All orders to create MidCap SPDRs in Creation Unit size aggregations (which has been set at 25,000) must be placed with the Distributor, and it will be the responsibility of the Distributor to transmit such orders to the Trustee. The Distributor is a registered broker-dealer, a member of the National Association of Securities Dealers, Inc., and a wholly-owned subsidiary of Signature Financial Group, Inc.

To be eligible to place orders to create MidCap SPDRs as described below, an entity or person either must be a participant in the Continuous Net Settlement (''CNS'') system of the National Securities Clearing Corporation (''NSCC'') or a Depository Trust Company (''DTC'') participant. Upon acceptance of an order to create MidCap SPDRs, the Distributor will instruct the Trustee to initiate the book-entry movement of the appropriate number of MidCap SPDRs to the account of the entity placing the order. MidCap SPDRs will be maintained in book-entry form at DTC.

Payment with respect to creation orders placed through the Distributor will be made by (1) the ''in-kind'' deposit with the Trustee of a specified portfolio of securities that is formulated to mirror, to the extent practicable, the component securities of the underlying index or portfolio, and (2) a cash payment sufficient to enable the Trustee to make a distribution to the holders of beneficial interests in the Trust on the next dividend payment date as if all the securities had been held for the entire accumulation period for the distribution (''Dividend Equivalent Payment''), subject to certain specified adjustments.[8] The securities and cash accepted by the Trustee are referred to, in the aggregate, as a ''Portfolio Deposit.''

It is anticipated that the term of the MidCap SPDR Trust will be 25 years.

B. Issuance of MidCap SPDRs

Upon receipt of a Portfolio Deposit in payment for a creation order placed through the Distributor as described above, the Trustee will issue a specified number of MidCap SPDRs, which aggregate number is referred to as a ''Creation Unit.'' The Exchange anticipates that a Creation Unit will be made up of 25,000 MidCap SPDRs.[9] Individual MidCap SPDRs can then be traded in the secondary market like other equity securities. Portfolio Deposits are expected to be made primarily by institutional investors, arbitragers, and the Exchange specialist. On November 17, 1994, the value of an individual MidCap SPDR would have been approximately $34.37.

The Trustee or Sponsor will make available (1) on a daily basis, a list of the names and required number of shares for each of the securities in the current Portfolio Deposit; (2) on a minute-by-minute basis throughout the day, a number representing the value (on a per MidCap SPDR basis) of the securities portion of a Portfolio Deposit in effect on such day; and (3) on a daily basis, the accumulated dividends, less expenses, per outstanding MidCap SPDR.

Transactions in MidCap SPDRs may be effected on the Exchange until 4:15 p.m. New York time each business day. The minimum fractional change for MidCap SPDRs shall be 1/32 of $1.00.[10]

C. Redemption

MidCap SPDRs in Creation Unit size aggregations will be redeemable in kind by tendering them to the Trustee. While holders may sell MidCap SPDRs in the secondary market at any time, they must accumulate at least 25,000 (or multiples thereof) to redeem them through the Trust. MidCap SPDRs will remain outstanding until redeemed or until the termination of the Trust. Creation Units will be redeemable on any business day in exchange for a portfolio of the securities held by the Trust identical in weighting and composition to the securities portion of a Portfolio Deposit in effect on the date a request is made for redemption, together with a ''Cash Component'' (as defined in the Trust prospectus), including accumulated dividends, less expenses, through the date of redemption. The number of shares of each of the securities transferred to the redeeming holder will be the number of shares of each of the component stocks in a Portfolio Deposit on the day a redemption notice is received by the Trustee, multiplied by the number of Creation Units being redeemed. Nominal service fees may be charged in connection with the creation and redemption of Creation Units. The Trustee will cancel all tendered Creation Units upon redemption.

D. Distributions

The MidCap SPDR Trust will pay dividends quarterly. The regular quarterly ex-dividend date for MidCap SPDRs will be the third Friday in March, June, September, and December, unless that day is a New York Stock Exchange holiday, in which case the ex-dividend date will be the preceding Thursday. Holders of MidCap SPDRs on the business day preceding the ex-dividend date will be entitled to receive an amount representing dividends accumulated through the quarterly dividend period preceding such ex-dividend date net of fees and expenses for such period. The payment of

[6] Portfolio Depository Receipts and PDRs are service marks of PDR Services Corporation.

[7] ''Standard & Poor's 500,'' ''Standard & Poor's MidCap 400 Index,'' ''Standard & Poor's Depository Receipts,'' ''SPDRs,'' ''Standard & Poor's MidCap 400 Depositary Receipts,'' and ''MidCap SPDRs' are trademarks of McGraw-Hill, Inc., and are being used by the Exchange and the Sponsor under license among S&P (a division of McGraw-Hill, Inc.), the Exchange, and the Sponsor.

[8] See ''Distributions,'' *infra.*

[9] PDRs may be created in other than Creation Unit size aggregations in connection with the DTC DRS. See *infra* note 12 and accompanying text.

[10] PDRs originally traded in minimum fractional changes of 1/8 of $1.00, pursuant to Amex Rule 127. See Securities Exchange Act Release No. 31591, *supra* note 5. The Commission approved an Exchange proposal to add Commentary .01 to rule 127 to provide that securities listed under Rule 1000 *et seq.* (PDRs) will trade in minimum fractional changes of 1/32 of $1.00. See Securities Exchange Act Release No. 31794 (January 29, 1993), 58 FR 7272. Subsequently, the Exchange amended Commentary .01 to Rule 127 to provide that the minimum fractional change for SPDRs is 1/64 of $1.00. See Securities Exchange Act Release No. 33900 (April 12, 1994), 59 FR 18585. Nevertheless, the minimum fractional change applicable to MidCap SPDRs will be 1/32 of $1.00.

dividends will be made on the last Exchange business day in the calendar month following the ex-dividend date (''Dividend Payment Date''). On the Dividend Payment Date, dividends payable for those securities with ex-dividend dates falling within the period from the ex-dividend date most recently preceding the current ex-dividend date through the business day preceding the current ex-dividend date will be distributed. The Trustee will compute on a daily basis the dividends accumulated within each quarterly dividend period. Dividend payments will be made through DTC and its participants to all such holders with funds received from the Trustee.

The MidCap SPDR Trust intends to make the DTC DRS available for use by MidCap SPDR holders through DTC participant brokers for reinvestment of their cash proceeds. Currently, the DTC DRS is available to holders of SPDRs. To reflect the availability of the DTC DRS to PDR holders, the Amex is proposing to amend its Rule 1000(b)(1) definition of PDR to state that in addition to being made in cash, periodic dividend payments to PDR holders may be reinvested in additional PDRs.[11] Because some brokers may choose not to offer the DTC DRS, an interested investor would have to consult his or her broker to ascertain the availability of dividend reinvestment through that broker. The Trustee will use the cash proceeds of MidCap SPDR holders participating in the reinvestment to obtain the Index securities necessary to create the requisite number of SPDRs.[12] Any cash remaining will be distributed pro rata to participants in the dividend reinvestment.

E. Criteria for Initial and Continued Listing

Because of the open-end nature of the Trust upon which a series of PDRs is based, the Exchange believes it is necessary to maintain appropriate flexibility in connection with listing a specific Trust. In connection with initial listing, the Exchange establishes a minimum number of PDRs required to be outstanding at the time of commencement of Exchange trading. With respect to MidCap SPDRs, it is anticipated that a minimum of 75,000 MidCap SPDRs (*i.e.*, three Creation Units of 25,000 MidCap SPDRs each), will be required to be outstanding when trading begins.

The MidCap SPDR Trust will be subject to the initial and continued listing criteria of Rule 1002(b). Rule 1002(b) provides that twelve months after the formation of a Trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of, a Trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(1) If the Trust on which the PDRs are based has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the PDRs for 30 or more consecutive trading days; or

(2) if the index on which the Trust is based is no longer calculated; or

(3) if such other event shall occur or condition exist which in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

A Trust shall terminate upon removal from Exchange listing and its PDRs redeemed in accordance with provisions of the Trust prospectus. A Trust may also terminate under such other conditions as may be set forth in the Trust prospectus. For example, the Sponsor, following notice to PDR holders, shall have discretion to direct that the Trust be terminated if the value of securities in such Trust falls below a specified amount.[13] The MidCap SPDR Trust will also terminate if the license agreement with S&P terminates.

F. Trading Halts

Prior to commencement of trading in MidCap SPDRs, the Exchange will issue a circular to members informing them of exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Rule 819C(b) in exercising its discretion to halt or suspend trading. These factors would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value;[14] or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[15]

G. Terms and Characteristics

Under Amex Rule 1000, Commentary .01, Amex members and member organizations are required to provide to all purchasers of PDRs, including MidCap SPDRs, a written description of the terms and characteristics of such securities, in a form prepared by the Exchange, not later than the time a confirmation of the first transaction in each series is delivered to such purchaser. The Exchange also requires that such a description be included with any sales material on MidCap SPDRs that is provided to customers or the public. Any other written materials making reference to a series of PDRs as an investment vehicle must state that a written description is available from the broker or the Exchange and that a prospectus may be obtained from the broker. Similarly, the Exchange requires that members and member organizations provide customers with the prospectus for MidCap SPDRs upon request.

A member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase MidCap SPDRs for that omnibus account will be deemed to constitute agreement by the non-member to make the written description available to its customers on the same terms as are directly applicable to members and member organizations.

Prior to commencement of trading of MidCap SPDRs, the Exchange will distribute to its members and member organizations an Information Circular calling attention to the characteristics of the MidCap SPDR Trust and to applicable Exchange rules.

H. Amendments to Rules 1000(b) and 1004

The Exchange proposes to amend the definition of Portfolio Depositary Receipt in Rule 1000(b) to add a reference to the possible provision by a PDR Trust of reinvestment of periodic cash proceeds corresponding to the regular cash dividends or declarations declared with respect to the underlying stock index securities or portfolio of securities. Amex rule 1004 is also being amended to refer specifically to the S&P MidCap 400 Index.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the

[11] Telephone conversation between Michael Cavalier, Assistant General Counsel, Amex, and Francois Mazur, Attorney, Division of Market Regulation, Commission, on February 24, 1995.

[12] The creation of PDRs in connection with the DTC DRS represents the only circumstance under which PDRs can be created in other than Creation Unit size aggregations.

[13] With respect to the MidCap SPDR Trust, the Sponsor has the discretionary right to terminate the Trust if the value of Trust Securities (as defined in the Trust registration statement) falls below $25,000,000 at any time after six months following, and prior to three years following, inception of the Trust. Following such time, the Sponsor has the discretionary right to terminate if Trust Securities fall below $100,000,000 in value, adjusted annually for inflation.

[14] Amex Rule 918C(b)(3).

[15] Amex Rule 918C(b)(4).

rules and requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.[16] Specifically, the Commission finds that the Exchange's proposal to list and trade S&P MidCap SPDRs will provide investors with a convenient way of participating in the securities markets.[17] In particular, the Commission believes that the Exchange's proposal will provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a low cost security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day.[18]

The Commission believes that listing and trading products, such as MidCap 400 SPDRs, based on a broad portfolio of stocks may benefit the securities markets by reducing volatility, such as that experienced during the October 1987 and 1989 Market Breaks.[19] Creating a product where actual portfolios of stocks and instruments representing portfolios of stock trade at a single location in an auction market environmental may alter the dynamics of program trading,[20] because the availability of such single transaction portfolio trading could promote more traditional block trading techniques.

The 1987 Market Break Report noted the potential benefits of providing institutional investors and member firms with the ability to trade a portfolio of stocks at posts in a single transaction. The trading crowd at a single post can allow a single transaction in a portfolio of securities to take the place of numerous transactions in individual stocks. Trading MidCap SPDRs should also provide an easy and inexpensive method to clear and settle a portfolio of stocks.

An individual MidCap SPDR recently would have had a value of approximately $34, which should make it attractive to individual retail investors who wish to hold a security replicating the performance of a broad portfolio of medium capitalization stocks. Moreover, the Commission believes that MidCap SPDRs will provide investors with several advantages over standard open-end mutual funds specializing in medium capitalization stocks. In particular, investors will be able to trade MidCap SPDRs continuously throughout the business day in secondary market transactions at negotiated prices.[21] In contrast, Investment Company Act Rule 22c–1 [22] limits holders and prospective holders of open-end mutual fund shares to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors. Accordingly, MidCap SPDRs will allow investors to (1) respond quickly to market changes; (2) trade at a known price; (3) engage in hedging strategies not currently available to retail investors; and (4) reduce transaction costs for trading a portfolio of securities.

Although the value of MidCap SPDRs is based on the value of the securities held in the Trust, MidCap SPDRs are not leveraged instruments. In essence, MidCap SPDRs are equity securities that are priced off a portfolio of stocks based on the S&P MidCap 400 Index.[23] Accordingly, the level of risk involved in the purchase or sale of a MidCap SPDR is similar to the risk involved in the purchase or sale of equity securities, except that the value of a MidCap SPDR is based on a basket of stocks. Nevertheless, the Commission believes that MidCap SPDRs raise disclosure, market impact, and secondary market trading issues that must be addressed.

A. Disclosure

Existing Amex rules regarding PDRs are applicable to MidCap SPDRs, ensuring that investors are aware of the terms, characteristics, and risks of trading MidCap SPDRs.[24] Accordingly, Amex members must provide their customers trading MidCap SPDRs with a written explanation, prepared by the Amex, describing any special characteristics and risks attendant to trading MidCap SPDRs.[25] Members and member organizations also must include this written product description with any sales material relating to MidCap SPDRs that is provided to customers or the public. Finally, any other written materials provided by a member or member organization to customers or the public that refer to MidCap SPDRs as an investment vehicle must include a statement, in a form specified by the Amex, that a circular and prospectus are available from a broker upon request. A member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of MidCap SPDRs for such omnibus account will be deemed to constitute agreement by the non-member to make the written product description available to its customers on the same terms as member firms.[26]

The Amex's proposal contains no special account opening or customer suitability rules applicable to the

[16] 15 U.S.C. 78f(b)(5) (1988).

[17] The Commission approved Amex rules to accommodate trading on the Exchange of PDRs in Securities Exchange Act Release No. 31591, *supra* note 5. Because the analysis contained in that release is applicable to the Amex's current proposal to list and trade MidCap SPDRs, the Commission is incorporating it by reference.

[18] In originally approving PDRs, the Commission noted that PDRs will benefit investors by allowing them to trade securities based on Trusts in secondary market transactions.

The Commission notes that unlike open-end funds where investors have the right to redeem their fund shares on a daily basis, investors could only redeem MidCap SPDRs in 25,000 share units. Nevertheless, MidCap SPDRs will have the added benefit of liquidity from the secondary market.

[19] See Division of Market Regulation (''Division''), SEC, The October 1987 Market Break (February, 1988) (''1987 Market Break Report'') and Division, SEC, Market Analysis of October 13, and 16, 1989 (December 1990).

[20] Program trading is defined as index arbitrage or any trading strategy involving the related purchase or sale of a ''basket'' or group of 15 or more stocks having a total market value of $1 million or more.

[21] Because of potential arbitrage opportunities, the Commission believes that MidCap SPDRs will not trade at a material discount or premium in relation to their net asset value. The mere potential for arbitrage should keep the market price of a SPDR comparable to its net asset value, and therefore, arbitrage activity likely will be minimal. In addition, the Trust will redeem only in-kind, thereby enabling the Trust to invest virtually all of its assets in securities comprising the MidCap 400 Index.

[22] 17 CFR 270.22c–1 (1994). Investment Company Rule 22c–1 generally requires that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security may sell, redeem, or repurchase the security only at a price based on the net asset value next computed after receipt of an investor's request to purchase, redeem or resell. The net asset value of a mutual fund generally is computed once daily Monday through Friday as designated by the investment company's board of directors. The Commission granted MidCap SPDRs an exemption from this provision to allow them to trade in the secondary market at negotiated prices. See Investment Company Act Release No. 20844 (January 18, 1995).

[23] Because SPDRs will trade like equity securities, the margin requirements for MidCap SPDRs, as with other PDRs, will be 150% of current market value for short sales, and 50% of current market value for long positions. These are the usual Regulation T, 12 CFR 220 (1994), requirements for equity margin stocks. Accordingly, the Exchange has stated its intention to obtain margin offset treatment with respect to Regulation T customer margin, both for offsetting positions of MidCap SPDRs and an equivalent amount of their component securities, and for ''cover'' in accordance with the provisions contained in Section 220.5(c)(3) governing options. The Exchange also intend to seek similar margin offset treatment with respect to market maker charges under Exchange Act Rule 15c3–1(c)(2)(x), 17 CFR 240.15c3–1(c)(2)(x) (1994). Telephone Conversation with Michael Cavalier, *supra* note 11.

[24] See Amex Rule 1000, Commentary .01.

[25] The Amex submitted a MidCap SPDR product description as an exhibit to its filing. Among other things, the product description states that MidCap SPDRs possess risks similar to those that exist when investing in a broadly based portfolio of common stocks, including the risk that the general level of stock prices may decline.

[26] See Amex Rule 1000, Commentary .01.

trading of MidCap SPDRs,[27] therefore, pursuant to Amex Rule 1000(a), the Amex equity rules governing account opening and suitability will apply. Rule 411 provides, among other things, that members shall use due diligence to learn the essential facts relative to every customer, and to every order or account accepted.[28]

B. Market Impact

The Commission believes that the Amex has adequately addressed the potential market impact concerns raised by its proposal. The Exchange's existing trading limit policies regarding PDRs will apply to MidCap SPDRs. Thus, MidCap SPDR trading will halt if the Amex Rule 117 circuit breaker parameters are reached.[29] Similarly, consistent with Amex Rule 918C(b), the Amex may consider trading halts in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value, as well as the existence of other unusual conditions.[30]

The Commission believes that the listing and trading of MidCap SPDRs will not adversely affect U.S. securities markets.[31] The corpus of the MidCap SPDR Trust will be a portfolio of stocks replicating the S&P MidCap 400 Index, a broad-based, capitalization-weighted index consisting of 400 actively traded and liquid U.S. stocks. As described above, the Commission believes that MidCap SPDRs may provide substantial benefits to the marketplace and investors, including enhancing the stability of the markets for individual stocks.[32] Finally, the PDR surveillance procedures, that incorporate and rely upon existing Amex surveillance procedures governing options and equities, will apply to MidCap SPDRs.

C. Trading Rules

The Commission finds that adequate rules and procedures exist to govern the trading of MidCap SPDRs. MidCap SPDRs, like other PDRs, are equity securities that will be subject to Amex rules governing the trading of equity securities, including, among others, rules governing the priority, parity, and precedence of orders and the responsibilities of specialists. In addition, the Amex has developed specific listing and delisting criteria for MidCap SPDRs. These criteria should help to ensure that a minimum level of liquidity will exist in MidCap SPDRs to allow for the maintenance of fair and orderly markets. Accordingly, the Commission believes that the rules governing the trading of MidCap SPDRs provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

D. Dividend Reinvestment

The Commission finds that the Exchange's proposal to amend its Rule 1000(b) definition of PDRs is consistent with the Act. Specifically, the amendment makes clear that the DTC Dividend Reinvestment Service will be made available for the use of PDR holders through DTC participant brokers for the re-investment of the cash proceeds of dividend equivalent payments.[33] This should provide investors with a convenient means of re-investing dividend equivalent payments received from SPDRs.

IV. Conclusion

For the reasons set forth above, 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).[34] As noted above, the trading of MidCap SPDRs on a secondary market should provide a variety of benefits to the marketplace and investors trading portfolios of securities. Accordingly, the Commission believes that MidCap SPDRs will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–AMEX–94–52), as amended, is approved.

For the Commission, by the division of Market Regulation, pursuant to delegated authority.[35]

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–35535; File No. SR–NASD–95–8]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Extend Certain SOES Rules Through October 2, 1995

March 27, 1995.

I. Introduction

On February 10, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder.[2] The NASD proposes to extend through October 2, 1995 certain of the prior changes to its Small Order Execution System (''SOES'') that were implemented in January 1994 (''January 1994 Amended SOES Rules''),[3] modified in January 1995

[27] The exemptions granted by the Commission under the Investment Company Act of 1940 that permit the secondary market trading of MidCap SPDRs, however, are specifically conditioned upon the customer disclosure requirements described above. See Investment Company Act Release No. 20797 (December 23, 1994), 60 FR 163.

[28] See Amex Rule 411.

[29] The circuit breaker rules provide that trading in the stock, options, and futures markets will halt for one hour if the Dow Jones Industrial Average (''DJIA'') declines 250 points or more from its previous day's closing level, and thereafter, trading will halt for an additional two hours if the DJIA declines 400 points from the previous day's close. The triggering of futures price limits for the S&P 500, S&P 100, or Major Market Index futures, however, will not in themselves result in a halt in MidCap SPDR trading or delayed openings. Such an event, however, could be considered by the Exchange, along with other factors, in deciding whether to halt trading.

[30] See Securities Exchange Act Release No. 31591, *supra* note 5.

[31] The Commission notes that SPDRs have been trading on the Amex since January 29, 1993, without incident.

[32] Even though PDR transactions may serve as substitutes for transactions in the cash market, thereby making the order flow in individual stocks smaller than would otherwise be the case, the Commission acknowledges that during turbulent market conditions the ability of large institutions to redeem or create PDRs could conceivably have an impact on price levels in the cash market. In particular, if a PDR is redeemed, the resulting long stock position could be sold into the market, thereby depressing process further. The Commission notes, however, that the redemption or creation of PDRs likely will not exacerbate a price movement because PDRs will be subject to the equity margin requirements of 50% and PDRs are non-leveraged instruments. In addition, as noted above, during turbulent market conditions, the Commission believes PDRs, including MidCap SPDRs, will serve as a vehicle to accommodate and ''bundle'' order flow that otherwise would flow to the cash market, thereby allowing such order flow to be handled more efficiently and effectively. Accordingly, although PDRs and MidCap SPDRs could, in certain circumstances, have an impact on the cash market, on balance the Commission believes that the product will be beneficial to the marketplace and can actually aid in maintaining orderly markets.

[33] The product description also will be changed to make it clear to investors the availability of the Dividend Reinvestment Service.

[34] 15 U.S.C. § 78f(b)(5) (1988).

[35] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1994).

[3] Securities Exchange Act Release No. 33377 (Dec. 23, 1993), 58 FR 69419 (Dec. 30, 1993) (approving the Interim SOES Rules on a one-year pilot basis effective January 7, 1994). *See also* Securities Exchange Act Release No. 33424 (Jan. 5, 1994)

(''January 1995 Amended SOES Rules'')[4] and are scheduled to expire today. Without further Commission action, the SOES rules would revert to those in effect prior to the January 1994 Amended SOES Rules.

Although characterized by the NASD as a proposal to extend the January 1995 Amended SOES Rules, under this proposal, SOES will operate significantly different from its current operation. Most notably, the NASD's current proposal does not include extension of the currently effective 500 share maximum SOES order size limitation and, accordingly, the maximum order size will return to 1,000 shares on March 28, 1995. While the methodology for calculating the minimum exposure limit will remain unchanged from the January 1994 Amended SOES Rules, increasing the maximum order size from 500 shares to 1,000 shares will raise the minimum exposure limit applicable to unpreferenced orders. For market makers electing not to use the automated quotation update feature, the minimum exposure limit will rise from 1,000 shares to 2,000 shares and, for those electing to use this feature, the minimum exposure limit will rise from 500 to 1,000 shares. Moreover, the current proposal will not reinstate the short sale prohibition. Thus, in comparison to the January 1994 Amended SOES Rules, the effect of this proposal is to remove or alter every change made to SOES so that retail investor access to the Nasdaq market is improved.

Notice of the proposed rule change appeared in the **Federal Register** on February 21, 1995.[5] For the reasons discussed below, this order approves the propose rule change until October 2, 1995.

II. Description of the Current and Prior Proposals

The NASD proposes to extend two of the four January 1994 Amended SOES Rules. Specifically, the NASD proposes to extend until October 2, 1995 changes that:

(1) Reduce the minimum exposure limit for ''unpreferenced'' SOES orders from five times the maximum order size to two times the maximum order size, and eliminate the exposure limits for ''preferenced'' SOES orders; and

(2) Add an automated function for updating market maker quotations when the market maker's exposure limit has been exhausted (market makers using this update functions may establish an exposure limit equal to the maximum order size for that security).

In contrast, the January 1994 Amended SOES Rules included the above two changes as well as changes that:

(1) Reduced the maximum size order eligible for SOES execution from 1,000 shares to 500 shares; and

(2) Prohibited short sale transactions through SOES.

The January 1995 Amended SOES Rules continued all of the January 1994 Amended SOES Rules except for the short sale prohibition.[6]

III. Comments

The Commission received comments from seven commenters, with four supporting the proposal and three opposing it. The NASD responded to these comments in a letter dated March 22, 1995.[7] Subsequently, two of the original seven commenters submitted letters reiterating their respective positions; one of these supported the proposal and the other opposed it.

Generally, commenters supporting the proposal argue that approval of the March 1995 Amended SOES Rules will limit the exposure of market makers to multiple executions, which will benefit retail investors by producing narrower spreads and more liquid markets.

Commenters opposed to the proposal argue that the statistical and market quality data cited by the NASD in support of its proposal are not sufficient to support the NASD's position. They contend that the two studies on which the NASD relies fail to demonstrate any increase in market quality as a result of the rules and that market makers have ample opportunity to update their quotes in order to avoid multiple SOES executions. One commenter also argued that the NASD has not provided a sufficient basis for establishing the minimum exposure limit at 2,000 shares and that determining the appropriateness of the automated quotation update feature is not possible without information about the extent of its use. Commenters opposed to the NASD's January 1994 Amended SOES Rules and January 1995 Amended SOES Rules argued that decreasing the minimum exposure limit will increase the potential for order queues to develop and, thus, result in inferior executions for retail customers.

IV. Discussion

The Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.[8] In evaluating a given proposal, the Commission examines the record before it and relevant factors and information.[9] After balancing the advantages and disadvantages of extension, the Commission believes that approval of the March 1995 Amended SOES Rules through October 2, 1995 meets the above standards. Specifically, the Commission believes that returning the maximum order size to 1,000 shares, thus increasing the minimum exposure limit from 1,000 shares to 2,000 shares, and maintaining the automated quotation update feature is appropriate while the NASD considers other methods for handling small orders from retail customers.

In connection with the January 1995 Amended SOES Rules, the NASD submitted an econometric study conducted by the NASD's Economic Research Department[10] and commissioned a consulting economist to provide an assessment of the effect of the January 1994 Amended SOES Rules.[11] In summary, the NASD's

(order denying stay and granting interim stay through January 25, 1994) and Securities Exchange Act Release No. 33635 (Feb. 17, 1994) (order denying renewed application for stay).

[4] Securities Exchange Act Release No. 35275 (Jan. 25, 1995), 60 FR 6327 (Feb. 1, 1995).

[5] Securities Exchange Act Release No. 35364 (Feb. 13, 1995), 60 FR 9704 (Feb. 21, 1995).

[6] Thus, short sales in compliance with the NASD's short sales rule applicable to the Nasdaq market as a whole are permitted in SOES. *NASD Manual*, Rules of Fair Practices, Sec. 48, CCH ¶ 2200H.

[7] Letter from Richard Ketchum, Executive Vice President & Chief Operating Officer, NASD, to Jonathan G. Katz, Secretary, SEC (Mar. 22, 1995).

[8] 15 U.S.C. § 78s(b). The Commission's statutory role is limited to evaluating the rules as proposed against the statutory standards. *See* S. Rep. No. 75, 94th Cong., 1st Sess., at 13 (1975).

[9] In the Securities Acts Amendments of 1975, Congress directed the Commission to use its authority under the Act, including its authority to approve SRO rule changes, to foster the establishment of a national market system and promote the goals of economically efficient securities transactions, fair competition, and best execution. Congress granted the Commission ''broad, discretionary powers'' and ''maximum flexibility'' to develop a national market system and to carry out these objectives. Furthermore, Congress gave the Commission ''the power to classify markets, firms, and securities in any manner it deems necessary or appropriate in the public interest or for the protection of investors and to facilitate the development of subsystems within the national market system.'' S. Rep. No. 75, 94th Cong., 1st. Sess., at 7 (1975).

[10] Securities Exchange Act Release No. 35080 (Dec. 9, 1994), 59 FR 65109 (Dec. 16, 1994). The NASD's Economic Research Department examined Nasdaq bid-ask spreads in specific stocks and price volatility on two sample days each month from November 1993 (three months prior to the effective date of the rules) through August 1994.

[11] Letter from John F. Olson, Counsel for the NASD, Gibson, Dunn & Crutcher, to Jonathan Katz, Secretary, SEC (Dec. 30, 1994) (submitting in connection with File No. SR–NASD–94–68 analysis entitled The Association Between the Interim SOES

Continued

Economic Research Department found that since implementation of the January 1994 Amended SOES Rules: (a) spreads in Nasdaq securities have declined; and (b) volatility of Nasdaq securities appears to be unchanged, except for a brief, market-wide period of volatility in March and April 1994. The commissioned study reported that while percentage quoted spreads increased a statistically insignificant amount, percentage quoted spreads adjusted for other determining factors declined by a statistically significant, but economically insignificant, amount. From this data, the author concluded that the January 1994 Amended SOES Rules did not harm market quality. In support of its current proposal, the NASD also relies on these studies for the proposition that the January 1994 Amended SOES Rules and the January 1995 Amended SOES Rules collectively and individually have improved the quality of the Nasdaq market.

In its order approving the January 1995 Amended SOES Rules, however, the Commission expressed its belief that the empirical data submitted by the NASD demonstrated neither significant improvement to nor serious deterioration in the quality of the Nasdaq market subsequent to the adoption of the January 1994 Amended SOES Rules.[12] Since Commission approval of the January 1995 Amended SOES Rules, no data concerning the impact of the January 1994 Amended SOES Rules or the January 1995 Amended SOES Rules has been submitted. The Commission, therefore, continues to believe that empirical evidence submitted by the NASD demonstrates neither a significant improvement to nor serious deterioration in the quality of the Nasdaq market subsequent to the adoption of the January 1994 Amended SOES Rules. Moreover, the Commission believes this is true whether the amended SOES rules are viewed collectively or individually.

The absence of negative implications for market quality must be considered in conjunction with other effects of the recent changes to SOES on the investing public. The current proposal, in conjunction with termination of the short sale prohibition in January 1995, restores much of the access retail investors with small orders enjoyed prior to the January 1994 Amended SOES Rules and, thus, the Commission believes that a sufficient basis exists for approving the NASD's proposal. Effective March 28, 1995, the 1,000 share maximum order size in effect prior to the January 1994 Amended SOES Rules will be restored. This will provide retail investors enhanced opportunity to obtain execution of transactions between 500 and 1,000 shares and, accordingly, will improve access to the Nasdaq market. The Commission believes that the net effect of the instant proposal and the January 1995 Amended SOES Rules is a substantial departure from the January 1994 Amended SOES Rules, and would eliminate the economically significant restrictions imposed on order entry firms by the prior rules.

The NASD's proposal will continue the methodology for calculating a market maker's minimum exposure limit; that is, two times the maximum order size rather than the pre-January 1994 Amended SOES Rules calculation of five times the maximum order size. Restoring the pre-January 1994 Amended SOES Rules maximum order size of increasing the minimum exposure limit from 1,000 shares to 2,000 shares.

Moreover, the current methodology for calculating a market maker's outstanding exposure limit will continue to exclude orders executed pursuant to a preferencing arrangement. Under the SOES Rules prior to the January 1994 Amended SOES Rules, both preferenced and unpreferenced orders were considered when calculating a market maker's remaining exposure limit. Thus, in relative terms, the 2,000 share exposure limit potentially provides greater liquidity compared to the pre-January 1994 Amended SOES Rules' 5,000 share minimum exposure limit. This assures enhanced access to Nasdaq market makers by both firms with and without preferencing arrangements.

The Commission believes that while the proposal does not restore the pre-January 1994 Amended SOES Rules minimum exposure limit, it provides customers fair access to the Nasdaq market and reasonable assurance of timely executions. In this regard, the maximum order size will equal the size requirement prescribed under the Firm Quote Rule and NASD rules governing the character of market maker quotations.[13] Moreover, market maker's minimum exposure limit for unpreferenced orders will be double its minimum size requirement prescribed under these rules.[14]

The Commission also believes that extending the automated update function is consistent with the Firm Quote Rule. The update function provides market makers the opportunity to update automatically their quotations after executions through SOES;[15] under the Commission's firm Quote Rule, market makers are entitled to update their quotations following an execution and prior to accepting a second order at their published quotes.[16]

The Commission notes commenter views that the NASD's proposal does not go far enough in restoring access available to investors prior to the January 1994 Amended SOES Rules. As discussed above, however, the current proposal does offer investors significantly wider latitude than the January 1994 Amended SOES Rules and the January 1995 Amended SOES Rules. Moreover, the limited duration of the proposal will give the NASD and interested persons an opportunity to assess the broader implications of immediate execution of orders between 500 and 1,000 shares through SOES.

V. Conclusion

As indicated above, the Commission has determined to approve the March 1995 Amended SOES Rules through October 2, 1995. In light of the balance of factors described above and the limited duration of the current proposal, the Commission believes extension of the changed methodology for calculating the minimum exposure and the addition of an automatic quotation

Rules and Nasdaq Market Quality prepared by Dean Furbush, Ph.D., Economists Incorporated (Dec. 30, 1994)). This analysis compared sample days in the three months prior to and three months after the effective date of the January 1994 Amended SOES Rules.

[12] Securities Exchange Act Release No. 35275 (Jan. 25, 1995), 60 FR 6327 (Feb. 1, 1995).

[13] *NASD Manual,* Schedules to the By-Laws, Schedule D, Part V, Sec. 2(a), (CCH) ¶ 1819.

[14] 17 CFR 240.11Ac1–1(c). Nonetheless, the Commission is concerned about the potential for delayed and/or inferior executions. In this regard, the Commission expects the NASD to monitor the extent to which exposure limits are exhausted, the extent to which the automated quotation update feature is used, and the effects these two aspects have on liquidity. Moreover, the Commission expects the NASD to consider the possibility of enhancements to eliminate the potential for delayed and/or inferior executions.

[15] In its response to commenters, the NASD indicated that 21 percent of market makers in Nasdaq National Market securities use the automated quotation update feature resulting in 38 percent of all market making positions in Nasdaq National Market securities. Letter from Richard Ketchum, Executive Vice President & Chief Operating Officer, NASD, to Jonathan G. Katz, Secretary, SEC (Mar. 22, 1995).

[16] The Firm Quote Rule requires market makers to execute orders at prices at least as favorable as their quoted prices. The Rule also allows market makers a reasonable period of time to update their quotations following an execution, allows market makers to reject an order if they have communicated a quotation update to their exchange or association, and provides for a size limitation on liability at a given quote. 17 CFR 240.11Ac1–1(c)(2). *See also,* Securities Exchange Act Release No. 14415 (Jan. 16, 1978), 43 FR 4342 (Feb. 1, 1978).

update feature is consistent with the Act.

The Commission, in the exercise of the authority delegated to it by Congress, and in light of its experience regulating securities markets and market participants, has determined that approval of the March 1995 Amended SOES Rules until October 2, 1995 is consistent with maintaining investor protection and fair and orderly markets, and that these goals, on balance, outweigh any possible anti-competitive effects on order entry firms and their customers.

Accordingly, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the equity markets, set out in Section 11A, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the instant rule change SR–NASD–95–8 be, and hereby is, approved, effective March 28, 1995 through October 2, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–7987 Filed 3–30–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–015]

Load Lines: Barges on Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard proposes to amend its current policy exempting unmanned, river-service, dry-cargo barges operating on Lake Michigan between Chicago (Calumet Harbor), Illinois, and Milwaukee, Wisconsin, from the requirement that they have a Great Lakes Load Line Certificate. In order to qualify for the exemption, the barges must meet certain specified requirements intended to provide a level of safety equivalent to that provided under the Great Lakes load line regulations. Also, the Coast Guard proposes to exempt similar barges under the same requirements operating between Chicago (Calumet Harbor), Illinois, and St. Joseph (Benton Harbor), Michigan. These changes should facilitate the movement of goods along these routes while maintaining an equivalent level of safety.

DATES: This exemption is effective March 31, 1995. Comments must be received on or before May 15, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–015), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William Hayden, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard (G–MTH–3), room 1308, 2100 Second Street, SW., Washington DC 20593–0001. The telephone number is (202) 267–2988.

SUPPLEMENTARY INFORMATION:

Changes to the Chicago to Milwaukee Route Exemption

On September 21, 1992, the Coast Guard published a notice in the Federal Register (57 FR 43479) announcing that unmanned barges designed for river service and carrying dry, non-hazardous cargo from the Illinois River system, via Chicago and Lake Michigan, to Milwaukee, Wisconsin, are exempt from the requirement that they have a Great Lakes Load Line Certificate under 46 CFR part 45. In order to qualify for the exemption, the barges must have a Limited Service Domestic Voyage Load Line Certificate and meet certain special operating restrictions and conditions. Under 46 CFR 45.15(a), Coast Guard determined that, due to the sheltered nature of the voyage along the coast of Lake Michigan and to the special restrictions and conditions imposed, it would be unreasonable to require these barges to have a Great Lakes load line under 46 CFR part 45.

Based on experience gained since 1992, the Coast Guard is making the following changes to the special restrictions and conditions for the exemption:

(1) The lead barge of the tow must have a raked bow. [See paragraph II.4. below.] Comments received at a joint Coast Guard/industry meeting held in Muskegon, Michigan, on October 24, 1994, indicated that using a box (square end) barge as the lead for the tow greatly reduces the transit speed, thereby increasing the transit time. Representatives from several companies operating barges on the Chicago to Milwaukee route stated that they now use a rake-end barge as the lead barge. An increase in speed should reduce the transit time to a harbor of safe refuge in the event of an adverse change in the weather.

(2) Paragraph III.5. allows the initial load line survey for barges less than 10 years old to be conducted with the barge remaining in the water, rather than drydocked or hauled out of the water as presently required. A survey afloat should be sufficient in light of the restricted nature of the route, the relatively benign environment of river service, and the relatively small portion of time the barges would be operating on Lake Michigan. When the barge reaches 10 years of age or upon expiration of its Limited Service Domestic Voyage Load Line Certificate, whichever occurs first, the survey must include drydocking. [See paragraph III.6.]

(3) Carrying cargo to a Lake Michigan port not along the designated route is prohibited. [See paragraph II.2.] The purpose for the exemption is to provide uninterrupted service between the inland waterway system and certain Lake Michigan ports and not to circumvent traditional intra-lake service provided by Great Lakes-capable barges.

Establishment of the Chicago to St. Joseph Route Exemption

As recommended by ABS Americans (ABS) on January 9, 1995, the Coast Guard is granting that a similar exemption with the same restrictions for voyages between Calumet Harbor and Benton Harbor, St. Joseph, Michigan. The Coast Guard is allowing 45 days for public comment and may amend this exemption based on the comments received.

To eliminate duplicative paperwork, an approval for operation on one route constitutes an approval for operation on both routes. [See paragraph I.3.]

For the reasons set out above, the Coast Guard, under 46 U.S.C. 5108 and 46 CFR 45.15(a), amends the exemption announced in the notice of September 21, 1992, (57 FR 43479) as follows: LIMITED SERVICE DOMESTIC VOYAGE LOAD LINE ROUTES: CHICAGO, ILLINOIS, TO MILWAUKEE,

WISCONSIN, AND CHICAGO, ILLINOIS, TO ST. JOSEPH, MICHIGAN

I. General

1. A barge operating under the following restrictions and complying with the following conditions is exempt, under 46 CFR 45.15(a), from 46 CFR part 45, Great Lakes Load Lines.

2. This exemption supersedes the exemption announced in the notice published in the **Federal Register** on September 21, 1992, (57 FR 43479).

3. An approval for operation on either route described in paragraph II.2. results in an approval for operation on both routes. A load line certificate under paragraph II for operation on either route may be amended, upon written request to ABS Americans, to include operation on both routes.

II. Operating Restrictions

Each barge must have a Limited Service Domestic Voyage Load Line Certificate under 46 CFR part 44. The following restrictions apply and must appear on the certificate:

1. The certificate is valid only for unmanned, river-service, dry-cargo barges.

2. Barge operation is limited to voyages between Calumet Harbor, Chicago, Illinois, and Milwaukee, Wisconsin, and between Calumet Harbor and Benton Harbor, St. Joseph, Michigan. Barges may make stops at intermediate ports along a route; however, they may not carry cargo directly from a Lake Michigan port on one route to a Lake Michigan port on the other route without first entering the river system at Calumet Harbor.

3. Hazardous materials, as defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C, may not be carried as cargo. Cargo is limited to dry commodities, such as steel products, heavy machinery, dry bulk fertilizer, grain, bulk cement, scrap materials, and forest products.

4. The towing vessel must have adequate horsepower to handle the size of the tow, with a minimum of 1,000 horsepower. The tow is limited to a maximum of three barges, with the lead barge having a raked bow.

5. Before beginning each voyage, the towing vessel operator shall ensure that each barge of the tow meets the following requirements:

(a) Deck and side shell plating is free of visible holes, fractures, or serious indentations, as well as damage that would be considered in excess of normal wear.

(b) The cargo box side and end coamings are watertight.

(c) All manholes are covered and secured watertight.

6. The towing vessel operator shall maintain radio contact with the local weather radio network.

7. Before getting underway, the towing vessel operator shall determine the weather expected along the proposed route. If the following wind speed and wave height limits are expected to be exceeded at any time during the course of the planned voyage on Lake Michigan, the towing vessel may not leave harbor:

(a) When operating between Chicago and Milwaukee.

Wind direction	Continous velocity (knots)	Wave height
SE, E, NE ..	15	4 feet (1.2 m).
N, S, W, NW, SW.	20	4 feet (1.2 m).

(b) When operating between Chicago and St. Joseph.

Wind direction	Continuous velocity (knots)	Wave height
N, W, NW, SW.	15	4 feet (1.2 m).
E, S, NE, SE.	20	4 feet (1.2 m).

While underway, if the wind speed and wave height exceed the limits above, the towing vessel must proceed immediately to the nearest harbor of safe refuge.

8. The distance from shore during the course of a voyage may not exceed 5 nautical miles.

9. Towing is permitted only if ice conditions are such that operation of the vessel is not imperiled.

10. Precautions must be taken to prevent shifting of cargo.

11. The operational requirements in paragraph II are in addition to other applicable requirements for operation on the Great Lakes.

III. Barge Conditions

A barge that meets the following requirements is eligible for a Limited Service Domestic Voyage Load Line Certificate. ABS Americas is authorized to issue these certificates on behalf of the Coast Guard.

In determining a barge's suitability for assignment of a limited service load line, the following variances apply:

1. The barge length to depth ratio must not exceed 22.

2. The barge must be built and maintained to the minimum scantlings of the American Bureau of Shipping (ABS) River Rules in effect at the time of construction. ABS must be provided with evidence demonstrating compliance with the ABS River Rules.

3. The freeboard assigned to the barge must be at least 24 inches (610 millimeters). For an open-hopper barge, the operating freeboard combined with the height of the cargo box coamings must be at least 54 inches (1372 millimeters).

4. An initial load line survey under 46 CFR 42.09–25 and subsequent annual surveys under 46 CFR 42.09–40 are required to determine compliance with the requirements of this notice, the condition of all watertight openings and closures, and the structural integrity of the barge.

5. At the request of the owner, a light-vessel structural survey may be conducted with the barge remaining in the water, rather than drydocked or hauled out as required by 46 CFR 42.09–25(a), if the barge is less than 10 years old and the following are met:

(a) The draft during the survey does not exceed 15 inches (380 millimeters).

(b) The barge is empty and thoroughly cleaned of all debris, excessive rust, scale, mud, and liquids.

(c) Gaugings are taken to the extent necessary to verify that the scantlings are in accordance with approved drawings.

(d) The bottom and side shell plating below the light waterline are closely examined internally. If the surveyor determines that sufficient cause exists, the surveyor may require that the barge be drydocked or hauled out and further external examination conducted.

6. When the barge reaches 10 years of age or upon the expiration of the Limited Service Domestic Voyage Load Line Certificate, whichever occurs first, the barge must be drydocked or hauled out and examined externally.

Dated: March 24, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security, and Environmental Protection.

[FR Doc. 95–7861 Filed 3–30–95; 8:45 am]

BILLING CODE 4910–14–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 24, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for

Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50223
Date filed: March 20, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 17, 1995
Description: Application of Independence Air, Inc., pursuant to 49 U.S.C. Section 41102, and Subpart Q of the Regulations, applies for a Certificate of Public Convenience and Necessity authorizing Interstate Scheduled Air Transportation of persons, property, and mail.

Docket Number: 50228
Date filed: March 22, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 19, 1995
Description: Application of Omni Air Express, Inc., applies, pursuant to Sections 41101 and 41102 of Title 49 of the United States Code, Parts 201 and 204 of the Economic Regulations and Subpart Q of the Procedural Regulations, for issuance of a Certificate of Public Convenience and Necessity to authorize Omni to provide Non-Scheduled, Charter Interstate and Overseas air transportation of persons.

Docket Number: 50229
Date filed: March 22, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 19, 1995
Description: Application of Omni Air Express, Inc., applies, pursuant to Sections 41101 and 41102 of Title 49 U.S.C., Parts 201 and 204 of the Economic Regulations and Subpart Q of the Regulations, for issuance of a Certificate of Public Convenience and Necessity to authorize Omni to provide Non-Scheduled, Charter Foreign Air Transportation.

Paulette V. Twine,
Chief, Documentary Services Division.
[FR Doc. 95–7910 Filed 3–30–95; 8:45 am]
BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ended March 24, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50224
Date filed: March 21, 1995
Parties: Members of the International Air Transport Association
Subject: COMP Telex Reso 033f, Currency Rates Changes for Hungary
Proposed Effective Date: April 1, 1995

Docket Number: 50231
Date filed: March 23, 1995
Parties: Members of the International Air Transport Association
Subject: COMP Telex Mail Vote 734, Special Amending Reso from Zimbabwe, Telex—Correction
Proposed Effective Date: April 1, 1995

Docket Number: 50232
Date filed: March 23, 1995
Parties: Members of the International Air Transport Association
Subject: COMP Telex Mail Vote 733, Specific Commodity Rates from India, Telex—Correction
Proposed Effective Date: April 1, 1995

Paulette V. Twine,
Chief, Documentary Services Division.
[FR Doc. 95–7911 Filed 3–30–95; 8:45 am]
BILLING CODE 4910–62–P

Federal Aviation Administration

Intent to Prepare Environmental Impact Statement, Miami International Airport, Miami, Florida

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advertise to the public that an Environmental Impact Statement (EIS) will be prepared and considered for the proposed construction of a new parallel east/west runway at Miami International Airport.

FOR FURTHER INFORMATION CONTACT: Mr. Bart Vernace, Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, (407) 648–6583.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA, in cooperation with Dade County, Florida, will prepare an Environmental Impact Statement (EIS) for a proposed new parallel transport runway at Miami International Airport (MIA). Because of airlines' rapid growth during 1992 at MIA and the projected future increase in air traffic operations, the Airport Master Plan approved June 29, 1994, recommended the development of a new parallel runway (8,600′ x 150′) for the short range planning period (0–5 years).

Relocation of existing parallel and connecting taxiways is also proposed. The proposed project would entail construction activity limited to current Airport property (i.e., site preparation, drainage, paving, lighting, NAVAIDS, environmental mitigation, obstruction clearing, and other associated work required for the new runway).

The new runway is planned as a non-precision instrument runway with visibility minimums greater than ¾ of a mile. The runway will have an approach slope of 34:1 with a primary surface width of 500 feet.

The EIS will include evaluation of a no-build alternative and other feasible alternatives that may be identified during the public scoping meeting. The proposed new runway would provide sufficient airfield capacity at MIA to accommodate expected aircraft demand into the 21st century. The increased capacity provided by the proposed project would result in a significant decrease in average aircraft delay times from the projected no-build conditions.

The movement of aircraft operations from existing runways to a new runway could result in changes in runway use. The EIS will determine any noise impacts associated with the operation of the proposed runway. In addition to noise impacts, the EIS will determine any impacts on air and water quality, wetlands, ecological resources, floodplains, historic resources, hazardous wastes and coastal zone management.

Public Scoping: To ensure that the full range of issues related to the proposed project are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. A public scoping meeting to identify significant issues will be held in Miami, Florida. For this meeting we are inviting the public as well as the local, State and Federal agencies.

Written comments may be mailed to the Informational contact listed above within 30 days from publication of this Notice.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, Florida, March 13, 1995.

Charles E. Blair,
Manager, Orlando Airports District Office.
[FR Doc. 95–7984 Filed 3–30–95; 8:45 am]
BILLING CODE 4910–13–M

Charlotte/Douglas International Airport, Charlotte, NC; Environmental Impact Statement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent.

SUMMARY: The Federal Aviation Administration intends to prepare an Environmental Impact Statement (EIS) to address environmental and related impacts expected to be associated with the expansion of Charlotte/Douglas International Airport located at Charlotte, North Carolina.

FOR FURTHER INFORMATION CONTACT: Thomas M. Roberts, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747 (404) 305–7153.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare an EIS for the proposed project to construct and operate a third parallel runway west of the existing runway 18R/36L with associated taxiways and other related facilities. The location and length of the runway will be determined in conjunction with the Airport Master Plan Update (AMP) and Part 150 Noise Compatibility Program (NCP) which will be conducted in the same time frame as the EIS except under separate contracts. The planning for the third parallel runway will require close coordination between the EIS and AMP and NCP contractors.

The FAA plans to coordinate with Federal, State, and local agencies which have jurisdiction by law or special expertise with respect to any environmental impacts associated with the proposed project.

The EIS will also evaluate cumulative impacts anticipated to occur as a result of the implementation of other foreseeable future improvements at the Charlotte/Douglas International Airport.

It is anticipated a Request For Qualifications will be advertised in April or May of this year for a consultant to prepare the EIS.

PUBLIC SCOPING: The Federal Aviation Administration 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, a public scoping meeting will be held and 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 Atlanta, Georgia, on March 22, 1995.

Howard M. Robinson,

Manager, Atlanta Airports District Office.

[FR Doc. 95–7985 Filed 3–30–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–20; Notice 1]

Child Safety Seats; Agreement Between General Motors and U.S. Department of Transportation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice; request for certifications.

SUMMARY: This notice describes an agreement between General Motors (GM) and the U.S. Department of Transportation (DOT), under which GM has agreed to donate funds to one or more qualified organizations for the purchase and distribution of child safety seats. Organizations that wish to receive such funds are required to certify in writing that they are qualified, in accordance with criteria established in the agreement. This notice requests that such organizations submit certifications and describes the criteria they must meet and the information they must submit with their certifications to be eligible to receive these funds.

DATES: Certifications must be received no later than May 1, 1995.

ADDRESSES: Certifications should be submitted to: Office of Occupant Protection, NTS–11, Room 5118, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Gorcowski, National Organizations Division, NTS–11, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 366–2683.

SUPPLEMENTARY INFORMATION: On December 2, 1994, Secretary of Transportation Federico Peña announced that DOT and GM had agreed in principle to a resolution of the investigation by the National Highway Traffic Safety Administration (NHTSA) into an alleged defect related to motor vehicle safety in certain 1970–1991 GM C/K pickup trucks. The terms of the resolution were finalized in a separate agreement that was executed between GM and DOT on March 7, 1995.

Under the terms of the agreement, GM agreed to provide funds over a period of five years to support highway safety research and programs that will prevent motor vehicle deaths and injuries.

In the area of child safety, GM agreed to donate $8,000,000 to qualified organizations for the purchase and distribution of child safety seats. Of this amount, $4,000,000 will be donated during the first year after the date of the agreement (approximately $1,000,000 each quarter) and $4,000,000 will be donated over the next four years. The seats will be directed to low income and special needs populations that are underserved and culturally diverse.

NHTSA estimates that these funds will allow for the purchase and distribution of between 125,000 and 200,000 child safety seats for needy families which, in turn, will save at least 50 lives and prevent approximately 6,000 injuries.

Background

There are approximately 25 million young children, under the age of eight years old, who need the protection of child safety seats. One fourth of these children come from families that are below the poverty level.

As many as 3 million children in low-income families do not have access to adequate child safety seats. An additional 3 million children or more have access to child safety seats but, for a variety of reasons, are not being secured in these seats properly. Additionally, children with special transportation needs, such as children with disabilities, often require uniquely designed child safety seats that are too expensive for most families of average income to afford.

For these and other reasons, millions of children ride each day either unprotected or inadequately protected by child safety seats. A disproportionate number of these children are from low income or rural families or from culturally diverse populations.

To increase child safety seat usage, child safety seats must be made more readily available, particularly to underserved low income and special needs families. These families must also be motivated in the use of child safety seats and educated about their proper usage.

Public interest in child passenger safety today is at an all-time high, and there are a number of national organizations that work in this area. These organizations, in collaboration with state and local affiliates and related agencies, distribute child safety seats in communities and educate families about the proper use of these seats and other

practices that can lead to increased highway safety.

An effective child safety seat program can reach and have a major positive impact on large numbers of children, as well as their families. To be most effective, however, the program must ensure that seats are distributed primarily to the populations most at risk, including underserved low income and special needs families. If programs do not target these populations, the seats could be provided instead to families that could otherwise afford to purchase them, with little net benefit.

List of Qualified Organizations

The agreement between GM and DOT provides:

DOT shall identify, on an ongoing basis so as to facilitate timely GM donations, qualified organizations which DOT in its sole discretion deems appropriate to receive donations from GM for the purchase and distribution of child safety seats. GM, in its sole discretion, shall select from the list of qualified organizations provided by DOT, the organization(s) to which it will donate funds, and shall decide the exact amount of funds that each such organization will receive.

The agreement provides further that any organization that is interested in being identified as a ''qualified organization'' must certify to DOT in writing that it will meet a number of criteria set forth in the agreement.

Today's notice describes the criteria that an organization must meet and the information it must submit with its certification, to be identified as a ''qualified organization.'' Certifications must be received no later than 30 days after the date of publication of today's notice in the **Federal Register**. When NHTSA completes its review of the certifications, it will prepare a list of organizations it has identified as qualified and appropriate to receive donations for the purchase and distribution of child safety seats. NHTSA will provide the list to GM and place it in the public docket.

This list of organizations will be used by GM during the first and second quarters of the first year after the date of the agreement, during which time GM will donate a total of approximately $2 million for the purchase and distribution of child safety seats.

Within six months (or less) from the date of publication of today's notice, NHTSA plans to publish a second notice in the **Federal Register** requesting certifications from organizations that wish to receive donations after the second quarter. Any organization that wishes to be included on the second list, whether or not the organization was included on the first list, must submit a certification. NHTSA reserves the right to request at that time the submission of additional information, not identified in today's **Federal Register** notice, from organizations seeking to be included on the second list.

Based on its review of the certifications received in response to the second **Federal Register** notice, NHTSA will prepare a revised list of organizations that have been identified as qualified and appropriate to receive future donations from GM. (As explained earlier, GM will donate approximately $1 million in the third quarter of the first year after the date of the agreement, $1 million in the fourth quarter, and a total of $4 million during the following four-year period.)

NHTSA may, from time to time, publish additional notices requesting certifications and prepare additional revised lists of qualified organizations, if it determines it is appropriate to do so.

Certification Criteria

In accordance with the agreement, in order to be identified as a ''qualified organization,'' an organization must certify in writing that it shall meet eleven separate criteria. Each of these criteria is described below:

(1) Work through affiliates

The organization must certify in writing that it shall:

work, through its state or local affiliates, with agencies such as children's hospitals and health agencies to identify families who could not otherwise afford seats or who have special needs

Organizations must have established and effective affiliate relationships and on-going collaboration with other appropriate agencies or organizations necessary to carry out the effort. Organizations can satisfy this criterion by showing that they work either through their state or local affiliates (i.e., units or chapters specifically organized to carry out the organization's mission), or with other child safety-related agencies or organizations, such as children's hospitals or fire and rescue agencies.

Organizations may have either a built-in network or collaborative access to such a network. The network must enable the organization to identify families of target populations who have not been reached through traditional channels, including families who could not otherwise afford seats or who have special needs, and to distribute seats and provide education to these families.

Organizations must submit information regarding their structure and a designation of geographic locations of state and local affiliates that are expected to be involved in the effort. Organizations must also submit information regarding the organizations and agencies with which they will be affiliated for purposes of this program.

(2) Existing program or trained staff

The organization must certify in writing that it shall:

have an existing loaner or give-away child safety seat program or have staff trained in child passenger safety issues

Organizations must have experience, either directly or through their affiliates, with a loaner or give-away program or staff trained in child passenger safety or related issues. The experience or training is necessary to ensure that organizations, or their affiliates, are able to operate such programs, and to meet the deadlines and requirements established in the agreement for distributing seats and providing education.

Organizations must describe their existing loaner or give-away child safety seat programs and their experience in providing education on the use of child safety seats or on other related public health issues. They must identify the number of current trained staff and provide a description of training conducted or taken by their staff and the dates of last training. Organizations may also describe existing loaner or give-away programs, experience in providing education and provide the training information described above for agencies or organizations with which they have collaborative relationships.

(3) Low-income or special needs across broad geographic area

The organization must certify in writing that it shall:

distribute the seats to low-income families and/or families with special needs across a broad geographical area throughout the United States

The intent of this provision is to assure that underserved children from culturally diverse populations throughout the United States receive the benefits of the program. Qualified organizations need not distribute seats in every state. However, they must have a program that is national in scope and reaches their target populations throughout the United States. Organizations must submit their mission statements, a description of the method they will use to identify underserved low income or special needs families, and a list of the geographic locations that would be targeted for receipt of the seats. They must demonstrate the ability to identify underserved low income and special

needs families, and the ability to distribute seats to these families.

(4) Mix of child safety seats

The organization must certify in writing that it shall:

comply with NHTSA guidelines with respect to the approximate mix of child safety seats (e.g., infant, toddler, booster, special needs)

Children of differing ages and transportation needs require different types of child safety seats. The intent of this provision is to assure that the children who are recipients under this program receive seats that meet their needs. The provision is also intended to assure that organizations purchase the correct mix of seats for their target population.

Organizations will need to identify the ages and transportation needs of the intended recipients and the types of seats needed to properly fit the target group. For example, an organization targeting special needs children may need very specialized seats, while a program targeting older children may need convertible toddler and booster child restraint devices.

Organizations must specify the maximum number of seats they are capable of distributing within 120 days of their receipt of the funds and the amount of funding they are requesting from GM to purchase and distribute this number of seats. Organizations must specify the proposed mix and types of seats needed to serve the age and needs of the populations to be targeted (e.g., 25% booster seats, 50% toddler seats, 20% infant seats and 5% special needs seats), and their expected per unit cost to purchase and distribute each type of seat. Organizations must also describe the method used to derive the mix. They should indicate whether the mix or price would change if they receive less funding than the full amount requested.

(5) Within 120 days

The organization must certify in writing that it shall:

distribute all of the seats purchased with the funds provided by GM to the local agencies within 120 days of the receipt of the funds

Organizations will be required, under the agreement, to purchase and distribute all of the seats to local agencies within 120 days of receipt of the funds. To satisfy this criterion, organizations must demonstrate the ability to meet this requirement. Organizations must submit a plan describing how they will reach a broad geographical area and how they will identify the low income and special needs families to be served by this program. The plan must describe how they will accomplish the purchase and distribution of seats within the 120-day period and it must include a proposed schedule for the purchase and distribution of seats.

Organizations must also demonstrate that the distribution and education efforts funded under this program will either create new initiatives, or complement (rather than duplicate) existing initiatives, in the geographic areas to be served. This may be demonstrated by including in the plan, either letters of support from the organizations that are (or would be) responsible for child safety seat programs (such as state highway safety offices and state public health agencies) or a description of the organization's plans to coordinate with these responsible organizations.

(6) Educate recipients

The organization must certify in writing that it shall:

educate recipients of the seats as to methods of proper installation and use

While the distribution of child safety seats is vitally important, and can save many children's lives, the effectiveness of those seats in preventing injury and death increases significantly when recipients are trained in and follow proper use and installation instructions. Organizations are required, under the agreement, to provide education to the recipients of the seats regarding the proper installation and use of child safety seats. Organizations must describe the means they or their affiliates will use to educate families about the proper installation and use of child safety seats (e.g., hands-on demonstration, video, brochures).

To assist in this effort, NHTSA will make resources, including materials and technical assistance, available to the selected organizations.

(7) Administrative expenses

The organization must certify in writing that it shall:

not use more than 10 percent of the funds provided by GM for administrative expenses related to distribution of the seats

Organizations shall use no more than 10 percent of the funds provided by GM for administrative expenses related to the distribution of the seats. Examples of administrative expenses include operational overhead such as secretarial support, telephone expenses, and time of paid staff to help develop the plans for these efforts. No additional information is required to be submitted at this time in support of this element of the certification.

(8) Added to existing funds and no diversions

The organization must certify in writing that it shall:

add the GM-provided funds to the total of its existing funds spent on the distribution of child safety seats to low-income families and not divert any funds currently budgeted to such activities to other activities

Organizations shall add the GM-provided funds to the total of their existing funds, if any, spent on the distribution of child safety seats to low income and special needs families and not divert any funds currently budgeted to such activities, if any, to other activities. In other words, the funds provided by GM must represent new and additional resources, and may not be used to replace other funds, if any, that otherwise would have been used for the distribution of child safety seats to low-income families and their related education activities. No additional information is required to be submitted at this time in support of this element of the certification.

(9) Third-party audit

The organization must certify in writing that it shall:

allow the activities conducted pursuant to this program to be audited by such third party as selected by DOT

Organizations shall allow the activities conducted pursuant to this program to be audited by such third party as may be selected by DOT. Organizations shall also maintain adequate records to allow an audit to be conducted. No additional information is required to be submitted at this time in support of this element of the certification.

(10) Enforceable commitments and promises

The organization must certify in writing that it shall:

acknowledge and agree that such commitments and promises shall be enforceable

Organizations shall acknowledge and agree that the commitments and promises they make shall be enforceable through legal process or other appropriate means. No additional information is required to be submitted at this time in support of this element of the certification.

(11) No assumption of responsibility

The organization must certify in writing that it shall:

acknowledge and agree that GM does not assume or bear any responsibility for the organization's commitments, the selection of the safety seats actually purchased or distributed, or the education of recipients of the seats as to proper use

The organization shall acknowledge and agree that GM does not assume or

bear any responsibility for the organization's commitments, the selection of the safety seats actually purchased or distributed, or the education of recipients of the seats as to proper use. No additional information is required to be submitted at this time in support of this element of the certification.

Evaluation Criteria

Certifications must demonstrate that the organization meets all criteria listed above. Certifications will be evaluated based on the following factors:

1. Understanding of the requirements of the agreement and soundness of approach as shown by the organization's plan and certification.

2. The ability to identify underserved low income and special needs families.

3. The ability to distribute child safety seats to these target populations at the community level.

- The experience of the organization, or its affiliates, in distributing child safety seats
- The breadth and diversity of the underserved population the organization can effectively reach

4. The ability to provide education to recipients.

- The experience of the organization, or its affiliates, in providing education on the use of child safety seats or on other related public health issues
- The level of training of the organization's staff or of the staff of its affiliates

5. The ability to conduct a distribution and education program that either creates new initiatives, or complements (rather than duplicates) existing initiatives, in the geographic areas to be served.

Certification Procedures

To be considered, certifications must be received no later than 30 days after the date on which today's notice is published in the **Federal Register**. Certifications should be submitted to Office of Occupant Protection, NTS–11, Room 5118, 400 Seventh Street, S.W., Washington, D.C. 20590.

Certifications must include each of the following:

(1) Certification Statement

A written statement, signed by an authorized official of the organization, certifying that the organization shall:

(i) work, through its state or local affiliates, with agencies such as children's hospitals and health agencies to identify families who could not otherwise afford seats or who have special needs; (ii) have an existing loaner or give-away child safety seat program or have staff trained in child passenger safety issues; (iii) distribute the seats to low-income families and/or families with special needs across a broad geographical area throughout the United States; (iv) comply with NHTSA guidelines with respect to the approximate mix of child safety seats (e.g., infant, toddler, booster, special needs); (v) distribute all of the seats purchased with the funds provided by GM to the local agencies within 120 days of the receipt of the funds; (vi) educate recipients of the seats as to methods of proper installation and use; (vii) not use more than 10 percent of the funds provided by GM for administrative expenses related to distribution of the seats; (viii) add the GM-provided funds to the total of its existing funds spent on the distribution of child safety seats to low-income families and not divert any funds currently budgeted to such activities to other activities; (ix) allow the activities conducted pursuant to this program to be audited by such third party as selected by DOT; (x) acknowledge and agree that such commitments and promises shall be enforceable; and (xi) acknowledge and agree that GM does not assume or bear any responsibility for the organization's commitments, the selection of the safety seats actually purchased or distributed, or the education of recipients of the seats as to proper use.

(2) Plan

A plan describing how the organization will reach a broad geographical area, how it will identify underserved low income and special needs families that will be served by the program, and how it will accomplish the purchase and distribution of child safety seats within 120 days of receipt of the funds. The plan must include a proposed schedule for the purchase and distribution of seats, and either letters of support from the organizations that are (or would be) responsible for child safety seat programs in the geographic areas to be served (such as state highway safety offices and state public health agencies) or a description of the organization's plans to coordinate with these responsible organizations.

(3) Additional Information

The following additional information to ensure that the organization is capable of meeting the objectives of the agreement:

- Information regarding the organization's structure and a designation of geographic locations of state and local affiliates to be involved in the effort;
- Information regarding the organizations and agencies with which the organization will be affiliated for purposes of this program;
- A description of the organization's, or its affiliates': existing loaner or give-away programs; experience in providing education on the use of child safety seats or on other related public health issues; the number of trained staff; a description of training conducted or taken; and the dates of last training;
- A mission statement of the organization;
- The method to be used to identify underserved low income or special needs families;
- A list of the geographic locations that would be targeted for receipt of the seats;
- The maximum number of seats the organization is capable of distributing within 120 days of its receipt of the funds; the amount of funding the organization is requesting from GM to purchase and distribute this number of seats; the proposed mix and types of seats needed to serve the age and needs of the populations to be targeted (e.g., 25% booster seats, 50% toddler seats, 20% infant seats and 5% special needs seats); the expected per unit cost to purchase and distribute each type of seat; the method used to derive the mix; and, if applicable, any change in mix or price if the organization receives less funding than the full amount requested; and
- A description of the means to be used by the organization or its affiliates to educate families about the proper installation and use of child safety seats.

Organizations must submit one original and two copies of their certifications. Certifications shall be subject to 18 U.S.C. 1001, which prohibits to making of false statements. Organizations are requested to submit four additional copies to facilitate the review process, but there is no requirement or obligation to do so.

Organizations that would like to be notified upon receipt of their certifications should enclose a self-addressed stamped postcard in the envelope with their certifications. Upon receiving the certifications, the postcard will be returned by mail.

Issued on: March 27, 1995.

Michael B. Brownlee,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 95–7986 Filed 3–28–95; 2:55 pm]

BILLING CODE 4910–59–P

[Docket No. 94–60; Notice 2]

Denial of Petition for Import Eligibility Decision

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(C)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)).

The petition, which was submitted by J.K. Motors, Inc. of Kingsville, Maryland (J.K.), a registered importer of motor vehicles, requested NHTSA to decide that a 1994 Alfa Romeo 164 Quadrifoglio passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to the version of the 1994 Alfa Romeo 164 Quadrifoglio that was originally manufactured for importation into and sale in the United States and that was certified by its original manufacturer, Alfa Lancia Industriale, as complying with the safety standards, and (2) it is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

NHTSA published a notice in the **Federal Register** on August 15, 1994 (59 FR 41811) that contained a thorough description of the petition, and solicited public comments upon it. One comment was received in response to this notice, from Fiat Auto R&D U.S.A., a division of Fiat Auto U.S.A., Inc. (Fiat), the U.S. representative of the vehicle's original manufacturer.

In its comment, Fiat stated that the structure of the non-U.S. certified Alfa Romeo 164 Quadrifoglio differs from that of its U.S. certified counterpart to accommodate a different powertrain. Fiat further stated that the vehicle's manufacturer determined that ''without completely redesigning the rear portion'' of the non-U.S. certified Alfa Romeo 164 Quadrifoglio, it would be ''extremely costly and technically impossible'' to bring the vehicle into compliance with applicable Federal motor vehicle safety standards, particularly Standard No. 301, *Fuel System Integrity,* and other vehicle crashworthiness standards.

NHTSA accorded J.K. an opportunity to respond to Fiat's comments. As of the date of this notice, J.K. has failed to submit such a response. This has compelled NHTSA to conclude, from the state of the record, that the petition does not clearly demonstrate that the non-U.S. certified version of the 1994 Alfa Romeo 164 Quadrifoglio is eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with 49 U.S.C. 30141(b)(1) (formerly section 108(c)(3)(C)(ii) of the Act), NHTSA will not consider a new import eligibility petition covering this vehicle until at least three months from the date of this notice.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 27, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–7909 Filed 3–30–95; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Meetings of Pipeline Safety Advisory Committees

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1) notice is hereby given of the following meetings of the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) and the Technical Pipeline Safety Standards Committee (TPSSC). Each Committee meeting as well as a joint session of the two Committees will be held in Room 2230 of the U.S. Department of Transportation Building, 400 Seventh Street SW., Washington, DC.

On May 2, at 8:00 a.m., the TPSSC will meet. Agenda items include discussion and voting on Qualifications of Pipeline Personnel and Passage of Instrumented Internal Devices.

At 1:00 p.m., TPSSC will be joined by members of the THLPSSC for a joint session which will include:

1. Welcome by the RSPA Administrator
2. Policy Issues
3. Regulatory Reinvention Initiatives
4. Update of the National Association of Pipeline Safety Representatives and National Association of Regulatory Utilities Commissioners Committees
5. One-Call Campaign
6. New Jersey Institute of Technology Report
7. Risk Management

On May 3, from 8:00 a.m. to 12:00 noon, the joint TPSSC–THLPSSC session will include: (1) DOT Restructuring, (2) Legislation, (3) Environmentally Sensitive Areas, and (4) Regulatory Updates including Mandatory Participation in One-Call System, Excess Flow Valves, Definitions of Gas Gathering Lines, Customer Owned Service Lines, and Emergency Flow Restricting Devices.

At 1:00 p.m., the THLPSSC will meet. Agenda items include discussion and voting on Qualification of Pipeline Personnel and Passage of Instrumented Internal Devices.

Each meeting will be open to the public, but attendance will be limited to the space available. Please note that attendance will particularly be limited during the joint session of the two committees because of space constraints.

Members of the public may present oral statements on the topics. Due to the limited time available, each person who wants to make an oral statement must notify Bernardyne Williams or Gwen Hill, Room 2335, Department of Transportation Building, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–6570, not later than April 24, 1995, of the topics to be addressed and the time requested to address each topic. The presiding officer may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any meeting.

Issued in Washington, DC, on March 28, 1995.

Cesar De Leon,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 95–7982 Filed 3–30–95; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Public Information Collection Requirements Submitted to OMB for Review

March 23, 1995.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–11. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

OMB Number: 1550–0062

Form Number: Not Applicable

Type of Review: Extension

Title: Minimum Security Devices and Procedures

Description: The Bank Protection Act and OTS implementing regulations require savings associations to establish security devices and procedures. The required written security program allows OTS to evaluate whether savings associations have adopted polices and procedures to ensure compliance with the regulations and statute.

Respondents: Savings and Loan Associations and Savings Banks
Estimated Number of Recordkeepers: 1,540
Estimated Burden Hours Per Recordkeeper: 2 Hrs. Avg.
Frequency of Response: Recordkeeping
Estimated Total Recordkeeping Burden: 3,080 Hrs.
Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 G Street NW., Washington, D.C. 20552.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Cora Prifold Beebe,

Director of Administration.

[FR Doc. 95–7902 Filed 3–30–95; 8:45 am]

BILLING CODE 6720–01–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 62
Friday, March 31, 1995

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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 4, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–8116 Filed 3–29–95; 2:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, April 4, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Meeting.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–8117 Filed 3–29–95; 2:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, April 18, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Meeting.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–8118 Filed 3–29–95; 2:23 pm]

BILLING CODE 6351–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, April 5, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 29, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–8070 Filed 3–29–95; 11:11 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Cancellation of Meeting

The National Credit Union Administration Board determined that its business requires that the previously announced open meeting (Federal Register, Vol. 60, No. 57, Friday, March 24, 1995) scheduled for March 29, 1995 is canceled and that no earlier announcement of this change was possible.

The previously announced items were:

Board Briefing

1. Insurance Fund Report.

Matters To Be Considered

1. Approval of Minutes of Previous Open Meetings.
2. Request from State of Michigan for Exemption under Section 701.21(h), NCUA's Rules and Regulations, Member Business Loans.
3. Proposed Rule: Amendments to Section 701.21(c)(8), NCUA's Rules and Regulations, Prohibited Fees.
4. Proposed Rule: Amendments to Part 704, NCUA's Rules and Regulations, Corporate Credit Unions.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker

Secretary of the Board.

[FR Doc. 95–8030 Filed 3–28–95; 4:22 p.m.]

BILLING CODE 7535–01–M

Corrections

Federal Register

Vol. 60, No. 62

Friday, March 31, 1995

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 TRANSPORTATION

Coast Guard

46 CFR Parts 4 and 5

Marine Safety Investigation Process Review

Correction

In proposed rule document 95–6950 beginning on page 15115 in the issue of Wednesday, March 22, 1995 make the following corrections:

On page 15116, in the second column, in the first incomplete paragraph:

(a) In the first line ''more'' should read ''some''.

(b) In the penultimate line ''investigation'' should read ''investigating''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8552]
RIN 1545–AL80

Intercompany Transfer Pricing Regulations Under Section 482

Correction

In rule document 94–16456 beginning on page 34971 in the issue of Friday, July 8, 1994, make the following corrections:

§ 1.482–5 [Corrected]

On page 35024, in § 1.482–5(e), *Example 1*(iii), in the table, in the second, third, fourth and fifth columns, the entries for ''Sales'' should read ''$500,000'', ''$560,000'', ''$500,000'' and ''$520,000''.

BILLING CODE 1505–01–D

federal register

Friday
March 31, 1995

Part II

Department of Education

Direct Grant Programs and Fellowship Programs; Notice

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice of direct grant programs and fellowship programs under which the Secretary is making new awards for fiscal year 1995.

SUMMARY: The Secretary updates the list of the Department's direct grant programs and fellowship programs under which the Secretary is making new awards for fiscal year (FY) 1995 and estimates the deadline dates for the transmittal of applications for many of those programs for which application notices have not yet been published. The Secretary also revises the list of State Single Points of Contact (SPOCs) for programs subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs). The notice is intended to help potential applicants in planning for the remainder of this fiscal year.

DATES: *Dates of Application Notices:* The actual or estimated date for publication of the application notice for a given program is listed in column three of the chart in this notice. For any previously announced program column three also includes the **Federal Register** volume and page reference to that notice. If a program has yet to publish an application notice, an estimated date (est.) or TBA (to be announced) is listed in this notice.

Dates of Availability of Applications: The date on which applications will be available for any given program is in the application notice for that program.

Deadline Dates for Transmitting Applications: The actual or estimated deadline date for transmitting applications under a program is listed in column four of the chart in this notice. If a program has yet to publish an application notice, an estimated deadline date (est.) or TBA is listed in this notice, and the actual deadline date will appear in the application notice to be published in the **Federal Register**.

Deadline Dates for Transmitting Intergovernmental Reviews: For any previously announced program subject to Executive Order 12372, the deadline date for the transmittal of State Process Recommendations by SPOCs and comments by other interested parties is listed in the application notice for that program. A deadline date will also appear in the application notice for any program yet to be announced.

ADDRESSES: *For Applications or Further Information:* The address and telephone number for obtaining applications for, or further information about, an individual program are in the application notice for that program.

For Users of TDD or FIRS: Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given program, individuals who use a 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.

For Intergovernmental Review: The address for transmitting recommendations and comments under Executive Order 12372 is in the appendix to this notice. The appendix also contains the addresses of individual SPOCs.

For Electronic Access to Information: Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: On June 10, 1994 the Secretary published in the **Federal Register** (59 FR 30190) the first section of the Department's annual combined application notice (CAN) for FY 1995. Included in that document were individual notices inviting applications for new awards under 65 programs and competitions. These were direct grant and fellowship programs administered mainly by the Office of Postsecondary Education and the Office of Special Education and Rehabilitative Services. Since June 10 a number of other programs have published application notices for new awards for FY 1995.

In the document published on June 10, the Secretary announced the Department's intent to publish a second section of the CAN for FY 1995 in September, 1994. However, legislation authorizing or reauthorizing many of the Department's remaining programs was not enacted until October 20, 1994. This statute, the Improving America's Schools Act of 1994 (Pub. L. 103–382), includes programs administered by the Office of Bilingual Education and Minority Languages Affairs and the Office of Elementary and Secondary Education, some programs of the Office of Educational Research and Improvement, and some programs of other principal offices of the Department. These programs could not publish application notices in September, as originally planned, without enacted legislation authorizing the programs and without subsequent programmatic and fiscal decisions based on that legislation and on budgetary appropriations.

On October 17, 1994 the Secretary published in the **Federal Register** (59 FR 52291) a notice postponing publication of section two of the CAN. The Secretary believed it would be more helpful to the Department's customers to delay publication of that document until a time when application notices for most of these programs could be published or, at least, listed with an estimated date for publication.

In addition to awards under programs affected by reauthorization, awards under some other programs and competitions were to be governed by new regulations or funding priorities that had not yet been issued in final form. Still other programs and competitions had to delay publication of application notices for FY 1995 pending approval of application forms, as well as other information collection requests, by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

In the notice of October 17, the Secretary estimated that publication of section two of the CAN for FY 1995 would take place before the end of January 1995. However, publication of many of the affected application notices has been further postponed to enable the Department to develop policies and procedures designed to make the grant award process and the activities under these grants as accommodating as statutorily permissible to the needs and concerns of the Department's customers.

The Department will continue to publish individual application notices when they are ready. In the meantime, this combined application notice: (1) References all application notices for FY 1995 previously announced in the **Federal Register**, including those contained in section one of the CAN published on June 10, 1994, and (2) to the extent possible, gives estimated dates for programs and competitions for which application notices are to be published at a later date.

As an appendix to the CAN of June 10, 1994, the Secretary published a list of SPOCs for programs subject to Executive Order 12372 and the regulations in 34 CFR part 79. Since publication of that list, Colorado, Massachusetts, and Tennessee have ended their voluntary participation in

this review process, Alabama has elected to participate in the process, and, in a few other States, the names or addresses of SPOCs have changed. Therefore, as an appendix to this update of the combined application notice, the Secretary is publishing a revised listing of SPOCs.

Organization of Notice

The chart lists direct grant programs and certain fellowship programs under which the Secretary is making or plans to make new awards in FY 1995. The listings are organized under the following principal program offices of the Department:

Office of Bilingual Education and Minority Languages Affairs.

Office of Educational Research and Improvement.

Office of Elementary and Secondary Education.

Office of Postsecondary Education.

Office of Special Education and Rehabilitative Services.

Office of Vocational and Adult Education.

For each principal office, programs are listed in order of their respective Catalog of Federal Domestic Assistance (CFDA) number.

Programs To Be Announced at a Future Date

For FY 1995 a few programs will be governed by new regulations or funding priorities. This notice references these types of programs with an asterisk following the respective estimated date (est.*) in column three of the chart. For further information regarding these programs, readers are referred to the following notices of proposed priority that have been published in the **Federal Register**:

Jacob K. Javits Gifted and Talented Education Program—National Research and Development Center—Notice of Proposed Priority, Selection Criteria, and Post-Award Requirements——60 FR 2956 (1/12/95)

School-to-Work Opportunities Act; State Implementation Grants—Notice of Proposed Selection Criteria and a Proposed Definition of Administrative Costs——60 FR 13312 (3/10/95)

National Education Goals

The Goals 2000: Educate America Act (Pub. L. 103–227), enacted March 31, 1994, enunciates the following National Education Goals for the year 2000:

- All children in America will start school ready to learn.
- The high school graduation rate will increase to at least 90 percent.
- All students will leave grades 4, 8, and 12 having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.
- United States students will be first in the world in mathematics and science achievement.
- Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.
- Every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.
- The Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.
- Every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

For competitions that are still open for FY 1995, the Secretary encourages applicants under these programs to consider the National Education Goals in developing their applications.

Applicability of Section 5301 of the Anti-Drug Abuse Act of 1988

A number of programs listed in the chart provide that a grant, fellowship, traineeship, or other monetary benefit may be awarded to an individual. This award may be made to the individual either directly by the Department or by a grantee that receives Federal funds for the purpose of providing, for example, fellowships, traineeships, or other awards to individuals.

Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690; 21 U.S.C. 862) provides that a sentencing court may deny eligibility for certain Federal benefits to an individual convicted of drug trafficking or possession. Thus, an individual who applies for a grant, fellowship, or other monetary benefit under a program covered by this notice should understand that, if convicted of drug trafficking or possession, he or she is subject to denial of eligibility for that benefit if the sentencing court imposes such a sanction. This denial applies whether the Federal benefit is provided to the individual directly by the Department or is provided through a grant, fellowship, traineeship, or other award made available with Federal funds by a grantee.

Any persons determined to be ineligible for Federal benefits under the provisions of section 5301 are listed in the General Services Administration's ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.''

Applicability of the Federal Debt Collection Procedures Act of 1990

The programs listed in the chart make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990 (Pub. L. 101–647; 28 U.S.C. 3201). The Act provides that if there is a judgment lien against a debtor's property for a debt to the United States, the debtor is not eligible to receive a Federal grant or loan, except direct payments to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

LIST OF APPLICATION NOTICES

CFDA No.	Name of program	Application notice	Application deadline date
Office of Bilingual Education and Minority Languages Affairs			
84.003G	Bilingual Education: Academic Excellence Awards	TBA	TBA
84.194Q	Bilingual Education: State Grant Program	3/31/95 (est.)	5/22/95 (est.)
84.195A	Bilingual Education: Teachers and Personnel Grants.	3/31/95 (est.)	5/22/95 (est.)
84.195B	Bilingual Education: National Professional Development Institutes.	3/31/95 (est.)	5/22/95 (est.)

LIST OF APPLICATION NOTICES—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.195C	Bilingual Education: Graduate Fellowship Program	4/14/95 (est.)	5/30/95 (est.)
84.289P	Bilingual Education: Program Enhancement Grants	3/31/95 (est.)	5/30/95 (est.)
84.290U	Bilingual Education: Comprehensive School Grants	3/31/95 (est.)	5/30/95 (est.)
84.291R	Bilingual Education: Systemwide Improvement Grants.	3/31/95 (est.)	5/30/95 (est.)
84.292A	Bilingual Education: General Research Program	TBA	TBA
84.292B	Bilingual Education: Field-Initiated Research	4/14/95 (est.)	TBA
84.293A	Foreign Language Assistance: General Program	4/14/95 (est.)	5/26/95 (est.)
	Office of Educational Research and Improvement		
	Library Programs		
84.036A	Library Education and Human Resource Development Program—Institutes.	9/29/94 (59 FR 49746)	12/2/94
84.036B	Library Education and Human Resource Development Program—Fellowships.	9/29/94 (59 FR 49746)	12/2/94
84.039D	Library Research and Demonstration Program	12/5/94 (59 FR 62542)	2/6/95
84.163A	Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants.	9/29/94 (59 FR 49746)	12/2/94
84.163B	Library Services to Indian Tribes and Hawaiian Natives Program—Special Grants.	9/29/94 (59 FR 49746)	5/8/95
84.167A	Library Literacy Program	9/29/94 (59 FR 49746)	12/2/94
	National Institute on Student Achievement		
84.279A	Goals 2000: Assessment, Development, and Evaluation.	3/29/95 (est.)	6/15/95 (est.)
84.304A	International Education Exchange Program	2/17/95 (60 FR 9564)	4/17/95
	National Institute on the Education of At-Risk Students		
84.206R	Research and Development Center on the Education of Gifted and Talented Children and Youth.	4/20/95 (est.)*	7/10/95 (est.)
	National Institute on Early Childhood Development and Education		
84.287A	21st Century Community Learning Centers	4/3/95 (est.)	6/16/95 (est.)
	Office of Reform Assistance and Dissemination		
84.073A–1	National Diffusion Network (NDN)—Developer Demonstration Projects.	3/31/95 (est.)	5/31/95 (est.)
84.073F	National Diffusion Network (NDN)—Private School Facilitator.	3/31/95 (est.)	5/31/95 (est.)
84.168E	Dwight D. Eisenhower Professional Development—Federal Activities.	4/14/95 (est.)	6/15/95 (est.)
84.168R	Eisenhower Regional Mathematics and Science Consortia.	4/14/95 (est.)	6/15/95 (est.)
84.203D	Star Schools Program—Continuing Education	4/14/95 (est.)	6/15/95 (est.)
84.206A–1	Jacob K. Javits Gifted and Talented Students Grant Education Program.	3/10/95 (60 FR 13326)	4/25/95
84.215S	Fund for the Improvement of Education (FIE) Demonstration Programs: (1) Elementary School Counseling Partnerships; (2) Middle School-Workplace-Community Partnerships.	3/13/95 (60 FR 13598)	4/28/95
84.215V	Fund for the Improvement of Education (FIE): Partnerships in Character Education Pilot Project.	3/13/95 (60 FR 13588)	4/28/95
84.286A	Telecommunications Demonstration Project for Mathematics.	2/17/95 (60 FR 9576)	4/12/95
84.302A	Regional Technology Consortia	4/7/95 (est.)	6/15/95 (est.)
84.303	Challenge Grants for Technology in Education	3/7/95 (60 FR 12651)	6/2/95
	National Center for Education Statistics		
84.999F	National Assessment of Educational Progress (NAEP) Program—Collection of data for the 1996, 1997, and 1998 NAEP and preparation of sampling weights for the State and national components of the 1996, 1997, and 1998 assessments.	3/10/95 (60 FR 13136)	4/25/95

LIST OF APPLICATION NOTICES—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.999G	National Assessment of Educational Progress (NAEP)—1996 and 1997 National Analysis and Reporting.	5/12/95 (est.)	6/26/95 (est.)
	Office of Elementary and Secondary Education		
84.026A	Educational Services for Indian Adults	5/5/95 (est.)	7/17/95 (est.)
84.083A	Women's Educational Equity Act—Implementation Grants.	TBA	TBA
84.083B	Women's Educational Equity Act—Research Grants.	TBA	TBA
84.087A	Indian Fellowship	4/12/95 (est.)	5/30/95 (est.)
84.123A	Civic Education	TBA	TBA
84.165A	Magnet Schools Assistance	3/20/95 (60 FR 14868)	5/12/95
84.184B	Safe and Drug-Free Schools Program—Alternative Education Programs.	5/29/95 (est.)	7/10/95 (est.)
84.209A	Native Hawaiian Family Based Education Centers	3/28/95 (est.)	5/19/95 (est.)
84.210A	Native Hawaiian Gifted and Talented Demonstration Program.	3/28/95 (est.)	5/19/95 (est.)
84.277A	Safe Schools Grants Program	8/15/94 (59 FR 41928)	9/30/94
84.282A	Charter Schools/State Grants and National Activities.	4/12/95 (est.)	6/19/95 (est.)
84.283A	Comprehensive Regional Assistance Centers	5/15/95 (est.)	6/30/95 (est.)
84.285A	Safe and Drug-Free Schools Program: The Community Schools Youth Services and Supervision Grant Program, and the Family and Community Endeavor Schools Grant Program.	3/6/95 (60 FR 12332)	5/5/95
84.296A	Native Hawaiian Community Based Education Learning Centers.	3/28/95 (est.)	5/19/95 (est.)
84.297A	Native Hawaiian Curriculum Development, Teacher Training, and Recruitment Program.	3/28/95 (est.)	5/19/95 (est.)
84.299A	Special Projects Demonstration Grants	5/5/95 (est.)	7/17/95 (est.)
84.299B	Special Projects Professional Development Grants	5/5/95 (est.)	7/17/95 (est.)
	Office of Postsecondary Education		
84.016A	Undergraduate International Studies and Foreign Language Program.	6/10/94 (59 FR 30190)	11/4/94
84.017A	International Research and Studies Program	6/10/94 (59 FR 30190)	11/4/94
84.019A	Fulbright-Hays Faculty Research Abroad Program	6/10/94 (59 FR 30190)	10/28/94
84.021A	Fulbright-Hays Group Projects Abroad Program	6/10/94 (59 FR 30190)	10/21/94
84.022A	Fulbright-Hays Doctoral Dissertation Research Abroad.	6/10/94 (59 FR 30190)	10/28/94
84.031A	Strengthening Institutions Program	3/7/95 (60 FR 12543)	5/1/95
84.031S	Strengthening Institutions Program—Hispanic-Serving Institutions.	3/23/95 (60 FR 15448)	5/8/95
84.031A; x84.031G	Designation as an Eligible Institution for the Strengthening Institutions and Endowment Challenge Grant Programs	12/6/94 (59 FR 62964); 2/6/95 (60 FR 7047); 3/13/95 (60 FR 13423).	4/3/95
84.031G	Endowment Challenge Grant Program	6/10/94 (59 FR 30190)	6/16/95
84.047	Upward Bound Program	1/24/95 (60 FR 4759)	2/24/95 (Regular and Veterans); 3/17/95 (Math and Science)
84.055A	Cooperative Education Program—Administration, Part A Projects.	6/10/94 (59 FR 30190); 6/28/95 (59 FR 33331); 12/16/94 (59 FR 65028).	Cancelled
84.055B	Cooperative Education Program—Demonstration Projects.	6/10/94 (59 FR 30190); 12/16/94 (59 FR 65028)	Cancelled
84.055C	Cooperative Education Program—Research Projects.	6/10/94 (59 FR 30190); 12/16/94 (59 FR 65028)	Cancelled
84.055D	Cooperative Education Program—Training and Resource Center Projects.	6/10/94 (59 FR 30190); 12/16/94 (59 FR 65028)	Cancelled
84.055E	Cooperative Education Programs—Administration, Part B Projects.	6/10/94 (59 FR 30190); 12/16/94 (59 FR 65028)	Cancelled
84.094B	Patricia Roberts Harris Fellowship Program—Master's Level and Professional Study.	8/16/94 (59 FR 42130)	10/14/94
84.094B	Patricia Roberts Harris Fellowship Program—Doctoral Study.	8/16/94 (59 FR 42131)	10/14/94
84.097A	Law School Clinical Experience Program	6/10/94 (59 FR 30190)	2/28/95

LIST OF APPLICATION NOTICES—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.120	Minority Science Improvement Program—Institutional, Design, Special, and Cooperative Projects.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33331)	10/14/94
84.153A	Business and International Education	6/10/94 (59 FR 30190)	11/7/94
84.170	Jacob K. Javits Fellowship Program	8/23/94 (59 FR 43328)	11/28/94
84.200	Graduate Assistance in Areas of National Need Program.	10/13/94 (59 FR 51969)	12/2/94
84.202A	Grants to Institutions and Consortia to Encourage Women and Minority Participation in Graduate Education Program.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33331); 10/28/94 (59 FR 54173).	Cancelled
84.217	Ronald E. McNair Postbaccalaureate Achievement Program.	12/19/94 (59 FR 65324)	2/3/95
84.220A	Centers for International Business Education Program.	6/10/94 (59 FR 30190)	11/10/94
84.252	Urban Community Service Program—Designation as an Urban Grant Institution.	01/26/95 (60 FR 5170)	03/1/95
84.252	Urban Community Service Program	04/03/95 (est.)	06/1/95 (est.)
84.261	Dwight D. Eisenhower Leadership Development Program.	6/10/94 (59 FR 30190)	1/20/95
84.272A	National Early Intervention Scholarship and Partnership Program.	TBA	TBA
TBA	Native Hawaiian Higher Education Program	6/9/95 (est.)	7/21/95 (est.)
	Fund for the Improvement of Postsecondary Education (FIPSE)		
84.116A; 84.116B	Fund for the Improvement of Postsecondary Education—Comprehensive Program.	8/18/94 (59 FR 42580)	10/18/95 (preapplications); 3/15/95 (final applications)
84.116F	Fund for the Improvement of Postsecondary Education—Innovative Projects for Community Service.	6/10/94 (59 FR 30190)	12/20/94
84.116N	Fund for the Improvement of Postsecondary Education—North American Trilateral Education Initiative.	TBA	TBA
84.116P	Fund for the Improvement of Postsecondary Education—Disseminating Proven Reforms.	3/24/95	5/25/95
84.183D	Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention).	4/17/95 (est.)	6/16/95 (est.)
	Office of Special Education and Rehabilitative Services *Office of Special Education Programs*		
84.023	Research in Education of Individuals with Disabilities Program.		
84.023A	Advancing and Improving the Research Knowledge Base.	6/10/94 (59 FR 30190)	12/16/94
84.023B	Student-Initiated Research Projects	11/21/94 (59 FR 60054)	2/24/95
84.023C	Field-Initiated Research Projects	6/10/94 (59 FR 30190)	10/24/94
84.023E	Synthesize and Communicate a Professional Knowledge Base: Contributions to Research and Practice.	6/10/94 (59 FR 30190)	10/17/94
84.023F	Examining Alternatives for Outcome Assessment for Children with Disabilities.	11/21/94 (59 FR 60054)	2/24/95
84.023G	Studying Models That Bridge the Gap Between Research and Practice.	11/21/94 (59 FR 60054)	3/24/95
84.023N	Initial career awards	6/10/94 (59 FR 30190)	9/6/94
84.024	Early Education Program for Children with Disabilities.		
84.024B	Model Demonstration Projects for Young Children with Disabilities.	6/10/94 (59 FR 30190)	9/12/94
84.024D	Outreach Projects for Young Children with Disabilities.	11/07/94 (59 FR 55540)	1/17/95
84.024P	Early Childhood Model Inservice Training Projects	6/10/94 (59 FR 30190)	9/19/94
84.024Q	Early Childhood Research Institute: Follow Through	10/13/94 (59 FR 52046)	1/13/95
84.025	Services for Children with Deaf-Blindness Program		
84.025A	State and Multi-State Projects for Children who are Deaf-Blind.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	12/9/94

LIST OF APPLICATION NOTICES—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.025A	Optional Pilot Projects for Children who are Deaf-Blind.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	12/9/94
84.025E	Technical Assistance for Transitional Services for Children and Youth who are Deaf-Blind.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	10/17/94
84.026	Educational Media Research, Production, Distribution, and Training Program.		
84.026K	Recorded Audio Cassettes for Visually and Print Disabled Students.	11/7/94 (59 FR 55547)	2/15/95
84.026N	Captioned Films and Videos Distribution System	11/7/94 (59 FR 55547)	3/31/95
84.026Q	Video Description Project	11/7/94 (59 FR 55547)	2/17/95
84.026S	Closed-Captioned Daytime Television Programs	11/7/94 (59 FR 55547)	2/17/95
84.026T	Cultural Experiences for Deaf and Hard-of-Hearing Individuals.	11/7/94 (59 FR 55547)	3/15/95
84.029	Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training and Parent Training and Information Centers.		
84.029A	Training Personnel to Service Low-Incidence Disabilities.	6/10/94 (59 FR 30190)	10/7/94
84.029B	Preparation of Personnel for Careers in Special Education.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	9/30/94
84.029D	Preparation of Leadership Personnel	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	9/16/94
84.029E	Minority Institutions Personnel	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	10/21/94
84.029F	Preparation of Related Services Personnel	6/10/94 (59 FR 30190)	9/23/94
84.029K	Special Projects	6/10/94 (59 FR 30190)	10/28/94
84.029L	Training Educational Interpreters	6/10/94 (59 FR 30190)	10/28/94
84.029M	Parent Training and Information Centers	6/10/94 (59 FR 30190); 7/19/94 (59 FR 36744); 11/7/94 (59 FR 55539).	1/10/95
84.029P	Experimental Parent Centers	6/10/94 (59 FR 30190); 7/19/94 (59 FR 36744); 11/7/94 (59 FR 55541).	1/10/95
84.029Q	Training Early Intervention and Preschool Personnel.	6/10/94 (59 FR 30190); 6/28/94 ((59 FR 33284)	10/14/94
84.078	Postsecondary Education Programs for Individuals with Disabilities.		
84.078C	Model Demonstration Projects to Improve the Delivery and Outcomes of Postsecondary Education for Individuals with Disabilities.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	11/4/94
84.086	Program for Children with Severe Disabilities		
84.086D	Research Project for Educating Children with Severe Disabilities in Inclusive Settings.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	12/2/94
84.086J	Statewide System Change: Children with Severe Disabilities.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	10/17/94
84.086U	Outreach Projects: Serving Children with Severe Disabilities in General Education and Community Settings.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	1/23/95
84.158	State Systems for Transition Services for Youth with Disabilities Program.		
84.158A	State Systems for Transition Services for Youth with Disabilities Program.	6/10/94 (59 FR 30190)	1/27/95
84.158	Secondary Education and Transitional Services for Youth with Disabilities Program.		
84.158D	Model Demonstration Projects to Identify and Develop Alternatives for Youth with Disabilities Who have Dropped Out of School or are at Risk of Dropping Out of School.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	10/7/94
84.158M	Accessing School to Work and Postsecondary Environments—A Technical Assistance Effort.	3/31/95 (est.)	5/12/95 (est.)
84.158Q	Outreach Projects for Services for Youth with Disabilities.	6/10/94 (59 FR 30190); 6/28/94 (59 FR 33284)	10/7/94
84.159	Special Studies Program		
84.159A	State Agency-Federal Evaluation Studies Projects	6/10/94 (59 FR 30190); 10/19/94 (59 FR 52768)	Cancelled
84.159C	Center to Support the Achievement of World Class Outcomes for Students With Disabilities.	12/21/94	4/21/95
84.159D	State and Local Education Efforts to Implement the Transition Requirements in the Individuals with Disabilities Education Act.	6/10/94 (59 FR 30190)	8/19/94
84.159E	Longitudinal Study of the Impact of Early Intervention Services on Infants and Toddlers Disabilities.	12/21/94	3/24/95
84.159F	State Agency-Federal Evaluation Studies Projects	6/10/94 (59 FR 30190)	12/9/94
84.180	Technology, Educational Media, and Materials for Individuals with Disabilities Program.		

LIST OF APPLICATION NOTICES—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.180G	Technology, Educational Media Materials Research Projects that Promote Literacy.	6/10/94 (59 FR 30190)	9/12/94
84.180U	Collaborative Research on Technology, Media, and Materials for Children and Youth with Disabilities.	10/13/94	1/27/95
84.221	Native Hawaiian Special Education Program	3/28/95 (est.)	5/19/95 (est.)
84.237	Program for Children and Youth with Serious Emotional Disturbance.		
84.237F	Preventing the Development of Serious Emotional Disturbance Among Children and Youth with Emotional and Behavioral Problems.	6/10/94 (59 FR 30190)	9/16/94
84.237G	Nondiscriminatory, Culturally-Competent Collaborative Demonstration Models To Improve Services for Students with Serious Emotional Disturbance and Prevention Services for Students with Emotional and Behavioral Problems.	10/13/94	1/27/95
	National Institute on Disability and Rehabilitation Research		
84.133A–1	Research and Demonstration Projects	1/17/95 (60 FR 3499); 1/24/95 (60 FR 4762)	3/24/95
84.133A–5	Research and Demonstration Projects	4/7/95 (est.)	5/30/95 (est.)
84.133B	Rehabilitation Research and Training Centers	3/31/95 (est.)	5/30/95 (est.)
84.133D–5	Knowledge Dissemination and Utilization Program	6/8/94 (59 FR 29676); 10/18/94 (59 FR 52523); 2/10/95 (60 FR 8126).	7/22/94; 12/19/94; 4/17/95
84.133D–2	Knowledge Dissemination and Utilization Program	11/18/94 (59 FR 59836)	1/20/95
84.133D–6	Knowledge Dissemination and Utilization Programs	4/21/95 (est.)	6/20/95 (est.)
84.133E	Rehabilitation Engineering Research Centers	11/18/94 (59 FR 59861)	1/20/95
84.133F	Research Fellowships	6/3/94 (59 FR 29138)	11/15/94
84.133G	Field-Initiated Projects	6/3/94 (59 FR 29138)	11/1/94
84.133N	Special Projects and Demonstrations for Spinal Cord Injuries.	6/3/94 (59 FR 29138); 10/11/94 (59 FR 51424)	11/18/94
84.133P	Research Training Program	6/3/94 (59 FR 29138)	10/3/94
84.224A–6	Technical Assistance to State Grantees under the Technology-Related Assistance Program	3/31/95 (est.)	5/30/95 (est.)
84.224A–7	State Grants for Technology-Related Assistance	4/7/95 (est.)	5/30/95 (est.)
	Rehabilitation Services Administration		
84.128G	Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Disabilities.	6/10/94 (59 FR 30190); 10/18/94 (59 FR 52524)	1/25/95
84.128T	Special Projects and Demonstrations for Providing Supported Employment to Individuals with the Most Severe Disabilities and Technical Assistance Projects—Community-Based Projects.	6/10/94 (59 FR 30190)	1/16/95
84.129A–1	Rehabilitation Long-Term Training—Rehabilitation Medicine.	6/10/94 (59 FR 30190)	10/14/94
84.129A–5	Rehabilitation Long-Term Training—Prosthetics and Orthotics.	6/10/94 (59 FR 30190)	10/14/94
84.129B	Rehabilitation Long-Term Training—Rehabilitation Counseling.	6/10/94 (59 FR 30190)	10/14/94
84.129C–1	Rehabilitation Training—Long-Term Training: Rehabilitation Administration.	1/18/95 (60 FR 3632)	3/21/95
84.129D–1	Rehabilitation Long-Term Training—Physical Therapy.	6/10/94 (59 FR 30190)	10/14/94
84.129E	Rehabilitation Long-Term Training—Rehabilitation Technology.	6/10/94 (59 FR 30190)	10/14/94
84.129F	Rehabilitation Long-Term Training—Vocational Evaluation and Work Adjustment.	6/10/94 (59 FR 30190)	10/14/94
84.129H	Rehabilitation Long-Term Training—Rehabilitation of Individuals Who Are Mentally Ill.	6/10/94 (59 FR 30190)	10/14/94
84.129L	Rehabilitation Long-Term Training—Undergraduate Education in Rehabilitation Services.	6/10/94 (59 FR 30190)	10/14/94
84.129P	Rehabilitation Long-Term Training—Specialized Personnel for Rehabilitation of Individuals Who Are Blind Or Have Vision Impairment (Currently: Rehabilitation Long-Term Training—Rehabilitation of Individuals Who Are Blind).	6/10/94 (59 FR 30190)	10/14/94
84.129Q	Rehabilitation Long-Term Training—Rehabilitation of Individuals Who Are Deaf or Hard of Hearing (Currently: Rehabilitation Long-Term Training—Rehabilitation of Individuals Who Are Deaf).	6/10/94 (59 FR 30190)	10/14/94

LIST OF APPLICATION NOTICES—Continued

CFDA No.	Name of program	Application notice	Application deadline date
84.129R	Rehabilitation Long-Term Training—Rehabilitation Job Development and Placement.	6/10/94 (59 FR 30190)	10/14/94
84.132A	Centers for Independent Living	12/22/94 (59 FR 66009)	3/17/95
84.160A	Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind.	12/5/94 (59 FR 62511)	2/28/95
84.177A	Independent Living Services for Older Individuals Who Are Blind.	12/27/94 (59 FR 66616)	2/13/95
84.234L	Projects With Industry	12/9/94 (59 FR 63864)	3/13/95
84.235R	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Disabilities.	12/9/94 (59 FR 63863)	3/13/95
84.235S	Special Projects and Demonstrations for Providing Transitional Rehabilitation Services to Youths With Disabilities.	12/9/94 (59 FR 63864)	3/13/95
84.246A	Training Members of American Indian Tribes, State Vocational Rehabilitation Agency Staff, and Rehabilitation Educators on Services for American Indians With Disabilities.	12/5/94 (59 FR 62510)	2/28/95
84.246B	Training Rehabilitation and Mental Health Personnel To Provide Improved Rehabilitation Services to Individuals With Mental Illness.	12/5/94 (59 FR 65210)	2/28/95
84.246J	Training Impartial Hearing Officers on Provisions of the Act.	12/5/94 (59 FR 62511)	2/28/95
84.246K	Personnel Specifically Trained To Deliver Services in Client Assistance Programs.	12/5/94 (59 FR 62511)	2/28/95
84.250E	Vocational Rehabilitation Service Projects for American Indians With Disabilities.	6/10/94 (59 FR 30190); 12/9/94 (59 FR 63722)	6/16/95
84.263A	Rehabilitation Training—Experimental and Innovative Training.	6/10/94 (59 FR 30190)	10/14/94
84.264A–1	Rehabilitation Training—Rehabilitation Continuing Education Programs (for Region V only).	6/10/94 (59 FR 30190)	10/14/94
84.264B	Rehabilitation Continuing Education Programs	12/5/94 (59 FR 62510)	2/28/95
84.275A	Rehabilitation Training—National Clearinghouse of Rehabilitation Training Materials.	12/5/94 (59 FR 62509)	2/28/95
Office of Vocational and Adult Education			
84.077	Bilingual Vocational Training Program	10/27/94 (59 FR 54076)	12/12/94
84.099	Bilingual Vocational Instructor Training Program	10/27/94 (59 FR 54096)	12/12/94
84.101	Indian Vocational Education Training Program	05/26/94 (59 FR 27406)	7/29/94
84.199D	Cooperative Demonstration Program—(Correctional Education).	07/13/94 (59 FR 35791)	09/02/94
84.248	Demonstration Projects for the Integration of Vocational and Academic Learning Program.	08/01/94 (59 FR 39170)	09/16/94

Invitation to Comment

The Secretary welcomes comments and suggestions for improving the annual combined application notice.

Please direct any comments and suggestions to Steven N. Schatken, Assistant General Counsel for Regulations, U.S. Department of Education, 600 Independence Avenue, SW. (room 5105, FB–10B), Washington, D.C. 20202–2241.

Dated: March 22, 1995.

Richard W. Riley,

Secretary of Education.

Appendix

Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, EO 12372—CFDA# [commenter must insert number—including suffix letter, if any], U.S. Department of Education, room 6213, 600 Independence Avenue, SW., Washington, DC 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION.

DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

State Single Points of Contact

Note: In accordance with Executive Order #12372, this listing represents the designated State Single Points of Contact. Because participation is voluntary some States no longer participate in the process. These include: Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, and Washington. Alabama, which did not participate when this list was last published by the Department of Education in June 1994, now participates.

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, Alabama 36103–5690, Telephone (205) 242–5483, FAX (205) 242–5515

Arizona

Janice Dunn,
Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th Street, room 412, Little Rock, Arkansas 72203, Telephone (501) 682–1074, FAX (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone (302) 739–3326, FAX (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, DC 20005, Telephone (202) 727–6554, FAX (202) 727–1617

Florida

Suzanne Traub-Metlay, Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol (room 1603), Tallahassee, Florida 32399–0001, Telephone (904) 488–8114, FAX (904) 488–9005,

Georgia

Tripp Reid, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W., room 401J, Atlanta, Georgia 30334, Telephone (404) 656–3855 or 656–3829, FAX (404) 656–7938

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671, FAX (217) 782–6620

Indiana

Francis E. Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–2972, FAX (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 242–4719, FAX (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone (502) 573–2382, FAX (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 287–3261, FAX (207) 287–6489

Maryland

Mr. Roland E. English III, Chief, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 West Preston Street, room 1104, Baltimore, Maryland 21201–2365, Telephone (410) 225–4490, FAX (410) 225–4480

Michigan

Richard S. Pastula, Director, Office of Federal Grants, Michigan Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Telephone (517) 373–7356, FAX (517) 373–6683

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202, Telephone (601) 359–6762, FAX (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, room 760, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834, FAX (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, FAX (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155, FAX (603) 271–1728

New Jersey

Gregory D. Adkins, Assistant Commissioner, New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to:

Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 800, room 813A, Trenton, New Jersey 08625–0800, Telephone (609) 292–9025, FAX (609) 633–2132

New Mexico

Robert Peters, State Budget Division, room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3861

New York

New York State Clearinghouse, Division of the Budget, State Capital, Albany, New York 12224,Telephone (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232, FAX (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094, FAX (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to:

Linda Wise, Telephone (614) 466–0698, FAX (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone (401) 277–2656, FAX (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494, FAX (803) 734–0385

Texas

Tom Adams, Director, Intergovernmental Coordination, P.O. Box 13005, Austin, Texas 78711, Telephone (512) 463–1771, FAX (512) 463–1984

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, room 116, State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535, FAX (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone (802) 828–3326, FAX (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, room 553, Charleston, West Virginia 25305, Telephone (304) 558–4010, FAX (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street, 6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone (608) 266–2125, FAX (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574, FAX (307) 638–8967

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone 011–671–472–2285, FAX 011–671–472–2825

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose B. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone (809) 727–4444 or 723–6190, FAX (809) 724–3270 or 724–3103

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to:

Linda Clarke, Telephone (809) 774–0750, FAX (809) 776–0069

Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Donna Rivelli (Telephone (202) 395–5090) at the Office of Management and Budget and to the State in question. Changes to the list will only be made upon formal notification by the State.

[FR Doc. 95–7768 Filed 3–30–95; 8:45 am]

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federal register

Friday
March 31, 1995

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 9, 15, and 42

Federal Acquisition Regulation; Past Performance Information; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 15, and 42

[FAC 90–26; FAR Case 93–02]

RIN 9000–AG45

Federal Acquisition Regulation; Past Performance Information

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to issue Federal Acquisition Circular (FAC) 90–26, a final rule amending the Federal Acquisition Regulation (FAR) to establish requirements for the use of past performance information in the contractor selection process. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: May 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–26, FAR case 93–02.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed FAR rule was published in the **Federal Register** at 59 FR 8108 on February 17, 1994. The proposed rule required evaluation of past performance in all competitively negotiated acquisitions expected to exceed $100,000, and evaluation of contractor performance on all new contracts exceeding $100,000.

Thirty-five comments from twenty-five sources were received during the public comment period. All comments were considered in the development of this final rule. The final rule differs from the proposed rule in that it (1) permits agencies to use a phase-in approach for implementation of past performance evaluation requirements; (2) clarifies that firms lacking relevant performance history shall receive a neutral evaluation for past performance; (3) permits offerors to submit relevant past performance information to the Government; (4) excludes contracts awarded under FAR Subparts 8.6 and 8.7 from the requirement for evaluation of contractor performance; (5) provides that past performance information files shall not be retained to provide source selection information for longer than three years after completion of contract performance; and (6) contains additional guidance to facilitate the collection and use of past performance information.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) applies to this final rule and a Final Regulatory Flexibility Analysis has been performed. A copy of the analysis may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9, 15, and 42

Government procurement.

Dated: March 27, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

FAC 90–26

Federal Acquistion Circular (FAC) 90–26 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–26 are effective May 30, 1995.

Dated: February 27, 1995.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: February 2, 1995.

Deidre A. Lee,

Associate Administrator for Procurement, NASA.

Ida M. Ustad,

Associate Administrator, Office of Acquisition Policy, GSA.

Therefore, 48 CFR Parts 9, 15, and 42 are amended as set forth below:

1. The authority citation for 48 CFR Parts 9, 15 and 42 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. Section 9.104–1(c) is revised to read as follows:

9.104–1 General standards.

* * * * *

(c) Have a satisfactory performance record (see 48 CFR 9.104–3(c) and part 42, subpart 42.15). A prospective contractor shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history, except as provided in 9.104–2;

* * * * *

3. Section 9.105–1(c) is amended by revising the introductory text to read as follows:

9.105–1 Obtaining information.

* * * * *

(c) In making the determination of responsibility (see 9.104–1(c)), the contracting officer shall consider relevant past performance information (see 48 CFR part 42, subpart 42.15). In addition, the contracting officer should use the following sources of information to support such determinations:

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

4. Section 15.406–5(b) is amended by revising the last two sentences to read as follows:

15.406–5 Part IV—Representations and instructions.

* * * * *

(b) * * * The severable parts should provide for separation of cost or pricing data, past performance data and, when needed, technical data. The instructions may specify further organization of proposal or quotation parts, such as (1) administrative, (2) management, (3) technical, (4) past performance, and (5) cost or pricing data.

* * * * *

5. Section 15.604 is amended by revising paragraphs (b) and (c)(3) to read as follows:

15.604 Responsibilities.

* * * * *

(b) The cognizant technical official is responsible for the technical and past performance requirements related to the source selection process.

(c) * * *

(3) Conducting or controlling all negotiations concerning cost or price, technical requirements, past

performance, and other terms and conditions; and

* * * * *

6. Section 15.605 is amended by revising paragraph (b), removing paragraph (c), redesignating (d), (e) and (f) as (c), (d) and (e), respectively, and revising newly-redesignated (d) to read as follows:

15.605 Evaluation factors.

* * * * *

(b)(1) The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of agency acquisition officials except that—

(i) Price or cost to the Government shall be included as an evaluation factor in every source selection.

(ii) Past performance shall be evaluated in all competitively negotiated acquisitions expected to exceed $100,000 not later than January 1, 1999, unless the contracting officer documents in the contract file the reasons why past performance should not be evaluated. Agencies may develop their own phase-in schedule for past performance evaluations which meets or exceeds the following milestones: All solicitations with an estimated value in excess of (A) $1,000,000 issued on or after July 1, 1995; (B) $500,000 issued on or after July 1, 1997; and (C) $100,000 issued on or after January 1, 1999. Past performance may be evaluated in competitively negotiated acquisitions estimated at $100,000 or less at the discretion of the contracting officer.

(iii) Quality shall be addressed in every source selection through inclusion in one or more of the non-cost evaluation factors, such as past performance, technical excellence, management capability, personnel qualifications, prior experience, and schedule compliance.

(2) Any other relevant factors, such as cost realism, may also be included.

* * * * *

(d) The solicitation should be structured to provide for the selection of the source whose proposal offers the greatest value to the Government in terms of performance, risk management, cost or price, and other factors. The solicitation shall clearly state the evaluation factors, including cost or price, cost or price-related factors, past performance and other non-cost or non-price-related factors, and any significant subfactors, that will be considered in making the source selection, and their relative importance (see 15.406–5(c)). Numerical weights, which may be employed in the evaluation of proposals, need not be disclosed in solicitations. The solicitation shall inform offerors of minimum requirements that apply to particular evaluation factors and significant subfactors.

* * * * *

7. Section 15.608(a) is amended by revising the introductory text, redesignating paragraph (a)(2) as (a)(3), and adding a new paragraph (a)(2) to read as follows:

15.608 Proposal evaluation.

(a) Proposal evaluation is an assessment of both the proposal and the offeror's ability to successfully accomplish the prospective contract. An agency shall evaluate competitive proposals solely on the factors specified in the solicitation.

* * * * *

(2) *Past performance evaluation.* (i) Past performance information is an indicator of an offeror's ability to perform the contract. The comparative assessment of past performance information is separate from the responsibility determination required under 48 CFR 9.103. The number and severity of an offeror's problems, the effectiveness of corrective actions taken, the offeror's overall work record, and the age and relevance of past performance information should be considered at the time it is used.

(ii) Where past performance is to be evaluated, the solicitation shall afford offerors the opportunity to identify Federal, state and local government, and private contracts performed by the offerors that were similar in nature to the contract being evaluated, so that the Government may verify the offerors' past performance on these contracts. In addition, at the discretion of the contracting officer, the offerors may provide information on problems encountered on the identified contracts and the offerors' corrective actions. Past performance information may also be obtained from other sources known to the Government. The source and type of past performance information to be included in the evaluation is within the broad discretion of agency acquisition officials and should be tailored to the circumstances of each acquisition. Evaluations of contractor performance prepared in accordance with 48 CFR part 42, subpart 42.15 are one source of performance information which may be used.

(iii) Firms lacking relevant past performance history shall receive a neutral evaluation for past performance.

* * * * *

8. Section 15.610 is amended by removing the word ''and'' at the end of paragraph (c)(4) and the period at the end of (c)(5) and inserting ''; and'' in its place; and by adding paragraph (c)(6) to read as follows:

15.610 Written or oral discussion.

* * * * *

(c) * * *

(6) Provide the offeror an opportunity to discuss past performance information obtained from references on which the offeror had not had a previous opportunity to comment. Names of individuals providing reference information about an offeror's past performance shall not be disclosed.

* * * * *

9. Section 15.1003(b) is amended by removing the word ''and'' at the end of paragraph (b)(2) and the period at the end of (b)(3) and inserting ''; and'' in its place; and by adding paragraph (b)(4) to read as follows:

15.1003 Debriefing of unsuccessful offerors.

* * * * *

(b) * * *

(4) Names of individuals providing reference information about an offeror's past performance.

* * * * *

PART 42—CONTRACT ADMINISTRATION

10. Section 42.302 is amended by adding paragraph (b)(11) to read as follows:

42.302 Contract administration functions.

* * * * *

(b) * * *

(11) Prepare evaluations of contractor performance in accordance with subpart 42.15.

* * * * *

11. Subpart 42.15 is added to read as follows:

Subpart 42.15—Contractor Performance Information

Sec.
42.1500 Scope of subpart.
42.1501 General.
42.1502 Policy.
42.1503 Procedures.

42.1500 Scope of subpart.

This subpart provides policies and establishes responsibilities for recording and maintaining contractor performance information. It implements Office of Federal Procurement Policy Letter 92–5, Past Performance Information. This subpart does not apply to procedures used by agencies in determining fees under award or incentive fee contracts.

However, the fee amount paid to contractors should be reflective of the contractor's performance and the past performance evaluation should closely parallel the fee determinations.

42.1501 General.

Past performance information is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts. It includes, for example, the contractor's record of conforming to contract requirements and to standards of good workmanship; the contractor's record of forecasting and controlling costs; the contractor's adherence to contract schedules, including the administrative aspects of performance; the contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the contractor's business-like concern for the interest of the customer.

42.1502 Policy.

(a) Except as provided in paragraph (b) of this section, agencies shall prepare an evaluation of contractor performance for each contract in excess of $1,000,000 beginning July 1, 1995, $500,000 beginning July 1, 1996, and $100,000 beginning January 1, 1998, (regardless of the date of contract award) at the time the work under the contract is completed. In addition, interim evaluations should be prepared as specified by the agencies to provide current information for source selection purposes, for contracts with a period of performance, including options, exceeding one year. This evaluation is generally for the entity, division, or unit that performed the contract. The content and format of performance evaluations shall be established in accordance with agency procedures and should be tailored to the size, content, and complexity of the contractual requirements.

(b) Agencies shall not evaluate performance for contracts awarded under 48 CFR part 8, subparts 8.6 and 8.7. Agencies shall evaluate construction contractor performance and architect/engineer contractor performance in accordance with 48 CFR 36.201 and 36.604, respectively.

42.1503 Procedures.

(a) Agency procedures for the past performance evaluation system shall generally provide for input to the evaluations from the technical office, contracting office and, where appropriate, end users of the product or service.

(b) Agency evaluations of contractor performance prepared under this subpart shall be provided to the contractor as soon as practicable after completion of the evaluation. Contractors shall be given a minimum of 30 days to submit comments, rebutting statements, or additional information. Agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the contracting agency. Copies of the evaluation, contractor response, and review comments, if any, shall be retained as part of the evaluation. These evaluations may be used to support future award decisions, and should therefore be marked ''Source Selection Information''. The completed evaluation shall not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information may be used to provide source selection information. Disclosure of such information could cause harm both to the commercial interest of the Government and to the competitive position of the contractor being evaluated as well as impede the efficiency of Government operations. Evaluations used in determining award or incentive fee payments may also be used to satisfy the requirements of this subpart.

(c) Departments and agencies shall share past performance information with other departments and agencies when requested to support future award decisions. The information may be provided through interview and/or by sending the evaluation and comment documents to the requesting source selection official.

(d) Any past performance information systems, including automated systems, used for maintaining contractor performance information and/or evaluations should include appropriate management and technical controls to ensure that only authorized personnel have access to the data.

(e) The past performance information shall not be retained to provide source selection information for longer than three years after completion of contract performance.

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March 31, 1995

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 784, 817, and 843

Permanent Regulatory Program; Underground Mining Permit Application Requirements and Performance Standards; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 784, 817, and 843

RIN 1029–AB69

Permanent Regulatory Program; Underground Mining Permit Application Requirements; Underground Mining Performance Standards

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is amending the regulations applicable to underground coal mining and control of subsidence-caused damage to lands and structures and certain water supplies, through the adoption of permitting requirements, performance standards, and implementation procedures. The regulations will require all underground coal mining operations conducted after October 24, 1992, to promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings and related structures as a result of subsidence due to underground coal mining operations, and to replace drinking, domestic, and residential water supplies which have been adversely affected by underground coal mining operations. The rule will require repair of damage to include rehabilitation, restoration, or replacement of the identified structures, or compensation to the owners in the full amount of the diminution in value resulting from the subsidence. A pre-subsidence survey will be required to document the condition of non-commercial buildings and occupied residential dwellings and related structures subject to subsidence-related damage caused by underground mining activities. The survey will also be required to document the quantity and quality of all drinking and domestic water supplies that could be contaminated, diminished, or interrupted by subsidence. In addition, a permittee will be required to provide, when necessary, an additional performance bond to cover subsidence-related damage that has occurred to protected structures or water supplies.

Within 120 days from the publication of the rule, OSM will, in consultation with the State Regulatory authority, determine for each State with an approved State regulatory program, the enforcement procedures to ensure prompt compliance with section 720(a) of the Surface Mining Control and Reclamation Act (SMCRA) and the implementing regulations. The performance standards implementing section 720(a) are set forth in 30 CFR §§ 817.41(j) and 817.121(c)(2) and (c)(4). OSM will determine for each such State whether to apply (1) direct interim Federal enforcement of the Energy Policy Act and implementing performance standards, for some or all surface coal mining operations; or (2) the oversight procedures of §§ 843.11 and 843.12(a)(2); or (3) a combination of direct Federal enforcement and State enforcement. As part of the determination process, OSM will consult with each affected State and provide opportunity for public comment. For each State, OSM will publish its determination in the **Federal Register**.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy R. Broderick, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone (202) 208–2564.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Rule and Response to Public Comments.
III. Procedural Matters.

I. Background

Energy Policy Act

The Energy Policy Act of 1992, Pub.L. 102–486, 106 Stat. 2776 (1992) (hereinafter, ''the Energy Policy Act'') was enacted October 24, 1992. Section 2504 of that Act, 106 Stat. 2776, 3104, amends the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* As noted in the legislative history describing a predecessor to section 2504, the section ''provides for greater stability in the surface mining act program by settling controversies over subsidence protection.'' H.R. Rep. No. 474, 102d Cong., 2d Sess. pt. 8 at 86 (1992). The report also states that ''at present, OSM's regulations do not protect coalfield citizens from the types of damages that can occur from land subsidence caused by underground coal mining, either in the form of compensation for, or repair of, damages to homes and other structures as well as replacement of adversely affected water supplies.'' *Id.*

Section 2504 of the Energy Policy Act added a new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings and related structures as a result of subsidence due to underground coal mining operations. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified by section 720(a)(1), and compensation must be provided to the owners in the full amount of the diminution in value resulting from the subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies which have been adversely affected by underground coal mining operations. Under section 720(b), the Secretary of the Interior is required to promulgate final regulations to implement the provisions of section 720(a) by October 24, 1993.

On September 24, 1993 (58 FR 50174), OSM published a proposed rule to amend the regulations applicable to underground coal mining and control of subsidence-caused damage to lands and structures through the adoption of a number of permitting requirements and performance standards. The regulatory and litigation history of relevant subsidence control issues addressed in this final rule was contained in the preamble to the proposed rulemaking. 58 FR 50175, 50177 (September 24, 1993). In addition to the provisions intended to implement new SMCRA section 720, the proposed rule included other subsidence-related provisions. These additional provisions were developed to address issues raised by commenters' responses to a July 18, 1991 Notice of Inquiry soliciting public comment on existing subsidence regulations. OSM indicated in the proposed rule that it contemplated that the rules implementing SMCRA section 720 would immediately supersede inconsistent state performance standards, and would take effect immediately, applicable to underground mining that occurred after October 24, 1992. OSM anticipated that all other provisions would become effective in the same way as other revisions to the permanent program regulations; i.e., 30 days following of promulgation for Federal program States and on Indian lands, and upon the adoption of counterpart State regulatory program provisions in primacy States.

OSM held public hearings on the proposed subsidence rule in Harrisburg, Pennsylvania, November 8, 1993; Columbus, Ohio, November 9, 1993; Whitesburg, Kentucky, November 16, 1993; Salt Lake City, Utah, November

17, 1993; Washington, DC, November 19, 1993; and Washington, Pennsylvania, November 22, 1993. The comment period for the proposed rule closed on January 24, 1994 (as extended on November 22, 1993, 58 FR 61638). Over 275 commenters submitted comments on the proposed rule.

One commenter initially submitted a petition for rulemaking that requested the Secretary to finalize the rules proposed on September 24, 1993 regarding the regulation of water loss and property damage caused by underground coal mining operations, and until such regulations are promulgated, to impose a moratorium on the issuance of new underground mining permits if such operations would present a high risk of subsidence-related damage. In a subsequent letter, the commenter stipulated that they did not intend the petition to be considered a petition for rule-making as provided in SMCRA section 201(g)(1) *et seq.*

In the course of analyzing the comments received on the proposed rule, OSM discussed subsidence-related issues with coal operators and citizens during an on-site tour of coal fields. As a result, OSM reopened the comment period to allow interested persons time to review additional material which consisted of meeting notes from these discussions and handouts and a video tape received during the field tour. 59 FR 37952–37953 (July 26, 1994). This information was added to the Administrative Record and was also available for review at the OSM offices in Pittsburgh, PA; Denver, CO; Harrisburg, PA; Columbus, OH; Knoxville, TN; and Lexington, KY.

In the **Federal Register** notice to reopen the comment period, OSM took the opportunity to respond to comments received during the initial comment period on the proposed rule, and to requests by States and OSM field offices to clarify the requirement for replacement of water supplies. OSM requested specific comment on an alternative provision to clarify the requirement under sections 717(b) and 720(a)(2) of SMCRA that an operator replace certain types of water supplies. Under the alternative, when the owner confirms in writing that the owner does not desire replacement of the water delivery system, and no such system is needed for either the existing or approved postmining land uses, the permittee may provide replacement of the water supply by demonstrating that an equivalent water source exists that can be developed if desired by future owners. OSM received 26 comments during the comment period which closed on August 25, 1994.

The requirements to repair or compensate for damage to structures, and replace water supplies, were effective upon passage of the Energy Policy Act. Permittees in both primacy States and Federal program States, as well as on Indian lands, are required to comply with these provisions of the Energy Policy Act for their operations conducted after October 24, 1992. In the proposed rulemaking, each regulatory authority was encouraged, pending direct enforcement in a State, to conduct investigations of any complaints alleging violations of the nature covered under new section 720(a). This was intended to ensure that circumstances at a site of alleged violations were observed and documented contemporaneously, and that the documentation would be available for later enforcement action if necessary. OSM conducted investigations of complaints reported to OSM if the State regulatory authority chose not to conduct an investigation. OSM and most State regulatory authorities ensured that complaints were documented and a record of alleged violations was maintained.

Promulgation of final Federal regulations is necessary to enforce the Energy Policy Act requirements to repair or compensate for damages, and replace an adversely affected water supply, due to underground coal operations that occurred after October 24, 1992.

II. Discussion of Final Rule and Response to Public Comments

Section 701.5—Definitions

The following definitions of terms are adopted in the final rulemaking: ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied residential dwelling and structures related thereto,'' and ''replacement of water supply.'' The proposed definition of the term ''structures or facilities'' is not being adopted.

Definition of Drinking, Domestic or Residential Water Supply

The definition for drinking, domestic or residential water supply is being adopted with changes. ''Drinking, domestic or residential water supply'' would mean water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use. Wells and springs that serve only agricultural, commercial or industrial enterprises are not included except to the extent they also supply water for drinking, sanitation or other domestic use, for such enterprises.

Several commenters agree with OSM that the definition is needed to implement SMCRA Section 720(a)(2), which requires prompt replacement of certain identified water supplies which have been adversely affected by underground coal mining operations. Commenters also concur with the proposed definition to the extent it excludes water from wells or springs that serve only commercial agricultural or other commercial or industrial enterprises and do not supply drinking water. In response to a recommendation by commenters, OSM recognizes that water pooled in abandoned underground workings could be used as a water supply for drinking, domestic or residential uses, and that it is not uncommon in certain areas for individual residents or communities to obtain their water supply by withdrawing water from such underground workings. In such cases, the underground workings reasonably may be described as equivalent to a well or spring.

A number of commenters argue that inclusion of the appurtenant delivery system in the definition goes beyond the mandate of the Energy Policy Act. OSM concludes that inclusion of the delivery system as part of the water supply is imperative to fulfilling Congressional intent to protect drinking, domestic and residential water supplies. OSM believes that to provide otherwise would fail to ensure meaningful replacement of water to the user, because delivery is essential to provide a water supply at the point of use or consumption. OSM believes inclusion of the delivery system is therefore necessary to make whole the user of a protected water supply. OSM believes this is what Congress intended.

A significant number of commenters recommend that agricultural water supplies, including water used to keep stock animals, should be protected. OSM believes that the Energy Policy Act mandates protection of water supplies used for drinking, domestic and residential purposes. In implementing this mandate, OSM believes it is reasonable to distinguish commercial agricultural and horticultural uses of water from domestic uses such as non-commercial farming, gardening and other horticultural activities. OSM concludes that the terms ''domestic'' and ''residential'' are intended to have broader meaning than merely drinking water for human consumption. Rather, these terms reasonably should be understood to include a full range of domestic uses, including irrigation of

non-commercial gardens and agricultural fields, and use of well and spring water for household purposes other than human consumption. OSM believes it is reasonable to interpret the language of the Energy Policy Act to distinguish private homeowners from commercial and other non-domestic water supply users. Many rural homeowners conduct extensive non-commercial domestic agricultural and horticultural activities, as an integral and even essential part of a homestead. Failure to require replacement of the water supply needed for such domestic agricultural and horticultural uses would fail to make the residential user whole. Therefore, OSM believes this protection reasonably implements the Energy Policy Act.

Definition of Material Damage

The definition of material damage is being adopted as proposed. The term material damage, in the context of §§ 784.20 and 817.121 of this chapter, means any functional impairment of surface lands, features, structures or facilities. The material damage threshold includes any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses, or that causes significant loss in production or income, or any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition. It would also include any situation in which an imminent danger to a person would be created.

A number of commenters opposed the definition of material damage as being too broad and subjective. The commenters added that extending the definition to include impairment of surface lands or physical change that adversely impacts the land's capability, goes beyond the requirements of the Energy Policy Act. The commenters claim that the Energy Policy Act does not necessitate that OSM adopt a national definition for material damage especially since there currently is no national definition of this term as it is used in SMCRA. The commenters rely on the history of the term material damage to assert that the reasons that OSM has not defined the term in the past are applicable to implementing the Energy Policy Act. The commenters go on to state that a national definition would lead to needless litigation as the term is applied to a wide variety of circumstances, and the task of defining the term is better left to the individual regulatory authorities, who could define the term in a manner appropriate for their respective jurisdictions. The commenters argue that the problem with a national definition is further exacerbated by the vague terms used to define material damage. The commenters add that the terms ''functional impairment'' and ''significant adverse impact'' do not provide much guidance when applying the definition of material damage to a wide variety of situations and circumstances.

Another group of commenters identify two perceived problems with the proposed definition of material damage. First, the definition fails to explicitly include the loss of value to the land or structures as being material damage. The commenters allege that the Energy Policy Act language supports a ''loss of value'' component to the definition by providing for repair or compensation ''in the full amount of the diminution in value from the subsidence''. The commenters note that under the proposed definition, subsidence damage that did not impair the function of a structure but did result in damage that caused the fair market value of the structure to decline, even to the point where the structure could not be sold on the market, would not be considered material damage.

These commenters point out a second perceived problem with the proposed definition. They consider that the use of the qualifier ''significantly'' in the definition creates too high a threshold of ''materiality'' and charged that the result is a definition that is contrary to the remedial purposes of SMCRA and the Energy Policy Act. They add that the proposed high threshold of materiality would not allow all of the injured property owners the ability to benefit from the full protection intended by Congress. The commenters also maintain that the rules fail to establish the context in which significant would be defined. The commenters recommend that the term ''significantly'' be dropped from the definition, and that the definition be clarified to include the loss of value to the land or structures as material damage, and modified to reflect their belief that Congress intended a low threshold for material damage.

OSM has considered these comments, but is not adopting these changes. OSM believes that the final definition of material damage is supported by both SMCRA and the Energy Policy Act. It is both necessary and appropriate to provide an overall policy framework at the national level, within which the state regulatory authorities may continue to make individual determinations of ''material damage.'' It is OSM's conclusion, based on its experience and its observation and evaluation of regulatory program implementation, that such a national policy framework is needed to confer an appropriate minimum degree of consistency in the determinations made by the regulatory authorities and to ensure a level playing field. The definition of ''material damage'' covers damage to the surface and to surface features, such as wetlands, streams, and bodies of water, and to structures or facilities. OSM believes the final rule language will still allow each regulatory authority to clarify or more specifically define the term, if appropriate, and to use it in a manner appropriate for subsidence problems in the individual jurisdiction. OSM believes the use of the term ''significant'' is consistent with the commonly understood meaning of the term ''material,'' as ''substantial; noticeable;'' or ''of importance.'' *See* American Heritage Dictionary, Second College Edition. OSM believes this meaning is also consistent with the context in which the term ''material damage'' is used, both in the Energy Policy Act and in other provisions of SMCRA. OSM believes that if an impact is insignificant, then the regulatory authority could reasonably conclude that the damage is not material. OSM intends that the determination as to the significance of impact should be made on a case-by-case basis, depending on the individual circumstances. Moreover, OSM intends that any damage that causes the value of a structure to decline materially would be covered by the definition, including damage to the condition, appearance, or utility of the structure.

OSM believes this definition strikes a balance that will, on the one hand, provide some additional guidance, while on the other hand ensuring enough flexibility to support OSM's position that determinations as to material damage should be made on a case-by-case basis. Thus, OSM wishes to emphasize that it is the responsibility of the regulatory authority to make specific determinations on a case-by-case basis as to what would constitute material damage under its regulatory program, consistent with the final definition in paragraph 701.5. This will ensure that the term is applied appropriately to the subsidence problems in each jurisdiction.

Definition of Non-Commercial Building

The definition of the term ''non-commercial building'' is being adopted as proposed with minor changes. A non-commercial building would mean any building, other than an occupied residential dwelling, that, at the time

the subsidence occurs, is used on a regular or temporary basis as a public building or community or institutional building as those terms are defined in § 761.5 of this chapter. Buildings used only for commercial agricultural, industrial, retail or other commercial enterprises are excluded.

A number of commenters agree that the definitions for ''non-commercial buildings'' and ''occupied residential dwelling and structures related thereto'' are needed to implement section 2504 of the Energy Policy Act, which requires all underground coal mining operations to promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings or related structures as a result of subsidence due to underground mining operations.

In response to a commenter, OSM has revised the proposal to clarify that ''commercial'' agricultural enterprises are excluded. The definition specifically provides that buildings used only for commercial agricultural and other commercial use are not covered in the definition of ''non-commercial'' building. Further, the definition requires that the non-commercial use of a building exist on a regular or temporary basis at the time subsidence damage occurs.

Definition of Occupied Residential Dwelling and Related Structures

This provision as proposed defined the term ''occupied residential dwelling and related structures'' as any building or other structure that, at the time subsidence occurs, is used for human habitation. This definition in the final rule is revised by adding the phrase ''temporarily, occasionally, seasonally, or permanently'' used for human habitation.

OSM agrees with the commenters that the definition of an ''occupied residential dwelling and structures related thereto'' should be revised to protect dwellings that are not occupied on a daily basis but are occupied at some time. This change is intended to recognize that dwellings such as rental homes, seasonal homes, and camping cabins are entitled to protection. This term also would include any building, structure, or facility installed on, above, or below, or a combination thereof, the land surface if that building, structure, or facility is adjunct to or used in connection with the occupied dwelling, including non-commercial agricultural and horticultural activities. Examples of such structures include, but are not limited to, garages; storage sheds and barns; greenhouses and related buildings; utilities and cables serving the dwelling; fences and other enclosures; retaining walls; paved or improved patios, walks and driveways; septic sewage treatment facilities; and lot drainage and lawn and garden irrigation systems. Any structure used only for commercial agricultural, industrial, retail, or other commercial purposes would be excluded.

OSM recognizes that a similar term ''occupied dwelling'' is currently defined in 30 CFR 761.5 as ''any building that is currently being used on a regular or temporary basis for human habitation.'' This term is so defined for purposes of Part 761, which implements SMCRA § 522(e)(5), and which, with certain exceptions, does not allow surface coal mining operations to be conducted within 300 feet of any ''occupied dwelling.'' OSM has adopted a somewhat different definition for the term ''occupied residential dwelling'' for purposes of implementing the Energy Policy Act provisions concerning subsidence control, because of the different purposes served by the definitions and the different language of the Energy Policy Act.

A group of commenters suggest that the definition is overly broad and should be limited to the intentions of Congress found in the Energy Policy Act which were meant to protect only residences and their water supplies. OSM disagrees with the commenters' characterization of congressional intent. OSM maintains that the definition for ''occupied residential dwelling and structures related thereto'' is needed to implement Section 2504 of the Energy Policy Act of 1992, which requires all underground coal mining operations to promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings and related structures as a result of subsidence due to underground mining operations.

Definition of Structures or Facilities

In the proposed rule, OSM defined structures and facilities as any building, constructed object or improvement whether installed on, above, or below the land surface, including, but not limited to, park facilities; roads; cemeteries; utilities; fences and other enclosures; retaining walls; and septic sewage treatment, irrigation and drainage systems.

Commenters argue that the Energy Policy Act does not specifically address commercial and certain other non-commercial structures. In addition, the commenters note that there is no need for the expanded definition because current regulations already provide for adequate protection of buildings and structures from underground mining.

One commenter noted that a broad definition of the term ''structures or facilities'' is supported by the House Committee Report accompanying the House revisions to the Energy Policy Act:

It is the Committee's intent that the terms ''structure or facility'' be construed to extend to any improvement on or in the land, such as houses; buildings; gas, water, sewage or other pipelines; telephone, electric and other cables; and water impoundments.

H.R. Rep. No. 474, 102d Cong. 1st Sess., pt. 8, at 133 (1992).

However, this report accompanied a previous version of the Energy Policy Act, which was not passed. And that earlier version, unlike the Energy Policy Act, did not require that OSM prepare a study to evaluate existing subsidence protections of pipelines, before any decision on rulemakings to make changes in protection of pipelines. Therefore, OSM believes that the quoted language is not dispositive as to Congress' intent on interpretation of the term.

OSM considered all comments on the proposed definition, and reevaluated its position on this provision. OSM agrees with those commenters who argue that section 2504 of the Energy Policy Act did not mandate protection of structures and facilities beyond those specifically noted in section 2504 of the Energy Policy Act, and OSM has concluded that the record does not clearly establish that a nation-wide problem exists requiring further subsidence protection of structures and facilities not specifically mentioned in section 2504. Therefore, OSM has decided to address in this rulemaking only those structures addressed in the Energy Policy Act. Therefore OSM is withdrawing the proposed definition and performance standards concerning the term ''structures and facilities.''

A number of commenters urge that OSM take various steps in this rulemaking to clarify or change existing subsidence control requirements concerning protection of natural gas and petroleum pipelines. Other commenters request that OSM confirm in this rulemaking the applicability of existing rules to such pipelines. However, OSM has concluded that any actions in this rulemaking to clarify, change or otherwise evaluate existing subsidence control requirements for protection of such pipelines would be premature and contrary to Congressional intent as expressed in the Energy Policy Act of 1992. That act provided, in section 2504(a)(2), that:

(A) The Secretary of the Interior shall review existing requirements related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Such review shall consider the following with respect to subsidence: notification; mitigation; coordination; * * * and the status of Federal, State and local laws, as well as common law, with respect to prevention or mitigation of damage from subsidence.

(B) The review shall also include a survey of the status of Federal, State, and local laws, with respect to the responsibilities of the relevant parties for costs resulting from damage due to subsidence or from mitigation efforts undertaken to prevent damage from subsidence.

(C) In conducting the review, the Secretary * * * shall consult with * * * the Attorney General of the United States, appropriate officials of relevant States, and owners and representatives of natural gas and petroleum pipeline companies and coal companies.

Subsection (2)(D) requires the Secretary to submit a report detailing the results of the review to specified Congressional committees. Subsection (2)(D) also provides that:

Where appropriate, the Secretary of the Interior shall commence a rulemaking to address any deficiencies in existing law determined in the review under subparagraph (A) regarding notification, coordination and mitigation.

Thus, Congress directed that OSM review and report on the status of existing Federal law and consult with the Attorney General in that review, and, where appropriate, commence a rulemaking to address any deficiencies identified in the review. OSM believes it would be premature to summarize the status of existing law or clarify or revise existing law, before the mandated review and report are finished. OSM is currently in the process of completing the report. Therefore, in this rulemaking OSM will not address the status of existing law protecting natural gas and petroleum pipelines from subsidence. Similarly, OSM will not clarify or change existing law, except that, as discussed elsewhere in this rulemaking, OSM is interpreting section 720 to require that individual pipeline connectors attached to structures otherwise protected under section 720 are subject to the protections of section 720. OSM has concluded that this limited protection is necessary to ensure that owners of otherwise protected structures are made whole when material damage occurs. Any action appropriate to clarify or revise the application of subsidence performance standards to natural gas and petroleum pipelines will be taken after completion and distribution of the review and report.

Definition of Replacement of Water Supply

The definition of the term ''replacement of water supply'' is being adopted as proposed with additional changes. In the final rule, ''replacement of water supply'' means, with respect to protected water supplies contaminated, diminished, or interrupted by coal mining operations, the provision of a water supply on both a temporary and permanent basis, which is equivalent to the premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for the premining water supply. The definition is applicable to both underground coal mining operations and surface mining operations that affect water supplies. The final rule is intended to apply to replacement of water supply under both sections 717(b) and 720(a)(2) of SMCRA.

Several commenters assert that the proposed requirement that the permittee pay for the operation and maintenance costs of the replacement water supply goes beyond the statutory requirements of the Energy Policy Act which only requires the ''replacement'' of the water supply. OSM does not agree. OSM maintains that payment of replacement water supply operation and maintenance costs in excess of premining costs is a logical aspect of the requirement to replace the water supply. This provision would ensure that the owner or user of the water supply is made whole, and that no additional costs are passed on to the water supply user after the replacement water supply is installed, beyond those that are customary and reasonable for the premining supply. The definition contemplates that the permittee will pay the capital costs of installing the replacement water supply. For example, if the use of well water can continue, the permittee would pay the cost of designing, drilling, and completing a new or deeper well; purchasing and installing a pump; and/or purchasing and installing a treatment system, as necessary. If the replacement water supply involves a hook-up to a public or private water supply system, the permittee would pay the hook-up costs, including fees, purchase of equipment and supplies, and construction. If a temporary water supply is necessary before the permanent replacement water supply is provided, the permittee would pay the cost of providing the temporary water supply.

A number of commenters support the requirement for the payment of operation and maintenance costs in excess of the customary and reasonable costs for the delivery of the premining water supply. However, the commenters suggested OSM consider a lump sum payment as an alternative to annual payments for operation and maintenance costs for a permanent water supply. OSM has considered the commenters' views and has decided to adopt most of these suggestions. If agreed to by the water supply owner, a one-time payment based on the present worth of the increased annual operating costs for a period of time agreed upon by the water supply owner and the permittee would be considered an acceptable method to fulfill the obligation to pay for the operation and maintenance costs of a permanent water supply in excess of customary and reasonable premining costs. A lump sum payment may be preferable to annual or other periodic payments because only one transaction is needed. Annual payment is not assured if the permittee encounters financial difficulties or goes out of business. Periodic payments could involve complex calculations and excessive and unproductive paperwork and record-keeping. Provision for a lump sum payment should reflect the predicted useful life of a water supply delivery system. For example, 20 years could be a reasonable amount of time to hold a permittee responsible for costs when the delivery system from a spring or well would likely have required repairs within the 20-year period even if the spring or well had not been affected by mining.

Commenters argue that the definition should state that the replacement water supply need only provide the quantity and quality required for actual use. In addition, the commenters recommend that the phrase ''provision of an equivalent water delivery system'' be deleted because the proposed definition appears to limit replacement to water delivery systems. Under this condition the permittee would not be able to replace the water supply by any means other than a ''water delivery system.'' OSM maintains that the provision of water quality and quantity equivalent to that of premining supplies is plainly required by the term ''replacement.'' Replacement of the delivery system is a reasonable aspect of replacement. The requirement of replacement of water supply includes replacement at no significant cost to the water supply

owner above that which was being paid by the owner for water supply prior to the damage. The obligation of the Energy Policy Act is to replace the supply, as noted in the legislative history. OSM believes that to require that the water supply owner be made whole without imposing significant additional costs will most reasonably implement the Energy Policy Act.

A commenter recommends that the definition of ''replacement'' address time limits for providing both interim replacement and permanent replacement. The commenter recommends a 48-hour time period to provide a temporary replacement and 1–2 years to provide permanent replacement. OSM agrees that some guidance on the issue of timing of water supply replacement would aid in consistent implementation of replacement requirements. If a temporary water supply is needed before the permanent replacement water supply is provided, it is reasonable to expect that the permittee will provide replacement within a reasonable amount of time. OSM believes that prompt replacement should typically provide: emergency replacement, temporary replacement, and permanent replacement of a water supply. Upon notification that a user's water supply was adversely impacted by mining, the permittee should reasonably provide drinking water to the user within 48 hours of such notification. Within two weeks of notification, the permittee should have the user hooked up to a temporary water supply. The temporary water supply should be connected to the existing plumbing, if any, and allow the user to conduct all normal domestic usage such as drinking, cooking, bathing, and washing. Within two years of notification, the permittee should connect the user to a satisfactory permanent water supply. This guidance is intended to assist regulatory authorities in deciding if water supplies have been ''promptly'' replaced.

A commenter expresses concern that adoption of the provision to require both underground mining operations and surface mining operations to replace water supplies would violate the Administrative Procedure Act (APA). The commenter charges that surface mine operators were not given adequate notice and opportunity to comment on the proposed provision. OSM disagrees. The proposed definition was explicitly applicable to surface mining (*See* 58 FR 50178, September 24, 1993), and the proposed rule invited all interested parties to submit comments on the provision.

A commenter notes that the definition does not address the doctrine of prior appropriation and state law regarding the replacement of water rights and requested that the definition include a reference to state law. OSM has concluded that no such discussion is required in this definition. As discussed in more detail below in the preamble discussion of section 817.42(j), neither this definition nor the requirement to replace drinking, domestic, and residential water supplies are intended to affect rights to consume or legitimately use a water supply under a senior water right pursuant to State law.

Commenters argue that it would be inappropriate to require replacement of a water supply that is not needed for the approved postmining land use. In addition, OSM received requests from States and OSM field offices to clarify the requirement for replacement of water supplies. In response to these comments, OSM considered an alternative provision for replacement of water supplies. In the July 26, 1994, notice reopening the public comment period on the proposed rule to provide for review and comment on additional information added to the Administrative Record, OSM requested comments on the proposed alternative provision for water supply replacement (59 FR 37953). This provision provides that when the property owner confirms in writing that the owner does not desire replacement of the delivery system, and no such system is in use at the time of loss, contamination, or interruption, and no such system is needed for the approved postmining land uses, then the permittee may provide replacement of the water supply by demonstrating that an equivalent water source exists that can be developed if desired by future owners. Under this provision an owner could forgo replacement of the water delivery system if the system is not needed for maintenance of the existing land use or attainment of the postmining land use. The permittee would still be required to demonstrate the availability of a water source equivalent to premining quantity and quality, so that the current owner or his or her successor could utilize the water if desired in the future. Where the spring or well also serves other purposes, the quantity of the replacement supply only needs to be equivalent to the premining water supply for drinking, domestic, or residential use.

The majority of commenters support OSM's effort to reduce unnecessary, useless, and burdensome expenses for water replacement. Other commenters characterize the proposed provision as inconsistent with the Energy Policy Act requirement to replace the affected water supply, and assert that there is no authority to waive water replacement, in the absence of explicit statutory authorization of waiver. These commenters allege that the permittee is obliged to replace the water supply, including the delivery system, at no additional cost to the owner. The commenters alleged that the proposed provision would extinguish the replacement rights of tenants, fails to protect the reasonably foreseeable uses and values of property, and fails to ensure implementation of hydrological protection provisions of SMCRA.

OSM does not agree that this provision would fail to ensure implementation of the hydrologic protection requirements of sections 816.41 and 817.41. Existing requirements remain in place, and the permittee must comply with them. OSM expects that any water rights of tenants vis-a-vis a landlord may properly be protected under the terms of the applicable lease for the property. OSM also does not agree that this provision will fail to protect the reasonably foreseeable uses and values of the property, since any decision to forego construction of a delivery system must be consistent with the postmining land use, and the permittee is still required to ensure that a water source equivalent to premining quality and quantity is available.

OSM has decided to adopt the provision outlined in the **Federal Register** notice reopening the comment period on the proposed rule. Thus, the owner would have the option of foregoing installation of a delivery system, in those circumstances in which the system would be neither wanted or needed, and would not be used if installed. This provision would ensure that all coal mining operations must be conducted so that water resources remain to support the existing and proposed use of the land. The only feature that may be waived is a water delivery system that would not be used for the postmining land use, and was not needed for the land use that existed before mining. Also, the permittee must demonstrate the availability of a water source equivalent to premining quality and quantity. Therefore, OSM believes that the final rule ensures compliance with the Energy Policy Act and section 717 of SMCRA in all essential respects, while avoiding unneeded expense.

Section 784.10—Information Collection

OSM is revising Section 784.10 which contains the information collection requirements for Part 784 and the Office

of Management and Budget (OMB) clearance number. The revision updates the data contained in the section by including the estimated reporting burden per respondent for complying with the information collection requirements.

The collections of information contained in Part 784 have been approved by Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0039. The information will be used to meet the requirements of 30 U.S.C. 1211(b), 1251, 1257, 1258, 1266, and 1309a. The obligation to respond is required to obtain a benefit.

Several commenters asserted that the public reporting burden for the requirements proposed for Part 784 is far greater than that estimated by OSM. They believe that OSM has miscalculated the differences between existing regulations and the proposed regulations, and underestimated the burden on industry to complete the hydrologic information, the pre-subsidence survey and the subsidence control plan.

Based on the comments received, OSM has recalculated the estimated burden hours required to comply with the new requirements. Specifically, commenters claimed that the new requirements of section 784.14 would increase the hydrologic monitoring burden placed on industry. Accordingly, OSM has modified the burden estimate to include the new requirements for section 784.14.

Several commenters also disagreed with OSM's burden estimates to complete the requirements of section 784.20. The expanded requirements include preparation of a pre-subsidence survey which entails preparing a map, a narrative, and a survey, and a subsidence control plan.

Only three commenters submitted comments which contained data on burden hours or the number of structures involved in a pre-subsidence survey. One commenter, a coal company, provided a per structure burden hour, ranging from 3.33–4 hours per structure. The same commenter stated that a recent permit revision submittal for a 5,000 acre permit in a rural area contained 300 structures which, if the new requirements were in place, would have required a pre-subsidence survey taking approximately 1,000+ hours to conduct. One commenter, a major trade association for the coal industry, stated that in the Appalachian region where over 90 percent of all producing underground coal mines are located, between 6 to 12 structures per permit would require a pre-subsidence survey. Another commenter stated that a recent pre-mining survey in Appalachia had required a total of 300 man-hours; however, the commenter did not provide data on the number of structures involved.

Using the data supplied by commenters, OSM has recalculated the estimated *average* burden hours for a pre-subsidence survey at 163.20 hours per permit (12 structures×4 hours×90%+300 structures×4 hours×10%=163.20 hours). This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. OSM considers this to be a very conservative estimate. OSM is required under the Paperwork Reduction Act to renew its information collection clearance every three years. As part of that process, OSM publishes a notice in the **Federal Register** requesting comments on the estimated burden hours. At the first renewal of the clearance, OSM will be able to refine this estimate for pre-subsidence surveys, based on factual information concerning coal industry compliance with the new requirement. The total information collection burden for Part 784, the burden for the pre-subsidence survey and all other requirements, is estimated at 513 hours. This is the time required for a respondent to comply with all of the reporting requirements in Part 784.

Section 784.14(e)(3)(iv)—Hydrologic Information

This provision was proposed as 784.14(e)(3)(v), and has been adopted with some modification in the final rule. Under the final rule, the permit applicant will be required to identify whether the underground mining activities conducted after October 24, 1992, may result in contamination, diminution or interruption of a well or spring which is in existence at the time the permit application is submitted and which is used for domestic, drinking, or residential use within the proposed permit or adjacent areas. Authority for the new requirement may be found in SMCRA sections 201(b)(2), 507(b)(11), 508(a)(13), and 720(b). These sections authorize the imposition of requirements to submit information needed to implement the performance standard in paragraph 817.41(j).

Several commenters object to the proposed requirement that an assessment of probable hydrologic consequences be done for agricultural and industrial water supplies in permit or adjacent areas, noting that SMCRA does not authorize the replacement of water supplies for these uses. Consequently, these commenters believe that a requirement that the PHC determination include any assessment of the potential effect of mining on these supplies is inappropriate. OSM has decided to require replacement only of those types of water supplies specified in the Energy Policy Act, and has decided to withdraw the provision which was published as proposed paragraph 784.14(e)(3)(iv), and which would have established a broader information requirement for water supplies than is required to implement the Energy Policy Act.

Several commenters assert that the probable hydrologic consequences regulations duplicate much of the existing requirements for hydrologic impact assessments as currently required in SMCRA. In addition, the commenters noted that State regulatory agencies already have authority in paragraph 784.14(e)(3) that allows State agencies to require any information they deem necessary to ensure enforcement of the regulations and effective implementation of SMCRA. The commenters maintained that the proposed rules would generate significant inconsistencies which will result in total confusion for both the State regulatory agency and the coal mining community.

The requirement at 784.14(e)(3)(iv) does not duplicate the existing authority in paragraph 784.14; rather, the requirement in paragraph (e)(3)(iv) adds certain wells and springs to the existing list under 784.14(e)(3) of features to be covered in a determination of probable hydrologic consequences. This requirement implements the parallel performance standards at 817.41. Paragraph (e)(3)(iv) ensures that the requirements of 784.14(e)(3) apply to certain wells and springs within the proposed permit area or adjacent area. The requirement would ensure that, prior to mining, the permittee demonstrate whether the proposed operation may result in contamination, diminution, or interruption of a well or spring within a proposed permit area or adjacent area which is used for domestic, drinking or residential purposes.

A commenter alleged that the background data to determine the flow of water, either from a well or a spring, should be normalized for historic parameters to account for extended drought conditions. The commenter went on to note that replacing water at levels measured during dry conditions results in replacement at diminished levels.

OSM understands that certain wells and springs may pose problems for sampling to determine water replacement levels. However, OSM believes that the current regulations implementing those requirements, at 784.14(b) (1) and (2), are adequate to determine the level of a water supply equivalent to the premining water supply and to determine the presence of heavy metals in the water. These regulations require the application to include information on ground water and surface water quality and quantity sufficient to demonstrate seasonal variation and water usage. In addition, the requirement to include an analysis of both suspended and dissolved constituents provides adequate information to determine the presence of heavy metals in the water supply. Moreover, throughout the application process, the regulatory authority may require additional information necessary to assure that the proposed operation will protect the hydrologic balance, or otherwise necessary to understand the potential impacts of the operation.

One commenter characterized the requirement for baseline information for the permit and adjacent areas as flawed because many States do not consider lands overlying underground workings to be within either the permit area or the adjacent area. Therefore, many wells above or close to underground workings would not be surveyed and there would not exist any baseline against which to measure future damage and build an enforceable case for replacement of water rights.

OSM does not agree with this characterization. The term ''adjacent area,'' as defined in 30 CFR 701.5, specifically includes all areas outside the permit area where resources, including wells or springs, could reasonably be expected to be adversely impacted by the proposed mining operation, including probable impacts from underground workings. The 1979 version of this definition similarly included all lands containing potentially affected protected resources outside the permit area. All State programs must contain provisions no less effective than the Federal regulations. OSM is not aware of any State that has a deficient definition of ''adjacent area'' or its equivalent. Nor is OSM aware of any State that is interpreting its program in the manner alleged by the commenter. Therefore, OSM finds no basis for the commenter's concern.

A commenter expressed concerns as to how an existing operation could demonstrate that it has not adversely impacted a well or spring that serves a water supply, when drought, rather than underground mining, is the primary factor affecting a water supply. The commenter noted that an existing operation would not have prepared a presubsidence survey to establish baseline water conditions. OSM believes such questions are evidentiary issues that must be addressed reasonably on the facts of the individual case, just as such issues are now addressed for replacement of water supplies affected by surface mining. As noted elsewhere in this preamble, a permittee may also voluntarily provide a presubsidence survey.

Section 784.20(a)—Pre-subsidence Survey

This section as proposed would add a paragraph to § 784.20(a), entitled ''*Pre-subsidence Survey*.'' In response to comments and requests for clarification concerning the scope of the rulemaking and of this paragraph, the proposed requirement is being adopted with modifications in this final rule. The rule language has been revised to provide that each application include a map of the proposed permit area and adjacent area at a scale of 1:12,000 or a larger scale if determined necessary by the regulatory authority. The map would show the type and location within the proposed permit area or adjacent area, of structures and renewable resource lands that subsidence may materially damage, or for which the reasonably foreseeable use may diminished by subsidence. The maps would also be required to show the type and location within the proposed permit area or adjacent area, of drinking, domestic, and residential water supplies that could be contaminated, diminished, or interrupted by subsidence.

A narrative is required that must indicate whether subsidence, if it occurred, could cause material damage or diminish the reasonably foreseeable use of the identified structures and renewable resource lands. The narrative is also required to indicate whether subsidence, if it occurred, could contaminate, diminish, or interrupt the identified drinking, domestic, or residential water supplies. In addition to the conventional text format, videos or photographs can be submitted as supplements to the narrative.

Unless the applicant was denied access for such purposes by the owner, the rule also requires a survey which identifies certain features. First, the survey must identify the condition of all non-commercial buildings or occupied residential dwellings and related structures that may be diminished by subsidence within the area encompassed by the applicable angle of draw. Second, the survey must identify the quantity and quality of all drinking, domestic, and residential water supplies within the proposed permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. In addition, the applicant would be required to notify the owner in writing that denial of access would remove the rebuttable presumption that subsidence from the operation caused any postmining damage to protected structures that occurred within the surface area that corresponds to the angle of draw for the operation. (See discussion of angle of draw in discussion of paragraph 817.121(c)(4), *infra*.) Any technical assessment or engineering evaluations used in determining the pre-mining condition or value of such structures or in determining the premining quantity and quality of protected water supplies would be conducted at the permit applicant's expense. Copies of the survey and any technical assessments or engineering evaluations must be provided by the applicant to the property owner and regulatory authority.

Commenters claim that OSM failed to justify the need for a second map, in addition to the map required by paragraph 783.24(c). The map requirements of paragraph 784.20(a)(1) could be met by the same map submitted to comply with paragraph 783.24(c), so long as it meets the requirements of this paragraph. OSM believes that an explicit requirement to establish and document the location and pre-mining condition of protected structures and lands, and the location and pre-mining quantity and quality of protected water supplies, is essential to establish a sufficient baseline against which the effects of subsidence may be measured and to ensure full implementation of SMCRA sections 516 and 720.

The commenters argue that OSM provided no justification for a standard, nationwide map scale and suggest that the determination of the map's scale be left to the individual states, based on mining conditions in each state. Commenters claim that OSM gave no reason why the map scale should be 1:4,800. A commenter pointed out that a map of the mine operation and the affected area at a scale of 1:4,800, as proposed, could be on the order of 7′×10′. OSM agrees that a map of this size would be difficult to review and store. OSM has revised the proposed rule to allow for a map on a scale of 1:12,000, or 1″=1000′. If the regulatory

authority determines that more detail is needed, for example to show where protected structures or water supplies are located, the regulatory authority may request a larger-scale map. The final map scale requirement will provide both the regulatory authority and permittee with greater flexibility in meeting the requirement.

Commenters state that the requirement that maps must include a narrative description of the hydrologic information is redundant. Commenters allege that a narrative description would not provide any additional information that is useful, since paragraph 784.20 already requires both a map and narrative description. OSM agrees and has modified the rule. The map and narrative required under final sections 784.20(a)(1) and (2) are not intended to expand on the existing responsibility to identify renewable resource lands and identify whether they may be impacted by subsidence. The changes in this provision concerning map and narrative requirements for water supplies protected under section 817.41(j) are intended to provide the information necessary to ensure full implementation of the requirements of SMCRA section 720, concerning protection of water supplies. The changes reflect revisions made to paragraphs 784.20(b), 817.41(j), and 817.121(c). OSM anticipates that the regulatory authority may allow the applicant to utilize (or reference) relevant portions or all of the narrative prepared for the survey, in the subsidence control plan if the later narrative would be redundant.

Several commenters assert that the requirements in the proposed rule governing pre-subsidence surveys would pose a costly burden on permittees if the requirements are interpreted to require identification and cataloguing of the entire land surface and everything on it for the presubsidence survey. Commenters allege this burden is especially likely, considering the broad definition of structures and facilities, and commenters strongly disagree with OSM's assertion in the proposed rule preamble, that the additional survey would impose ''little'' additional burden on the industry. They also argue that such surveys have a diminishing usefulness as mining plans proceed, since the permit applications in which the survey is to be included are often done years in advance of any actual mining. Commenters also consider the proposed requirement redundant because of the existing survey requirements.

OSM has considered these comments and has modified the final rule. OSM continues to believe that additional requirements are necessary to effectively implement the requirements of the Energy Policy Act and is limiting the final requirement to non-commercial buildings, occupied residential dwellings and related structures, and drinking, domestic, or residential water supplies. As noted above, OSM has also made conforming changes to the requirements in paragraph (a) for a presubsidence map and narrative covering protected features. The regulatory authority, the permittee, and the surface owner will be provided with a better record of the status of these protected features prior to mining. That record will better form the basis of enforcement in the event of subsidence; but it will also better protect the permittee against any claim of damage for which the permittee is not responsible.

Further, OSM believes that these proposed changes will impose no unreasonable burden on the industry. In providing information on these features, the survey should incorporate the baseline water quality and quantity information on existing water supplies required under existing rules at 30 CFR 784.14 and 784.22. This information is also referenced in the final rule provision concerning water supply replacement requirements for underground mining, section 817.41(j). While the commenters may have pointed out a limitation on the long-term usefulness of the information, based on OSM's experience OSM believes that the proposed format for the survey information is the minimum needed to adequately assess the need for a subsidence control plan. OSM notes that the regulatory authority may ask for an update of this information as part of the mid-term permit review process, which would mitigate any problems with outdated information. If a subsidence control plan is needed, information in the presubsidence survey may be incorporated in the subsidence control plan.

Some commenters have noted that the decision as to whether to impose a pre-subsidence survey has been held by the courts to be a matter within the sound discretion of the Secretary, *NWF v. Lujan, supra,* 733 F.Supp. 419 at 429; and is essential to effectuate the protections intended to be afforded by amended Sections 720(a)(1) and (b) of the Act. OSM agrees.

Other commenters characterize this case as rejecting a requirement that an additional survey be done before mining is commenced. OSM does not agree with this characterization. The cited case found that the Act does not speak to the issue of presubsidence surveys, so the matter is within the Secretary's discretion. The court upheld a decision by the Secretary not to adopt certain requirements for a presubsidence survey.

Paragraph 784.20(b)—Subsidence Control Plan

This final rule is modified from the proposal to correspond with the final revisions to paragraphs 817.41(j) and 817.121(a)(2). Otherwise, the requirements under paragraph 784.20(b) in the final rule are the same as proposed. Under the final rule, no further information need be provided in the application under this section if the results of the pre-subsidence survey meet the following criteria:

(1) no structures, facilities, or renewable resource lands exist, or

(2) no material damage or diminution in value or foreseeable use could occur, as a result of mine subsidence, and

(3) the regulatory authority agrees with such conclusion.

A subsidence control plan is required if the survey identifies structures, facilities, or renewable resource lands and shows that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or if the regulatory authority determines that such damage or diminution could occur.

Under the final rule, paragraph 784.20(b), would require each subsidence control plan to contain the following information: (1) a description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining, or other extraction methods, including the size, sequence and timing for the development of underground workings; (2) a map of the proposed underground workings that describes the location and extent of the areas in which planned-subsidence mining methods will be used and that identifies all areas where the measures described in paragraphs (b)(4), (b)(5), and (b)(7) of this section will be taken to prevent or minimize subsidence and subsidence-related damage; and when applicable, to correct subsidence-related material damage; (3) a description of the physical conditions, such as depth of cover, seam thickness, and lithology of the overlaying strata, which affect the likelihood or extent of subsidence and subsidence-related damage; (4) a description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce, or correct material damage in accordance with paragraph 817.121 of this chapter; (5) except for those areas

where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence-related damage, such as, but not limited to: backstowing or backfilling of voids; leaving support pillars of coal; leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and taking measures on the surface to prevent or minimize material damage or diminution in value of the surface; (6) a description of the anticipated effects of planned subsidence, if any; (7) for those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to non-commercial buildings and occupied residential dwellings and related structures; or the written consent of the owner of the structure or facility that minimization measures not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs of repair; (8) a description of the measures to be taken in accordance with §§ 817.41(j) and 817.121(c) of this chapter to replace adversely affected protected water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures; and (9) other information specified by the regulatory authority as necessary to demonstrate that the operation will be conducted in accordance with § 817.121 of this chapter.

In this preamble OSM will use ''longwall mining'' to refer to the longwall mining and pillar recovery technologies which provide for ''planned subsidence in a predictable and controlled manner,'' as referenced in SMCRA section 516(b)(1). The text of the regulations as adopted continues to use the terms ''mining technology which provides for planned subsidence in a predictable and controlled manner'' or ''planned-subsidence mining methods.''

Several commenters support the proposal to require permittees to submit subsidence control plans. These commenters recommend that the subsidence control plan require the permittee to document the full range of steps that can be taken to prevent and mitigate subsidence impacts, including mine design changes and precautionary and preventive measures taken above ground to minimize damage to surface features and structures.

However, some commenters argue that amending paragraph 784.20(b)(5) to require longwall mining to minimize material damage illegally reverses the current regulations of SMCRA, since the Energy Policy Act does not require the change and OSM has not shown a compelling need for such a change. These commenters find no reason to support OSM's decision to reverse the regulatory provisions governing longwall mining. They argue that there are sound policy and technical reasons for supporting the current regulatory scheme and that the proposed rule would incur additional costs on those permittees who utilize the longwall mining technique. OSM believes these requirements are fully authorized under SMCRA sections 201 and 516 and are consistent with and supportive of the requirements of SMCRA section 720. OSM does not agree that this provision is inconsistent with SMCRA or the Energy Policy Act. As discussed *infra*, in response to comments concerning the scope of the requirement, OSM has revised this provision somewhat, to require that, with certain limitations, minimization measures must be taken to protect the same structures for which, in section 720 of SMCRA, Congress has imposed a requirement to repair or compensate for damage. This will ensure that permittees take reasonable steps to minimize subsidence damage to protected structures before it occurs, without incurring unreasonable costs. While OSM recognizes that there will be some additional costs associated with minimization measures, OSM believes it is sound public policy to limit damage to protected structures before it occurs, where reasonable, and that such requirements are fully consistent with SMCRA, as amended. OSM also expects that the limitations on the obligation to minimize, discussed *infra*, will ensure that the expense of minimization will be neither prohibitive nor disproportionate.

One commenter submitted that the proposed regulations would impose an absolute requirement for a subsidence control plan because no one conducting longwall operations on federal lands would ever be able to demonstrate that there would be no ''diminution in value.'' OSM believes that the extent to which longwall operations must prepare pre-subsidence surveys can only be determined on a site-specific basis, because of the number of variables that may affect both the nature and extent of subsidence as well as the damage to any protected structures. The commenter noted that the permittee could not meet the requirement for the subsidence control plan under the existing regulatory framework imposed by the Bureau of Land Management, which requires maximum economic recovery. OSM believes that any requirement to extract minerals for maximum economic recovery by definition must be applied to mean maximum economic recovery *consistent with applicable regulatory requirements.*

Under the final rule, OSM is retaining the language under existing paragraph 784.20(b)(5) that provides an exception to the requirement to submit a detailed description of the measures to be taken on the surface to prevent or minimize material damage or diminution in value of the surface for those areas where planned subsidence is projected to be used.

However, OSM has added paragraph 784.20(b)(7) that requires permittees conducting longwall mining operations that result in planned and controlled subsidence to describe the subsidence control measures they will use to minimize subsidence and subsidence-related material damage to non-commercial buildings and occupied residential dwellings and related structures, or to demonstrate that the costs of minimizing damage to these structures exceed the anticipated cost of repair and are not needed to prevent a threat to health or safety. The proposed rule would have required a description of such measures under paragraph 784.20(b)(5)(iv). The subsidence control measures that a longwall permittee can employ to minimize subsidence and subsidence-related material damage include measures taken on the surface, such as trenching, bracing, and jacking structures. OSM does not intend to require anything other than surface measures to minimize material damage from longwall mining where conventional underground measures may not be practicable. The final rule requires that a permittee using longwall mining technology take necessary measures consistent with the mining method to minimize material damage to surface lands, structures, or facilities, with certain limitations. However, OSM recognizes that underground measures are not normally associated with longwall mining, because they are not normally consistent with longwall technology. For example, changes in the design of an ongoing mining operation would not be required, because OSM has concluded, after considering all comments and available literature, that the expense of such underground measures to minimize material damage from longwall mining would be prohibitive, and therefore inconsistent with congressional intent.

In responding to the proposal to require longwall permittees to use surface measures to minimize material damage, commenters allege that surface measures to minimize damage are neither technically nor economically practicable. These commenters allege that in some cases use of such measures has not prevented damage; that surface measures are not always appropriate; that many such measures remain experimental, unproven in effectiveness, and uncertain as to structural response; and that they are economically impractical. OSM finds these arguments unavailing, because they are all countered by the terms of paragraph 817.121(a)(2). That provision requires ''necessary and prudent'' measures, ''consistent with the mining method employed,'' ''to the extent technologically and economically feasible.'' Thus, if a measure is unnecessary or imprudent, inconsistent with longwall mining, or not technologically or economically feasible (or if it will not minimize material damage to protected features), it will not be required.

One commenter alleged that the term ''subsidence control'' does not include measures taken on the surface as suggested in the proposed rule to protect surface features from damage. The commenter noted that the use of the term subsidence control in SMCRA and the mining industry refers to the mine design including the sizing of openings and pillars which affect ground pressures within the underground mining environment; and in connection with other factors, affect the amount and type of ground movement that could result in surface deformation. To the extent this may have been true in the past, OSM regards this as irrelevant to the merits of this rulemaking, which establishes separate subsidence control requirements for those operations using planned subsidence and for those using conventional mining operations.

OSM is revising paragraph 784.20(b)(5) as an adjunct to the revisions to paragraph 817.121(a). The substance of these revisions is discussed infra under the heading for section 817.121(a).

OSM is also revising section 784.20(b)(8) as an adjunct to the revisions to section 784.20(a) and to reflect the requirements of section 817.41(j).

Section 817.10—Information Collection

OSM is revising Section 817.10 which contains the information collection requirements for Part 817 and the OMB clearance number.

One commenter stated that the burden required to establish a monitoring program under new paragraph 817.121 (c)(4) to determine surface damage based on a specified angle of draw could require 1,000 hours to perform. Consultations were held with OSM mine engineers who estimated the burden at approximately 250 hours. Therefore, OSM estimates the public reporting burden for the new information collection requirements for § 817.121(c)(4) to vary from 250 to 1,000 hours per response.

The collections of information contained in Part 817 have been approved by Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0048. The information will be used to meet the requirements of 30 U.S.C. 1211, 1251, 1266, and 1309(a) which provide, among other things, that permittees conducting underground coal mining operations shall meet the applicable performance standards of the Act. This information will be used by the regulatory authority in monitoring and inspecting underground mining activities. The obligation to respond is required to obtain a benefit.

Section 817.41(j)—Hydrologic Balance Protection

The proposed rule included two provisions concerning performance standards for underground mining activities, for water supply replacement: paragraphs 817.41(j), concerning replacement of water supply used for agricultural, industrial, or other legitimate use; and 817.41(k), concerning replacement of water supplies used for drinking, domestic, or residential use.

Proposed paragraph 817.41(j) provided that a person who conducts underground mining activities shall replace the water supply of an owner of an interest in real property who obtains water for agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply has been adversely impacted by contamination, diminution, or interruption proximately resulting from the underground mining activities. Several commenters objected to this requirement.

Commenters claim that OSM provides no justification for changing its longstanding policy of not requiring water replacement for such users. The commenters maintain that the change in policy would contradict section 717(a) of SMCRA, which requires OSM to respect state water and property rights law. The commenters went on to state that this provision of the proposed rule went beyond the requirements of the Energy Policy Act and preempts state water law, thus removing the protections that SMCRA affords to state water laws. The commenters also pointed to the unique physical characteristics of western states that necessitate respect for the individual state water laws. After consideration of all comments on this issue, and after review of all available documentation of the need for the performance standards set out in proposed paragraph 817.41(j), OSM has concluded that the existing record does not clearly support the need for this provision. Therefore, OSM has decided not to exercise its discretionary authority under SMCRA, to require such protection. OSM will not require replacement of water supplies not mandated by the Energy Policy Act. Therefore, OSM is not adopting proposed 817.41(j) that would have required replacement of water supplies used for agricultural and industrial uses.

In proposed 817.41(k), OSM proposed to require a permittee to promptly replace a drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence prior to the date the regulatory authority received the permit application for the underground mining activities. Baseline hydrologic information required in sections 784.14 and 784.22 would be used to determine the impact of underground mining activities on the well or spring.

The final rule provision concerning replacement of drinking, domestic or residential water supply is renumbered and appears at paragraph 817.41(j). Under the final rule, the permittee is required to promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence prior to the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption. The baseline hydrologic information required in § 784.14 of this chapter and the geologic information concerning baseline hydrologic conditions required in § 784.22 of this chapter shall be used to determine the impact of underground mining activities upon the well or spring. This information is not intended to be the exclusive basis for determining such impacts, and other relevant information could also be considered. Permittees both in primacy States and in Federal program States, as well as on

Indian lands, are required to comply with these provisions for operations conducted after October 24, 1992.

The majority of commenters agreed that the provision to require the permittee to promptly replace any drinking, domestic, or residential water supplies that have been adversely affected by underground activities is necessary to implement the provision of new SMCRA section 720(a)(2).

While commenters support the adoption of the proposed rule, they maintain that it is not necessary to monitor each water well in order to establish that subsidence has impacted a water supply well. OSM agrees that in many instances it may not be necessary to monitor each well. The location and frequency of well monitoring will be addressed on a case-by-case basis pursuant to existing paragraphs 784.14(h)(1) and 817.41(c).

A commenter asked for clarification that this provision would not in any way affect property rights under existing state water laws consistent with paragraph 717(a). Another commenter further recommended that OSM amend the provision to require that water rights regarding the affected well or spring be approved by the State Engineer or otherwise be recognized under State law. OSM points out that nothing in this requirement is intended to create an exception to section 717(a) of SMCRA. Section 717(a) requires deference to State water law on questions of water allocation and use. OSM interprets section 720 and the implementing rules as not requiring the replacement of water supplies to the extent underground mining activities consume or legitimately use the water supply under a senior water right determined under applicable State law. *See In re Permanent Surface Mining Regulation Litigation II*, Round III, 620 F. Supp. 1519, 1525 (D.C.D.C. 1985). However, OSM believes that section 717(a) concerns rights under State water law to consumption or use of water, and was not intended to address destruction or damage of the *source* of water, or contamination of the water supply. Thus, OSM anticipates that underground mining activities which cause destruction or damage of a water supply source, or contamination of a water supply, would be subject to the replacement requirements of section 720 even if the permittee possessed senior water rights.

A commenter recommended that compensation be available as an option for those limited circumstances where an impacted supply can't be restored. The commenter went on to note that Congress, in enacting the Energy Policy Act, clearly noted that these provisions were not to ''prohibit, or interrupt underground coal mining operations.'' Without the compensation option, the commenter asserted that operations would be forced to cease operating if they couldn't replace the water supplies. OSM does not agree. The terms of the Energy Policy Act unequivocally require replacement. Further, OSM does not anticipate that underground mining operations will be unable to comply with this statutory mandate. For example, if the permittee is unable to restore a spring or aquifer, the permittee should still be able to provide water from an alternative source, such as a public water supply, or by pipeline from another location.

Section 817.121(a)—Subsidence Control

OSM is adopting paragraph 817.121(a)(1) as proposed. The requirement provides that the permittee must *either* adopt measures consistent with known technology which prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; *or* adopt mining technology which provides for planned subsidence in a predictable and controlled manner.

This language is not intended to be a change from the rules promulgated in 1983, (See 48 FR 24652, June 1, 1983), and relies on the basis and purpose stated in 1983. This rulemaking makes minor editing changes intended to more clearly reflect the meaning of the existing rule. Thus, under this provision, as an alternative to adopting measures consistent with known technology which prevents subsidence causing material damage to the extent technologically and economically feasible, an permittee may adopt mining technology which provides for planned subsidence in a predictable and controlled manner.

OSM is adopting paragraph 817.121(a)(2) with modification from the proposed rule. Under the proposed rule, if a permittee employed mining technology which provides for planned subsidence in a predictable and controlled manner, the permittee would have been required to take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to surface lands, structures or facilities to the extent technologically and economically feasible. Under the final rule, the responsibility to minimize damage is limited to structures listed in the Energy Policy Act, namely noncommercial buildings and occupied residential dwellings and related structures. However, unless the anticipated damage would constitute a threat to health or safety, the permittee would not have to take minimization measures if the permittee demonstrates that the cost of minimization would exceed the cost of repair, and would not constitute a threat to health and safety. The permittee is obliged to take minimization measures that are technologically and economically feasible. Upon written consent of the owners of such structures or facilities, no minimization measures would be required.

Section 2504(a)(2)(D) of the Energy Policy Act provides that any rulemaking regarding protection of natural gas or petroleum pipelines from subsidence damage is to be done after the study which OSM is mandated to perform pursuant to paragraph 2504(a)(2)(A) of the Energy Policy Act. Some commenters express concern that proposed paragraph 817.121(a)(2) prejudged this issue, while others support the rule because they believe it does impose additional subsidence damage protection for pipelines. Since OSM has not yet completed the study mandated by the Energy Policy Act, OSM does not intend this rulemaking to affect, interpret, or clarify the status quo regarding subsidence control requirements for natural gas or petroleum transmission pipelines, branch and gathering lines, or distribution mains. For these and other reasons discussed below, OSM has decided to limit 817.121(a)(2) to those structures protected under the Energy Policy Act, namely noncommercial buildings and occupied residential dwellings and related structures.

Commenters claim that the proposed provision that required permittees to minimize damage from planned subsidence operations was vague and unworkable since little guidance was provided as to what minimizing damage would entail. Commenters argue that OSM's contention that the new rule would clarify an unresolved issue over the meaning of paragraph 817.121(a) was misguided, since the proposed rule did little to clarify the issue and would likely result in even more litigation. Commenters also allege that, rather than clarify the obligation of planned subsidence operations concerning subsidence damage, the proposed rule would effectively remove the exception granted in SMCRA for planned subsidence. These commenters questioned the effect of OSM's proposed provision on the planned subsidence exception at section 516(b)(1) of SMCRA if an operator using planned subsidence must adopt and deploy the same

subsidence control measures as an operation not using planned subsidence.

OSM has considered these comments as well as the existing regulatory scheme of SMCRA and has concluded that, given the lack of clarity of section 516 on this issue, the most reasonable regulatory scheme and the regulatory scheme most consistent with SMCRA as amended by the Energy Policy Act, is to provide longwall subsidence damage minimization requirements that track the protections offered by the Energy Policy Act concerning subsidence from other forms of underground mining. Although the Energy Policy Act does not specifically address a minimization standard for longwall mining, it demonstrates Congress' intent to specifically require subsidence damage repair or compensation only for the structures listed in section 720. Therefore, the final rule limits the requirement to take measures to minimize material damage resulting from longwall subsidence to those structures protected in the Energy Policy Act. This is not a *prevention* standard, so a planned subsidence operation will not be required to meet the same subsidence control standard that applies to an operation not using planned subsidence. The addition of a limited requirement that longwall mine operators ''minimize'' damage in certain circumstances is not inconsistent with the SMCRA provision at section 516(b)(1) which exempts longwall mining from the requirement to *prevent* material damage. Authority for the minimization standard derives from both section 516(b)(1) and section 720 of SMCRA. OSM recognizes that Congress expressly stated in the Energy Policy Act that nothing in the statute regarding surface owner protections shall be construed to prohibit or interrupt underground coal mining operations. OSM believes that the final rule which contains a limited requirement for longwall operations to minimize subsidence damage in certain circumstances is consistent with Congress' guidance contained in the Energy Policy Act.

OSM believes that, by requiring only surface measures to minimize subsidence damage to non-commercial buildings and occupied residential dwellings and related structures, and only when it is technologically and economically feasible, the final rule establishes reasonable subsidence control measures that are also consistent with Congress' intent to support and encourage the use of planned and controlled subsidence. Further, by also providing that the requirement does not apply if the permittee demonstrates that minimization would cost more than repair, OSM believes it has mitigated any potential for unreasonably expensive minimization measures. OSM recognizes that some material damage to protected structures from planned subsidence is possible and in some cases will not be prevented under this rule. However, under paragraph 817.121(c), such damage has to be repaired. The requirement is not intended to discourage the use of planned and controlled subsidence or to require underground activities not normally associated with such operations. OSM does intend, however, that this rule will require reasonable measures to be taken on the surface to protect occupied residential dwellings and related structures and non-commercial buildings from material damage. OSM believes that the subsidence control policy outlined in the Consolidation Coal Company video, presented to OSM during an on-site tour of coal fields, and available in the administrative record for this rulemaking, illustrates the kinds of measures that would adequately meet the needs of the homeowner and the permittee in deciding when and what types of measures should be taken on the surface to minimize damage. Further, this videotape demonstrates the reasonableness of using such minimization techniques.

The commenters also question the provision that the proposed performance standards are mandatory unless the landowner consents. Commenters state that requiring measures to be taken to protect structures and facilities unless the owner consents, raises a number of issues with regard to exactly when and for what purposes a permittee is required to obtain the owner's consent. For example, if the permittee finds that certain measures are not prudent or economically or technologically feasible, must the permittee still obtain the owner's written consent? Also, if an owner were to steadfastly refuse to consent to an otherwise flawless planned subsidence operation, commenters opined that the requirement to obtain the owner's consent could be considered an uncompensated taking of the permittee's property right.

The obligation to take necessary and prudent measures on the surface consistent with the mining method employed, to minimize material damage to occupied residential dwellings and related structures and non-commercial buildings to the extent technologically and economically feasible, except when minimization costs would exceed repair costs, is mandatory. However, neither the regulatory authority nor the permittee is required to obtain the landowner's concurrence in order to satisfy that test. Instead, the minimization measures would be explained in the subsidence control plan, which the landowner has a right to review and object to, and which requires the approval of the regulatory authority. The consent provision allows the permittee to negotiate an arrangement with an owner of a structure or facility to waive the protection otherwise afforded by paragraph 817.121(a)(2). Such a written waiver would have to waive expressly the regulatory protection provided by the proposed rule and therefore could not be a document which predates adoption of the final rule. OSM notes that such a waiver would not be effective to waive any requirement pursuant to paragraph 817.121(c) to repair damage from subsidence. In addition to the waiver provision, the final rule includes a provision that a permittee will not be required to take measures to minimize subsidence damage upon a demonstration that the costs of such measures would exceed the repair costs for the damage. In both cases, the permittee could allow the damage to occur, and repair it pursuant to paragraph 817.121(c).

One commenter alleges that damage minimization measures for longwall mining cannot be limited to surface measures, because the SMCRA legislative history indicates that Congress contemplated underground preventive measures such as backstowing, provided such measures are technologically and economically feasible. The commenter cites H.R. Rep. No. 218, 95th Congress, First Session (1977) at 125–126. OSM does not agree with this characterization of the cited House Report. OSM believes the cited House Report materials discuss damage prevention and minimization measures appropriate for conventional room-and-pillar mining; there is no specific reference to longwall mining. For example, the referenced portion of the report states that:

One characteristic of subsidence which disrupts surface land uses is its unpredictable occurrence in terms of both time and location. Subsidence occurs, seemingly on a random basis, at least up to 60 years after mining and even in those areas it is still occurring.

H. Rep. No. 218, 95th Cong., 1st Sess. 126 (1977). Such problems are not characteristic of longwall mining. Therefore, it is unlikely Congress had longwall mining in mind when it discussed appropriate prevention

measures in this passage. OSM concludes the report does not show congressional intent to require use in longwall mining of the measures discussed in this passage.

Section 817.121(c)—Subsidence Control

817.121(c)(1)

In the proposed rule, paragraph 817.121(c)(1) would be modified to substitute ''subsidence related material damage'' for ''any material damage resulting from subsidence; ''permittee'' for ''operator;'' and ''its pre-subsidence value and supporting reasonably foreseeable uses it was capable of supporting * * *'' for ''the value and reasonably foreseeable uses which it was capable of supporting * * *.'' The changes were editing changes not intended to have a substantive effect on the rule. However, commenters express concern over the changes in the language of paragraph (c)(1) because the preamble did not contain an explanation for the proposed changes. In the final rule, OSM is not amending the text of this provision but is adding a heading for the paragraph to assist in reading and application of the provision.

817.121(c)(2)

Paragraph 817.121(c)(2) is being adopted as proposed. The final rule requires that a permittee either promptly repair material damage caused by subsidence to any non-commercial building or occupied residential dwelling or related structure, or compensate for material damage caused by subsidence to those structures. If the repair option is selected, the permittee must fully rehabilitate, restore or replace the damaged structure. If the compensation option is selected, the permittee must compensate the owner of the damaged structure in the full amount of the diminution of value resulting from the subsidence-related damage. Compensation may be accomplished by the purchase, prior to mining, of a non-cancelable premium-prepaid insurance policy. The requirements of this paragraph apply to all subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

Paragraph 817.121(c)(2) implements new SMCRA section 720 (a)(1), which requires that all underground coal mining operations promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings or related structures as a result of subsidence due to underground coal mining operations. Permittees in both primacy States and Federal program States, as well as on Indian lands, are required to comply with this provision for operations conducted after October 24, 1992. Possible interim direct enforcement of this provision by OSM in some primacy States prior to amendment of State programs is addressed below in revisions to Part 843.

A group of commenters recommended that the rule recognize that pre-subsidence agreements and post-subsidence agreements between the property owner and the permittee would satisfy the requirements under paragraph 817.121(c)(2), and that nothing in this paragraph should be construed to prohibit or interrupt underground coal mining operations.

The use of pre- and post-subsidence agreements would be an acceptable means of fulfilling the requirement so long as the terms met the requirement under paragraph 817.121(c)(2) that the permittee repair or compensate any subsidence-related material damage to any non-commercial building or occupied residential dwelling or related structure. Any permittee/owner agreements cannot negate the requirement of the Energy Policy Act to repair or compensate for subsidence-related material damage to occupied residential dwellings and related structures as well as non-commercial buildings. OSM anticipates that repair pursuant to paragraph 817.121(c)(2) will restore the protected structure or facility to its premining capacity, features, value, and utility. OSM reiterates that the requirements in this paragraph are not intended to prohibit or interrupt underground coal mining operations.

Commenters allege that the permittee is not under obligation to repair subsidence-related damage to any building constructed after mining has occurred. OSM agrees with this comment. If the protected structure was damaged from subsidence from underground mining, and that mining occurred after the date set forth in the Energy Policy Act, then the Energy Policy Act requires that the permittee repair or compensate for the material damage. However, Congress does not discuss whether there should be any different treatment for structures that did not exist when the mining took place. For such structures, there would be no opportunity for the permittee to mitigate or prevent subsidence damage, and thus avoid the requirement to repair or compensate. Nor would it be possible for a permittee to anticipate what structures might be built above the mine after mining occurs and thus plan for anticipated costs to determine if mining would be economically feasible. On the other hand, surface owners can know the extent to which land they plan to build on has been undermined by previous mining operations. Therefore, OSM believes that it is reasonable to conclude that the requirement should not apply to structures which did not exist at the time of mining. OSM is adopting this interpretation in the final rule, and has revised paragraph 817.121(c)(2) accordingly.

Commenters also allege that the obligation to repair subsidence-related damage does not apply to buildings acquired after the mining occurred. OSM does not agree. SMCRA section 720 provides that underground coal mining operations conducted after the date of enactment of the Energy Policy Act shall promptly repair or compensate for material damage resulting from subsidence caused to *any* occupied residential dwelling and structures related thereto, or non-commercial building. Section 720 does not distinguish among such structures based on whether they were acquired before or after the date of mining. Rather, all such structures are subject to the requirement to promptly repair or compensate. OSM believes the language of the statute is clear, and the interpretation urged by commenters is inconsistent with the terms of the statute.

A commenter notes that the proposed rules lack provisions establishing requirements for notification of the permittee or regulatory authority, or for estimate, repair, replacement, or compensation time frames. OSM believes that existing citizen complaint procedures are adequate and appropriate to address surface owner complaints of subsidence damage under these rules.

OSM believes preparation or approval of estimates is properly addressed under existing procedures, by case-by-case negotiations with the surface owner, and regulatory authority review of reclamation measures. Similarly, OSM believes timely repair or compensation of protected structures is adequately addressed by the use of the statutory term ''prompt,'' which is commonly understood to mean ''expeditious'' or ''immediate.'' OSM notes that several commenters give examples of situations which may involve substantial variation in the time required before the full extent of subsidence damage can be confirmed, or before repairs properly may be commenced. OSM concludes that what is reasonably prompt for repair or compensation is properly determined on a case-by-case basis.

Commenters request changes in the existing rules providing for notice to property owners in advance of

underground mining, because the rules require notice at least six months before mining, and this does not allow the surface owner to determine when mining actually takes place under his property. OSM did not propose to amend existing rules concerning advance notice of underground mining to surface owners, and the record does not justify a new rulemaking on this issue at this time.

A commenter requests that OSM clarify that the permittee is not required to restore or compensate for deterioration to a structure beyond what was caused by subsidence from underground mining. OSM believes the language of proposed paragraph 817.121(c)(2) is clear to this effect and that no rule changes are required to achieve this result.

One commenter asked that OSM make clear that any and all subsidence damage is subject to the requirement to repair and compensate indefinitely into the future, even if the permittee has previously repaired or settled with the affected property owner or pipeline operator; and that OSM clarify that the obligation to repair is not dependent on active mining or an active permit or upon termination of jurisdiction by OSM. OSM agrees that once damage occurs, an underground mining operation has a statutory obligation to repair, which may not be negated by a prior agreement.

817.121(c)(3)

The purpose of proposed paragraph 817.121(c)(3) was to ensure repair or correction of material damage caused by subsidence to those structures and facilities not covered by new SMCRA section 720 (a)(1) and paragraph (c)(2) of proposed section 817.121. The proposed amendments to paragraph (c)(3) would have required repair or correction irrespective of limitations otherwise applicable under State law. The proposed rule would have required a permittee to either correct subsidence-related material damage to any structures or facilities not protected by paragraph (c)(2) by repairing the damage, or compensate the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Repair of damage would have included rehabilitation, restoration or replacement of damaged structures or facilities. Compensation by the permittee could have been accomplished by the purchase, prior to mining, of a non-cancelable premium-prepaid insurance policy.

A number of commenters support the proposed rule and the need for the proposed rule, and discuss various respects in which the existing rule and state laws fail to adequately protect structures and facilities from subsidence damage. One commenter recommended that OSM draft a regulation stipulating that any and all subsidence damage is subject to the regulations to repair and compensate even if the permittee has previously repaired or settled with the affected property owner.

The majority of commenters noted that in the Energy Policy Act Congress expressly limited relief for damage arising from subsidence to ''occupied residential dwellings and structures related thereto, or non-commercial buildings'' and water supplies. The commenters argued that for more than a decade OSM has required permittees to correct material damage ''to the extent required by state law'' and they state that no compelling need has been demonstrated that would require OSM to change its policy and preempt state law and property rights. Therefore, commenters claim that the proposed rule has no basis under the Energy Policy Act and that OSM's cursory explanation of the reasons behind the new rule demands that the proposed rule not be adopted.

Commenters also claim that the existing state law remedies are adequate and that court decisions support their proposition that SMCRA does not specifically ''require the Secretary to impose a duty to restore structures damaged by subsidence.'' *National Wildlife Fed'n* v. *Lujan*, 928 F.2d 453, 458 (D.C. Cir. 1991). These commenters argue that, without ample evidence that state law remedies for such damage are inadequate, there is no compelling reason for OSM to disregard the clear congressional intent behind SMCRA that ''state laws govern the resolution of any disputes about property right which might arise from such separations, and this Act does not attempt to tamper with such state laws.'' S. Rep. No. 95, 95th Cong. 1st Sess. at 56 (1977). Commenters also point out that currently the states conducting 99 percent of the nation's coal mining provide statutory regulatory relief for damage caused by subsidence. Some commenters allege that the proposed rule would significantly affect private property rights and raise numerous issues regarding the Fifth Amendment's takings clause. Those commenters state that there is simply no compelling evidence for OSM to preempt state property law and that the proposed rule violates the express terms of the Energy Policy Act.

Numerous commenters interpret this provision as providing for subsidence protection of natural gas and petroleum pipelines. Some commenters assert that the proposed rule directly contradicts the congressional requirement that the Secretary complete a study on the pipeline issue before any rules on the issue are promulgated. Commenters also comment extensively on the impact the rule would have on the property rights of both coal and pipeline companies. Some commenters argued that even more extensive protection of pipelines is appropriate or necessary. OSM has reviewed these comments, but reiterates that, with the very limited exception noted above for connector lines attached to specific occupied residential dwellings or non-commercial buildings, Congress intended no change in the subsidence control regulations regarding natural gas and petroleum pipelines, and that no rulemaking on this issue is contemplated pending completion of the study on this subject pursuant to section 2504 of the Energy Policy Act. OSM is not addressing this issue in this rulemaking. If, after completion of the subsidence pipeline study, OSM determines that further rulemaking may be appropriate on this subject, OSM will invite interested persons to review and comment on any further rulemaking.

OSM has considered all comments and has decided not to adopt the proposed changes to paragraph 817.121(c)(3). Instead OSM will retain the State law limitation set out in the existing regulations. The basis and purpose for the State law limitation was upheld by the D. C. Circuit Court of Appeals. *National Wildlife Fed'n* v. *Lujan*, 928 F.2d 453, 458 (D.C. Cir. 1991). OSM believes that circumstances have not changed significantly since OSM's adoption of the State law limitation; and OSM concludes that the record developed in this rulemaking is insufficient to justify eliminating the State law limitation except as provided in the Energy Policy Act. Under the final rule, the permittee is required, to the extent required under applicable provisions of State law, to either correct material damage resulting from subsidence caused to any structures or facilities not protected by paragraph (c)(2) of this paragraph by repairing the damage, or compensate the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Repair of damage shall include rehabilitation, restoration or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase, prior to mining, of a non-cancelable premium-prepaid insurance policy.

817.121(c)(4)

OSM proposed paragraph 817.121(c)(4), which would have established a rebuttable presumption of a causal link between the operation of an underground mine and subsidence damage occurring within a specified zone over the area of coal extraction. Specifically, the proposed rule provided that, if damage to lands, structures or facilities occurs as a result of earth movement within an area determined by projecting a 35 degree angle of draw from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption would exist that the permittee caused the damage. The regulatory authority could also have approved a different angle of draw on a case-by-case basis if the permittee demonstrated that the proposed angle of draw is based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation. If the permittee was denied access to the land or property for the purpose of conducting the pre-subsidence survey in accordance with § 784.20(a) of this chapter, no rebuttable presumption would have existed. These requirements would have applied only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

After reviewing the comments and based on OSM technical analysis, OSM has modified the final rule from that which was proposed. In the final rule, paragraph 817.121(c)(4) has been divided into five subparagraphs for clarification and readability. Final paragraph 817.121(c)(4)(i), provides that if damage to non-commercial buildings or occupied residential dwellings and related structures occurs as a result of earth movement within the area determined by projecting a specified angle of draw from underground mine workings to the surface, a rebuttable presumption exists that the permittee caused the damage. Thus, the final rule is limited to structures protected under section 720(a) of SMCRA. Also, instead of 35 degrees, as proposed, the final rule provides that the presumption applies to a 30 degree angle of draw. However, a State regulatory authority may amend its regulatory program to apply the presumption to a different angle of draw upon demonstrating in writing that the angle is more reasonable than the 30 degree angle of draw, based on geotechnical analysis of the factors affecting potential surface impacts of underground coal mining operations in the State. OSM recognizes that the ''more reasonable'' standard is a different standard than would otherwise apply under SMCRA section 503(a) and 30 C.F.R. section 732.15(a) to OSM review of a State regulatory program amendment. However, OSM believes that this is the appropriate standard to apply to approval of a different State-wide angle of draw, because it will allow a State to adopt either a greater or lesser angle of draw, so long as the State angle of draw is better supported by geotechnical analysis than is the 30 degree angle of draw. OSM believes this standard for review will best assure that the area within which the presumption will apply can reasonably be expected to include almost all damage caused by subsidence, without unreasonably expanding the permit applicant's burden of surveying to areas where damage would likely not be attributable to subsidence.

Under final paragraph 817.121(c)(4)(ii), a person may request and the regulatory authority may approve application of the presumption to a different site-specific angle of draw based on a site-specific analysis submitted by the permit applicant. To establish a site-specific angle of draw, a permit applicant must demonstrate and the regulatory authority must determine in writing that the proposed angle of draw has a more reasonable basis than the applicable standard, based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation. Like the standard for approval of a different State-wide angle of draw, this standard for approval of a site-specific angle of draw is intended to assure that the area within which the presumption will apply can reasonably be expected to include almost all damage caused by subsidence, without unreasonably requiring the permit applicant to survey the area where damage would likely not be attributable to subsidence.

Under final paragraph 817.121(c)(4)(iii), if the permittee was denied access to the property to conduct the presubsidence survey in accordance with § 784.20(a), no rebuttable presumption exists.

Final paragraph 817.121(c)(4)(iv) sets forth examples of evidence which would rebut the presumption, including evidence that establishes that the damage predated the mining; that the damage was proximately caused by some other factor and not by subsidence; and that the damage occurred outside the surface area where subsidence was caused by the underground mining.

Paragraph 817.121(c)(4)(v) requires that all relevant and reasonably available information must be considered in any determination as to whether subsidence damage to protected structures subject to paragraph 817.121(c)(2) was caused by subsidence from underground mining.

The purpose of paragraph 817.121(c)(4) is to set out a procedure under which a specified area would be subject to a rebuttable presumption that subsidence from underground mining caused surface damage to non-commercial buildings or occupied residential dwellings and related structures. This evidentiary standard would simplify establishing causation of subsidence damage in many cases, by relieving the regulatory authority of the initial burden of providing evidence that damage was caused by the mine operation. The presumption would be established only after it is determined that damage caused by earth movement did in fact occur within the specified angle of draw. The burden of rebutting the presumption will be appropriately on the mine operator, who will have the best information as to the nature, timing, and sequence of mining activities, geological conditions, etc.; i.e., the types of facts directly related to causation of the damage. Permittees may provide information to rebut the presumption either before an enforcement action is taken, when the regulatory authority or OSM is determining whether a violation exists because of a failure to repair or compensate for damage; or after enforcement action occurs.

OSM believes that the establishment of a specific angle for the presumption is important and has a number of effects or ramifications. In any enforcement proceedings concerning allegations of subsidence damage to protected structures, it will affect the initial burdens of going forward with the evidence for both the regulatory authority and the permittee. It will also affect operator permitting costs to some extent, because under the amendments to paragraph 784.20(a)(3) in this rulemaking, once the angle for the presumption is established, permit applicants will be required to comply with all presubsidence survey requirements covering at least the area within the angle to which the presumption applies. OSM has concluded that application of the presumption to the area within a specified angle provides needed protection of surface interests, while providing a clear limitation on the permit expenses that could be incurred in the absence of defined limits to a presumption. As a result, OSM believes applying the presumption to a specified angle will balance the various purposes

of SMCRA, including both environmental protection and the SMCRA section 102(k) purpose of encouraging the full utilization of coal resources through the application of underground extraction technologies.

Since a presumption is important in all cases, OSM has decided to adopt a nationwide angle of draw for that presumption. Among issues noted by various commenters was concern over using the ''angle of draw'' and the appropriateness of the angle proposed. Depending on factors such as the location and size of the mine, the percent of extraction, and the local geology, the angle of draw or the area where damage may occur can vary considerably both regionally and locally. Yet, there is a need for a nationwide presumption standard so long as it can be modified on a state-wide or site-specific basis.

Many studies have been conducted to measure the extent of surface displacement and damage resulting from subsidence. OSM has considered such studies including:

Montz, H.W., and Norris, R.U., 1930, ''Subsidence from Anthracite Mining, with an Introduction on Surface Report,'' Transactions AIME, Vol. 88, pp. 98–134.

Newhall, F.N., and Plein, L.N., 1936, ''Subsidence at the Merrittstown Air Shaft Near Brownsville, Pennsylvania,'' Transactions AIME, Vol. 119, pp. 58–94.

Cortis, S.E., 1969, ''Coal Mining and Protection of Surface Structures are Compatible,'' Mining Congress Journal, Vol. 55, No. 6, Jun., pp 84–88.

Bauer, R.A., and Hunt, S.R., 1981, ''Profile, Strain, and Time Characteristics of Subsidence from Coal Mining in Illinois,'' Proceedings 1st Workshop on Surface Subsidence Due to Underground Mining, S.S.Peng, ed., West Virginia University, Morgantown, WV, pp. 207–219.

Conroy, P.J., 1979, ''Rock Mechanic Studies, Longwall Demonstration at Old Ben # 24, Benton, Ill.,'' Phase I and II Reports submitted to USBM, 57 pp.

Peng, S.S., and Chayan, C.T., 1981, ''Surface Subsidence, Surface Structural Damages and Subsidence Prediction Modelling in the Appalachian Coalfields,'' Proceedings Workshop on Surface Subsidence Due to Underground Mining, S.S.Peng, ed., West Virginia University, Morgantown, WV, pp. 73–87.

Adamek, V., and Jeran, P.W., 1981, ''Evaluation of Existing Predictive Methods for Mine Subsidence in the US,'' Proceedings 1st Annual Conference on Ground Control in Longwall Mining and Mining Subsidence, SME–AIME, New York, pp. 183–187.

Wade, L.V., and Conroy, P.J., 1977, ''Rock Mechanic Study of a Longwall Panel,'' Preprint No. 77–I–391, SME Fall Meeting, St. Louis, MO.

Conroy, P.J., 1979, Rock Mechanics Studies, Longwall Demonstration at Old Ben #24, Benton, IL, Phase I and II Report, Submitted to US Bureau of Mines, 57 pp.

Bauer, R.A., and Hunt, S.R., 1981, ''Profile, Strain, and Time Characteristics of Subsidence from Coalmining in Illinois,'' Proceedings, Workshop on Surface Subsidence Due to Underground Mining, S.S.Peng and M.Harthill, eds., West Virginia University, Morgantown, WV, pp. 207–217.

Hood, M., Ewy, R.T., and Riddle, L.R., 1981, ''Empirical Methods of Subsidence Predicting—A Case Study,'' Proceedings Workshop on Surface Subsidence Due to Underground Mining, S.S.Peng, ed., West Virginia University, Morgantown, WV, pp. 100–123.

Gentry, D.W., Able, J.F., 1978, ''Rock Mass Response to Mining Longwall Panel 4N York Canyon Mine,'' Presentation at AIME Annual Meeting, Atlanta, GA, 33 pp.

Allgaier, F.K., 1988, ''Surface Subsidence over Longwall Panels in the Western US—Final Results at the Deer Creek Mine, Utah,'' Information Circular 9194, US Bureau of Mines, 17 pp.

Durand, C.R., 1984, ''Coal Mine Subsidence Western United States,'' Man-Induced Land Subsidence, Reviews in Engineering Geology, Vol. VI, T.L.Holzer, ed., pp. 151–194.

Peng, S.S., and Chiang, H.S., 1984, Longwall Mining, Wiley, New York, 708 pp.

Peng, S.S., 1986, Coal Mine Ground Control, 2nd ed., Wiley, New York, 491 pp.

Hasenfus, G.J., 1984, ''The Prediction of Surface Subsidence Due to Room and Pillar Mining in the Appalachian Coalfield,'' MS Thesis, VPI & SU, 326 pp.

For the following reasons, OSM has concluded that the angle of draw is a reasonable way of delineating the area within which it will be presumed that damage was caused by subsidence. The ''angle of draw'' is the angle of inclination between the vertical at the edge of the underground mine workings and the point of zero vertical displacement at the edge of a subsidence trough. Thus, the angle of draw is one way to define the outer boundary of subsidence displacement that may occur at the surface. This angle encompasses the area within which both dynamic and static strains, as well as phenomena such as curvature and tilt, would occur from subsidence. As the subsidence trough is developing, soils and rocks within the trough undergo dynamic strains. Dynamic strains change as to intensity and location, as subsidence progresses. After subsidence is completed, the soils and rocks could be in a condition of static strain. Different types and degrees of static strains occur in different locations of the subsidence trough.

OSM has considered defining the area in which a presumption would apply using another type of angle, such as the ''angle of critical deformation'' (also known as the ''angle of break'' or ''angle of fracture''). This term refers to the inclination from the vertical of the line connecting the edge of the mined area with the surface point exhibiting the *maximum* tensile strain (or stretching). The angle of critical deformation occurs in the area between the boundary of the subsidence trough and the projected vertical from the edge of underground workings. The angle of critical deformation is always smaller than the angle of draw.

However, OSM has concluded that, while the angle of critical deformation describes where the maximum tensile strains (stretching) will occur once subsidence has occurred, the angle is not useful in describing where subsidence damage to structures may occur for two reasons. First, as subsidence is occurring, dynamic strains, both stretching and compressing, vary in location and may occur in places other than where those strains will exist once subsidence is complete. Thus, because the angle of critical deformation does not necessarily reflect where dynamic strains would occur, it may not account for the area where damage may be caused while subsidence is still occurring. Second, because the sensitivity of structures to subsidence damage varies, structural damage may be caused by strains far less than the maximum tensile strain; thus damage may occur to structures that are not subject to maximum tensile strain and that are located outside the angle of critical deformation. Moreover, structures may be more sensitive to damage from other subsidence-related phenomena such as curvature, tilt, and compressive strains that may occur

within the angle of draw, but outside the angle of critical deformation.

While recognizing regional and site-specific variability in the angle of draw, OSM has decided to establish a national standard of 30 degrees. This is consistent with the outer limits determined for earth movement in most subsidence studies across the United States, particularly later studies addressing long wall mining. Also, the Subsidence Deformation Prediction Model developed for OSM by Virginia Polytechnical Institute, predicts an angle of draw ranging from 27 degrees to 31 degrees for 90 percent extraction where the percentage of hard rock in the overburden varies from 70 percent to 30 percent respectively. OSM has placed the results of this computer-based analysis in the administrative record for this rulemaking. This nationwide standard is conservative and offers reasonable protection to surface owners under anticipated subsidence scenarios. However States, coal companies, and/or citizens have a mechanism to adopt state or site-specific values based on regional or site-specific data. These variations could be incorporated into State programs or calculated on a permit-specific basis. Thus, the nationwide angle of draw can be replaced by the State, either by a State-wide standard, or on a site-specific basis, to the extent that a different angle of draw is demonstrated to be more reasonable.

Although the final rule provides that the presumption shall apply to a 30-degree angle of draw, it allows the States to establish a different angle of draw, based on geotechnical analysis of the factors affecting potential surface impacts of underground operations. This angle of draw should be the angle within which vertical displacement of the surface is reasonably expected. Further, as discussed above, the rule ensures that the regulatory authority also has the flexibility to establish a different angle of draw on a site-specific basis, where such variation is justified by appropriate geotechnical analysis. OSM anticipates that implementation of this rule will be facilitated through the use of computer-aided-design technology for subsidence prediction. Computer program packages for predicting surface movement and deformation caused by underground coal extraction should be very helpful to States and permittees in this regard. OSM has designed a national computer system, the Technical Information Processing System (TIPS), in close cooperation with the States, which includes the subsidence prediction model previously mentioned (which is also commercially available), for site-specific application. Thus the rule properly provides a national standard, but also provides for variations based on state-of-the-art technology where appropriate because of differences among States or within States.

If Federal enforcement of paragraph 817.121(c)(2) occurs under 30 CFR 843.25 described *infra*, with respect to subsidence-related damage to protected structures caused by underground operations conducted after October 24, 1992, the presumption of causation will attach to the 30-degree angle of draw for all existing permitted operations whether or not a presubsidence survey has been conducted pursuant to the new survey requirements of this rule. The presumption will apply in the period before a State's amended permitting regulations are effective, because the new requirements to survey the condition of surface features will not apply, so there will also be no provision for surface owner denial of permission—and therefore that ground for negating the presumption will not apply. However, during that time, if a permittee elects to conduct a survey of the presubsidence condition of protected structures and access is denied, the decisionmaker may consider those circumstances in deciding whether the presumption has been established. Immediately after the State amends its program, permittees could proceed to request designation of a different angle of draw or utilize the one contained in the state program if different than 30 degrees.

A number of commenters support the proposed provision that would have established a presumption that subsidence caused damage to lands, structures or features within a specified angle of draw of the mining. One commenter further notes that section 784.20 of the proposed rules requires the applicant to show and to survey all structures and facilities which may be materially damaged by mine subsidence, and states that if the identified structures are in fact damaged, then it is logical to assert that the mine caused the damage to those structures and a rebuttable presumption process is reasonable.

Some commenters suggest that the area in which the presumption would apply should be broadened to a 45-degree angle of draw. The commenters allege that this greater area of presumption is supported by the fact that subsidence impacts vary in both scope and range depending on many different factors including the area's geography and the type of mining being conducted. These same commenters add that because of this uncertainty the angle of draw must be large enough to include the wide variety of subsidence impacts.

Other commenters assert that the proposed rule references no sound technical or scientific basis to support the presumption, and that OSM does not have the authority to promulgate the rule. These commenters claim that it is well documented that damage caused by subsidence depends on many different factors which vary throughout the United States; and that a presumption that mining caused the damage within a pre-set nationwide angle of draw fails to take any of the important regional factors into account. Also, commenters argue that the appropriate angle of draw depends on the geology of the region and type of underground mining that is being conducted. It is argued that these regional differences in the effects of underground mining are the very reason that Congress intended for the States to be the primary enforces of SMCRA. The commenters also claim that the ''Hasenfus'' thesis cited by OSM in the preamble does not support the proposed rule's 35-degree angle of draw because the thesis is based on data collected from room and pillar mines that were mined before the implementation of SMCRA's subsidence control requirements.

The commenters also allege that the rule on presumption has no basis in SMCRA and that the rule violates the allocation of burdens and standards of proof set out in Section 7(c) of the APA, citing *Director, OWCP* v. *Greenwich Collieries,* 114 S. Ct. 2251 (1994) (hereafter, ''*Collieries*''). Commenters argue that nothing in SMCRA provides authority for OSM to establish the standard or burden of proof in a civil action seeking to enforce the repair and compensation requirements of section 720 of SMCRA. Commenters also argue that the allocation of the burdens of production and proof must be determined by the applicable law in the forum where the cause is brought. In addition, commenters allege that the proposed rule violates section 7(c) of the APA. Section 7(c) of the APA states that, except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Thus, these commenters interpret the APA to not provide for an agency to relieve a party of its initial burden of production to make out a prima facie case. Under commenters' analysis, presumptions can only be created when a party has first introduced substantial evidence supporting the presumption. Further, the commenters speculate that relieving a party of their duty to establish a prima

facie case based on a preponderance of the evidence might not survive a challenge based on procedural due process grounds.

OSM recognizes the concerns expressed by the commenters concerning variations in subsidence angle of draw, and the angle wherein damage is expected. As discussed above, OSM has designed the rule to address the possible range of appropriate angles within which it would be reasonable to presume that damage is subsidence related. OSM does not agree with commenters' arguments concerning lack of authority under SMCRA or the APA. OSM believes the rule is fully authorized by, and appropriate for implementation of section 720(a) which requires prompt permittee repair or compensation for damage to protected structures; section 720(b), which requires the Secretary to adopt implementing rules; section 516, which authorizes the Secretary to ''promulgate rules and regulations directed toward the surface effects of underground coal mining operations'' and to consider the distinct difference between surface coal mining and underground coal mining; section 501(b), which requires the Secretary to adopt implementing procedures and requirements; and section 201(c), which requires the Secretary to ''publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act.'' The Secretary is using his rulemaking authority to adopt provisions reasonable and necessary to guide and facilitate implementation of these sections.

Further, commenters have mischaracterized the effect of the presumption established under this provision. The presumption does not change the ultimate burden of proof in a determination. The ultimate burden of persuasion still lies with the regulatory authority or OSM. OSM believes that inferences and presumptions are an essential aspect of the adversary process. A trier of fact must often determine the existence of an element of a violation from the existence of one or more evidentiary facts. From its experience in implementing SMCRA, OSM believes that there is sufficient nexus and probability of causation between the facts that are deemed to give rise to the rebuttable presumption under this paragraph, and the resulting presumption. As indicated above, OSM believes this presumption is particularly appropriate in light of the fact that the permittee will have the best access to the facts that will be key to any ultimate conclusions on the issue. Such a presumption is consistent with the traditional approach that the burden of going forward with evidence normally falls on the party with knowledge of the facts involved. *See, e.g., EDF, Inc.* v. *EPA*, 548 F.2d 998 at 1004 (D.C. Cir. 1976) as modified and supplemental opinion on denial of rehearing.

In most cases, OSM does not expect section 7(c) of the APA to apply, as most enforcement cases are properly disposed of without the requirement for a formal hearing subject to such provisions of the APA. Rather, the presumption in this rule establishes a standard pursuant to which a regulatory authority shall evaluate permittee compliance with a SMCRA performance standard, for purposes of regulatory authority enforcement of SMCRA. Further, the presumption helps to ascertain the scope of the obligation to repair.

The presumption will not relieve any party of the initial burden of production, but rather defines what that burden will be, and when it may shift, in enforcement actions under this paragraph. That is, in enforcement actions by the State regulatory authority or OSM, if the evidence establishes that damage has occurred to protected structures as a result of earth movement within the applicable angle of draw, then this evidence satisfies the initial burden of production, and then gives rise to a rebuttable presumption of causation by subsidence. At that point the regulatory authority or OSM would have satisfied its obligation to make a prima facie case on the issue of causation. The permittee then has the burden of production to rebut the presumption or to negate other relevant evidence, by providing information that relates to the effect of the underground mining, such as information on the nature and timing of the underground mining operation, geological conditions in the area mined, and the premining condition of the surface feature. The presumption can be rebutted with technical support either prior to an enforcement action being taken by the regulatory authority, or in response to such an action during the review or appeal process. The proof needed to rebut the presumption will be determined on a case-by-case basis. Because the ultimate burden of persuasion still lies with the regulatory authority or OSM, in any cases in which a formal hearing is required to be held, the rebuttable presumption is fully consistent with section 7(c) of the APA, and with the holding in the *Collieries* case cited by commenters (114 S. Ct. 2251). That case interpreted the section 7(c) burden of proof provision, which provides that, ''[e]xcept as otherwise provided by statute, the proponent of a rule or order has the burden of proof.'' The court held that, under that APA provision, the proponent of an order has the burden of persuasion, not just the burden of production (or the burden of going forward with the evidence). (114 S. Ct. at 2251). In any case, a determination as to causation must be based on consideration of all relevant and reasonably available information.

OSM does not agree that it is precluded from establishing such a rebuttable presumption based on the commenters' assertion that allocation of burdens of production and proof must be determined by the applicable law of the forum. Underlying State law does not preclude OSM from adopting reasonable rules implementing SMCRA; rather, inconsistent State law must be changed to be consistent with SMCRA and implementing regulations. Therefore, OSM anticipates that an implementing revision to the State regulatory program will be appropriate in most States.

Contrary to commenters' expressed concern, OSM does not intend to require a court to apply the presumption to citizen suits seeking civil remedy under the performance standards of section 720 of SMCRA; OSM anticipates that the court in question will establish the standard or burden of proof to be applied in any civil action before it, consistent with SMCRA.

A commenter has indicated concerns that this presumption will be unfair to existing operations, because they will not have done a presubsidence survey and so will be unable to document premining conditions. OSM does not agree. Permittees have had notice of the amendment establishing the requirements for repair, replacement, and compensation since enactment of the Energy Policy Act in 1992. Therefore, permittees have had ample opportunity to conduct a premining survey to document premining conditions, if they wished to establish baseline information. Further, nothing in existing rules or in the rules being adopted by OSM precludes a permittee from updating information as to premining surface conditions during the course of the mining operation. Therefore, a permittee could reasonably provide a presubsidence survey and then provide an update of conditions a reasonable time before mining is to begin in a particular area. And since permittees are in the best position to establish both what changes have occurred and what actions and geological factors are associated with those changes, they are not disadvantaged by a presumption that recognizes their advantage in

documenting and evaluating the consequences of their mining. Also, OSM assumes that if a permittee of an existing operation has made reasonable efforts to conduct a presubsidence survey which documents the presubsidence condition of protected structures, and permission has been refused by a property owner, then in any enforcement proceeding OSM or the regulatory authority may take these circumstances into account in determining what weight, if any, to give to the rebuttable presumption of causation.

OSM believes that commenters' concerns about fairness and about due process with regard to the presumption, are also misplaced. Due process concerns, at bottom, relate to the fundamental fairness of a procedure. OSM believes that the rebuttable presumption will provide a fair process, for several reasons, including the following: first, in adopting a State program amendment, the State may specify a different standard for the angle where appropriate for conditions in the State; second, after amendment of the State program, the permittee may demonstrate that the presumption should apply to a different angle of draw on the particular site; third, in every case the regulatory authority must establish that the structures are within the angle of draw to which the presumption applies, that damage has occurred to the protected structure and that it was caused by earth movement; fourth, the permittee is in the best position to provide baseline information and information as to whether subsidence caused the damage, once damage is established; fifth, the decisionmaker must consider all relevant and reasonably available information; sixth, the presumption does not apply where access for a presubsidence survey pursuant to these rules was denied (and if access for a voluntary survey of presubsidence conditions is denied for an existing operation, the decisionmaker may consider those circumstances in deciding whether the presumption has been established); seventh, the presumption does not change the ultimate burden of proof in a determination; and eighth, administrative and judicial appeals procedures are available to all aggrieved parties.

Some commenters urge that OSM adopt a presumption of subsidence causation for damage to water supplies, similar to that proposed for damage to lands, structures, and features at 817.121(c)(4). Commenters stated that such a presumption should apply to damage to water resources within the greater of a 60-degree angle of draw or 300 feet of the outer boundary of the underground coal mining operation. However, OSM did not propose such a presumption, and believes that water supply damage causation does not lend itself to such a presumption. OSM bases this conclusion in part on its belief that causation of damage to water supply from springs and wells can be far more complex than causation of damage to surface lands and structures, and can involve a potentially greater variety of geological and hydrological formations and dynamics including depth, lateral extent, and recharge of the affected supply. Therefore, OSM has not established such a presumption in this rulemaking.

However, OSM has concluded that the absence of a presumption of causation for replacement of affected water supplies will not inhibit the water supply owner's ability to receive water supply replacement. If the water supply has been contaminated, diminished, or interrupted by the underground mining operation, the permittee is required to promptly replace the affected supply. In the event that the permittee does not replace the water supply, and the water supply owner contacts the regulatory authority regarding water loss, the regulatory authority must investigate to determine if there is sufficient evidence to believe that the domestic, drinking, or residential water supply was adversely affected by subsidence from the underground mining operation and subsequently not promptly replaced by the permittee. If the regulatory authority determines that sufficient evidence exists that a protected water supply has been contaminated, diminished, or interrupted by the underground mining operation, then the regulatory authority will initiate appropriate enforcement action. In any such enforcement action, the burden of proving that the water supply was damaged by subsidence from the underground mining operation is not on the water supply owner, who may not have knowledge of geological conditions and the nature and timing of the mining activities. Rather the initial burden is on the regulatory authority to establish a prima facie case that the water supply was affected by the underground mining. Then the burden of going forward with evidence to rebut the prima facie case would shift to the permittee. The ultimate burden of proof is on the regulatory authority.

817.121(c)(5)

This section as proposed would have provided that, if material damage from subsidence occurs to land, structures, or facilities protected under paragraphs (c)(1) through (c)(3) of this section, the regulatory authority would require the permittee to obtain additional performance bond in the amount of the estimated cost to repair the material damage from subsidence to the protected land, structures, or facilities. The permittee would have been required to obtain the additional bond within 90 days of the occurrence of damage unless repair or compensation is completed within that time frame, in which case no additional bond would be required. In response to comments, these proposed requirements are being modified in the final rule. The final rule ensures that replacement of water supplies protected under paragraph 817.41(j) is also addressed. Further, the final rule provides that if the permittee intends to repair the damage, the required additional bond would amount to the estimated cost of the repairs. If the permittee intends to compensate the owner, the additional bond would amount to the diminution in value of the protected land or structures. If the permittee will replace a protected water supply, the required additional bond would amount to the estimated costs to replace the protected water supply. Also, in response to comments, the final rule provides that, on a case-by-case basis, the 90-day period for posting bond can be extended for up to one year under certain circumstances. This can occur when the permittee demonstrates and the regulatory authority finds in writing that subsidence is not complete, that not all probable subsidence-related damage has occurred to lands or protected structures or that not all reasonably anticipated changes have occurred affecting the protected water supply. In such cases, it would be unreasonable to complete within 90 days the repair of subsidence damage or the replacement of protected water supplies.

Commenters assert that the proposal is not adequately explained and that the requirements would be difficult for some permittees to meet. Also, the rule fails to mention any procedure for the bond's release. Further the commenters argue that surety companies would be reluctant to post bonds for operations subject to the broad scope of the new rules. Without surety companies providing the bonds the permittees would be forced to finance the bonds themselves. This would place a severe financial burden on the permittee which would make it even more difficult for them to prevent or repair subsidence related damage.

OSM disagrees with the commenters that surety companies would be

reluctant to post the bonds provided for in this paragraph, and that the requirement to obtain additional bonding on a temporary basis would impose such a severe financial burden on the permittee so as to impede their ability to repair subsidence related damage. The current rules at 30 CFR Part 800 already require the permittee to adjust the amount of the bond when the costs of future reclamation increase or when a reclamation obligation is established; for example, when material damage from subsidence occurs. The final rule is intended to avoid incomplete reclamation by clarifying the application to actual subsidence damage of the requirement in 30 CFR 800.15(a) that the regulatory authority specify a period of time or a set schedule to increase the amount of bond when the cost of reclamation changes. Thus, this provision assures that funds are available in a timely fashion to cover the cost of repairs in case of default by the permittee and to encourage prompt repair through the use of a grace period. The final rule does not establish a time limit for repair but rather allows the permittee a 90-day grace period to perform repairs, during which time no additional bond need be posted. The obligation to post increased bond only applies 90 days after damage has occurred. It should be noted that under paragraph 800.14(c), if the liability insurance policy required under section 800.60 would provide coverage sufficient to fund the reclamation of subsidence damage, that insurance may be substituted for increased bond. Procedures for bond release are set forth in sections 800.17 and 800.40.

Commenters charge that the legislative intent behind the Energy Policy Act shows that although the idea of additional bonding for subsidence damage and water replacement was included in the House version of the Energy Policy Act, the provision was deleted in the final conference committee version and the proposed rule requiring additional bonding would be contrary to the legislative intent of Energy Policy Act.

The commenters also rely on case law that has found that bonding for subsidence would be a ''highly speculative endeavor'' and that a change to such an approach would require ''significant new evidence.'' The commenters reference the decision of the court of appeals in *National Wildlife Fed'n* v. *Hodel,* 839 F.2d 694 (D.C.Cir. 1988). This decision affirmed the Secretary's explanation that because it is difficult to predict with reliability when and how severely subsidence damage to the surface will occur, it is reasonable to issue a permit for underground mining without requiring the posted bond amount to reflect any bond amount for potential subsidence damage, provided that the bond amount could be adjusted upward after the damage began occurring. The court of appeals found that one of the distinct differences between surface and underground mining is the difficulty in accurately estimating the cost of repairing subsidence related material damage.

OSM does not agree with the commenters' interpretation of the legislative history of the Energy Policy Act or the cited case on this issue. As noted above, OSM believes the rule primarily clarifies the application of existing bonding requirements which require adjustment of the bond amount; thus, Congress may have deleted further language on this subject because it was not clearly needed. OSM concludes that the proposed rule is consistent with the case cited by commenters, because the proposed rule provides that the bond amount will be increased to cover required repair work *after* damage occurs, and only if the repair work is not to be completed within 90 days. At that point it is not a ''highly speculative endeavor,'' since the damage will have occurred and estimates of repair costs can be reasonably established. Also, the permittee has control over the timing of repairs and can avoid the bond by repairing or compensating promptly. Thus, while OSM concurs in the rationale of the cited decision, as it concerns pre-subsidence bonding for anticipated subsidence damage, the decision is not applicable to the circumstances addressed in this rule. The proposed rule also provides substantial flexibility to the permittee, because it allows liability insurance proceeds to be applied to the repair effort. OSM believes this rule is consistent with SMCRA and is not inconsistent with any provisions of the Energy Policy Act.

Commenters allege that permanent repair of subsidence damage to structures and lands is seldom completed within 90 days. Potential damage to structures from tertiary settlement and from adjacent mining could delay repair for more than a year. Similarly, to minimize disruption to sowing or harvesting of crops, repair of drainage patterns in agricultural fields should be delayed until the entire field is subsided, and this is rarely possible within 90 days. The commenters argue that to impose additional bonding in such cases when repair cannot be completed within 90 days, accomplishes nothing but additional financial burden on the permittee and encourages premature and substandard restoration of protected features. OSM has considered these arguments and has made some adjustment to the final rule. OSM believes that if delays in repair are likely, then normally bond amounts should be adjusted to ensure that funds will be available later to pay for the repairs, since delays increase the risk that permittee funds may not be available. However, OSM does not intend that the rule encourage inappropriate or premature restoration measures when subsidence related damage is not yet complete, so that subsequently the permittee would have to redo the repairs. Therefore, under the final rule the regulatory authority can extend the 90-day timeframe up to one year under limited circumstances as previously described.

Section 843.25—Direct Federal Enforcement for Repair of Subsidence Damage.

In response to comments asking for clarification as to how immediate enforcement of the Energy Policy Act meshes with the primacy scheme established by SMCRA, OSM is adding a new section 843.25, to provide procedures for initiating and terminating direct Federal enforcement as appropriate, for section 720 of SMCRA concerning subsidence damage caused by underground mining that occurred after October 24, 1992. Section 720(a) of SMCRA requires that ''Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements: * * *.'' In section 720(b), the Secretary is directed, within one year after the date of enactment of the Energy Policy Act, and after notice and opportunity for comment, to promulgate final regulations to implement subsection 720(a). Thus, the requirements of subsection 720(a) to promptly repair, replace, or compensate were made effective immediately upon enactment of the provision, but the Secretary was directed to adopt implementing regulations during the following year.

843.25(a)

Under paragraph (a) of the final rule, within 120 days from the publication of the rules, OSM will determine for each State with an approved State regulatory program, what enforcement procedures will apply for purposes of implementing SMCRA section 720(a) and implementing regulations. The specific performance standards implementing section 720(a) are set forth in paragraphs 817.41(j) and 817.121(c)(2). OSM will

determine for each such State whether (1) there will be direct interim Federal enforcement of the Energy Policy Act and implementing performance standards, for some or all surface coal mining operations; or (2) State enforcement will occur, backed up by OSM using the oversight procedures of paragraphs 843.11 and 843.12(a)(2); or (3) a combination of direct Federal enforcement and State enforcement will occur. As part of the determination process, (4) OSM will consult with each affected State and provide opportunity for public comment. OSM will publish its determination in the **Federal Register**.

In the preamble to the proposed rules (58 FR 50182) OSM ''concluded that Congress intended new section 720(a) to immediately supersede inconsistent State program performance standards, by operation of law, as of the effective date of the final Federal rules.'' OSM also stated in the preamble to the proposed rule, ''OSM believes it is essential to provide as orderly a transition as possible for implementing the Energy Policy Act.'' Id. OSM believes it is also essential to give the fullest possible effect to the State primacy scheme of SMCRA, in implementing the provisions of section 720, including the effective date. Upon further reflection, OSM has concluded that it is not clear from the legislation or legislative history, how Congress intended that section 720 was to be implemented, in light of existing SMCRA provisions for State primacy. Thus, OSM has a certain amount of flexibility in implementing section 720.

After weighing these considerations, OSM intends to implement section 720 promptly, but will pursue federal enforcement without undermining State primacy under SMCRA. This decision reflects OSM's general policy of developing a shared commitment with the States in enforcing the Act. To achieve this balance, OSM intends that the consultation and comment process provided for in paragraph 843.25(a) will allow OSM to evaluate affected States' enforcement authority and State plans for implementing section 720, to determine to what extent OSM can rely on state primacy, and ensure prompt compliance with section 720, while complying with the requirement for implementing rules. Once OSM has consulted with the States as to implementation of section 720, OSM will have the information necessary to determine the appropriate enforcement approach for each State. OSM anticipates that some States may have no underground mining, and that some states may have no complaints of damage from underground mining that would be subject to section 720. Some States are already in the process of adopting provisions like section 720, and may promulgate such provisions on or shortly after the effective date of these regulations. Providing for direct Federal enforcement in such States may be unnecessary. Providing for direct Federal enforcement could be unnecessary in any States that adopt provisions covering mining after October 24, 1992, if the State provisions are effective on or will be shortly after the effective date of these regulations. However, some States may take two or three years under Part 732 to adopt State program amendments. For States that do take such an extended time to adopt implementing regulatory program provisions, OSM may well determine it necessary to provide direct Federal enforcement for any damage caused by underground mining that occurs after October 24, 1992, until damage caused by underground mining is covered by such a State provision. OSM also anticipates that a number of States may not authorize enforcement of provisions analogous to section 720, as of October 24, 1992. Kentucky has already informally advised OSM that it does not anticipate providing for enforcement covering mining that occurred before July, 1994. In those States, to ensure compliance with section 720(a) OSM will provide direct Federal enforcement for any claims of damage caused by underground mining which occurs after October 24, 1992, and predates State program amendment. Such Federal enforcement should cause no surprise to permittees, who have been aware of their obligations since passage of the Energy Policy Act in 1992.

One commenter opined that direct enforcement was unnecessary, and that existing procedures for State program amendments would be sufficient to ensure appropriate enforcement. OSM does not agree. As set out above, OSM believes that direct Federal enforcement could be necessary in some States, in order to ensure that prompt compliance is provided with minimum disruption of existing procedures for State primacy. The procedures established in paragraph 843.25(a) will allow for State-by-State determination after appropriate input from affected persons concerning the necessity for direct Federal enforcement.

843.25(b)

Paragraph (b) clarifies how direct Federal enforcement procedures will apply, to the extent they are initiated, and how direct Federal enforcement will be phased out, once State programs are amended to address section 720 and the implementing Federal regulations.

Under paragraph (b)(1) of the final rule, upon a determination by OSM under paragraph (a) that direct Federal enforcement is necessary, paragraph 817.121(c)(2) will apply directly to surface coal mining operations in States with an approved State regulatory program. Paragraph 817.121(c)(2) will apply directly to failure to repair or compensate for subsidence-related material damage to occupied residential dwellings and related structures and non-commercial buildings, and paragraph 817.41(j) will apply directly to failure to replace a contaminated, diminished, or interrupted drinking, domestic, or residential water supply. Both paragraphs apply directly to damage caused by underground mining activities that occurred after October 24, 1992.

Under paragraph (b)(2), upon a determination by OSM under paragraph (a) that direct Federal enforcement is necessary, the provisions of paragraph 843.12(a)(2) will not apply to direct Federal enforcement implementing paragraphs 817.41(j) or 817.121(c)(2). When, on the basis of a Federal inspection pursuant to paragraph (b), an authorized representative determines a violation exists of paragraph 817.41(j) or 817.121(c)(2), the authorized representative will issue a notice of violation or cessation order, as appropriate. Paragraph 843.12(a)(2) provides for a ten-day notice (TDN) to a State, and opportunity for the State to take appropriate action or show good cause for failure to act, before an authorized representative would issue a notice of violation or cessation order.

Under paragraph (b)(3), paragraph (b) providing for direct Federal enforcement will remain effective in a State with an approved State regulatory program until approval, pursuant to Part 732, of provisions adopted by the State consistent with paragraphs 817.41(j) and 817.121(c)(2). Upon approval of those provision, paragraph (b) will remain effective only for violations of paragraphs 817.41(j) and 817.121(c)(2) that are not regulated by the State.

Some commenters request clarification as to how existing procedures for ensuring State primacy in regulatory program implementation will apply under the proposed rule. These commenters allege that OSM has no authority to ignore existing TDN and State program amendment procedures which ensure State primacy in enforcement of SMCRA and ensure that the approved State regulatory program will apply to mining operations in the State until established procedures are

followed to require State program changes. Other commenters allege that direct Federal enforcement would be inconsistent with SMCRA. OSM does not agree. OSM believes that the limited direct enforcement procedures it is adopting are authorized by both section 720 and section 201(c) of SMCRA. Congress provided no specific statement as to how OSM was to ensure prompt compliance by underground coal mining operations, for damage caused by any underground mining after October 24, 1992. Congress did recognize that to develop such a regulatory scheme would require rulemaking, and provided for such rulemaking in section 720. Enforcement of section 720 will be required to apply to mining that occurs after October 24, 1992. OSM expects that some number of States will not provide implementation of section 720 for mining that has occurred after October 24, 1992, but before State program amendment, and that such States may prefer OSM to carry that enforcement burden. Based on past experience, OSM also expects that the normal process for State regulatory program amendment and OSM approval of State program amendments could take as much as two or three years, after this rule is finalized. Thus, if only State program amendment procedures were followed, it could be as long as five years after enactment of section 720 before some States actually enforced the section. OSM has concluded that following the routine procedures for State program amendment and for TDN's in implementing these rules, would frustrate the requirement for prompt repair, replacement, or compensation for all damage caused by underground mining occurring after October 24, 1992. In reaching this conclusion, OSM considered preliminary information as to complaints already filed with State regulatory authorities alleging violations of section 720. OSM requested such information from several States in which a substantial number of underground coal mining operations are permitted. The States of Virginia, Pennsylvania, West Virginia, and Kentucky have already received a total of over 300 complaints of violations of section 720. Therefore, OSM has concluded that direct Federal enforcement as outlined above, is consistent with, and essential to a reasonable implementation of section 720. However, in response to comments expressing concern about disruption of existing procedures, OSM has sought to provide a more limited direct enforcement process which will cause less disruption of existing procedures in each State.

OSM believes that SMCRA section 201(c)(2) also authorizes this approach. Section 201(c)(2) provides that the Secretary, acting through OSM, will ''publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act.'' Since Congress did not address the issue of how OSM was to meet the mandate for prompt compliance as of October 24, 1992, the Secretary is using his rulemaking authority to provide for direct Federal enforcement where reasonably necessary to implement Congress' mandate for prompt compliance. OSM has concluded that the existing program amendment and enforcement process may not be sufficient to ensure prompt compliance with the statute, and has decided to adopt rules providing for direct Federal enforcement as necessary to ensure prompt compliance with section 720(a).

Commenters argue that the proposal to provide for direct Federal enforcement ignores Federal case law which indicates that, as a general proposition, the State program, not SMCRA, is the law within the State. OSM recognizes that, under existing rules implementing SMCRA, States with approved regulatory programs have primary responsibility for implementing SMCRA, based on the approved program. However, in this rule OSM has carved out a limited exception to the general proposition, to the extent necessary to give reasonable force and effect to section 720, while maintaining so far as possible State primacy procedures. OSM believes that the process adopted in this final rule is consistent with and authorized by Congress under the Energy Policy Act, and that case law interpreting other provisions of SMCRA is not necessarily dispositive.

One commenter alleges that OSM had not provided sufficient information about enforcement procedures to enable commenters to understand or comment on the procedures for direct enforcement. OSM does not agree. OSM provided sufficient information in the proposed rule to indicate that, in the interests of ensuring prompt compliance, the regulations would be made immediately and directly enforceable. OSM thereby informed all interested persons that OSM did not expect to postpone enforcement pending State program amendment. And OSM believes that neither industry nor State regulatory authorities will be prejudiced by such immediate enforcement, since all interested persons were put on notice by the statute, as well as the proposed rule, that prompt compliance would be required as of October 24, 1992. If there are concerns about opportunity to understand and comment on specific procedures for immediate enforcement, OSM believes that any such concerns will be adequately addressed by the process for consultation and opportunity to comment on appropriate measures for each State.

Other commenters allege that OSM has failed to provide timely rulemaking implementing section 720, and that OSM must promulgate an interim final rule which makes effective for all Federal and State programs, including the Indian lands program, the requirements of section 720, effective October 24, 1992. These commenters further argue that all permits should be modified to include the requirements of section 720 as permit conditions, and that all permitting authorities should be required to require collection and analysis of the data necessary to implement section 720. OSM does not agree. OSM had earlier decided that such an interim final rule was not appropriate, because of OSM's desire to avoid any unnecessary impairment of State primacy. OSM believes that reasonably prompt compliance will be assured in States with approved State regulatory programs under the procedures OSM is adopting, which will provide expeditious direct Federal enforcement where determined necessary. And an interim final rule will not be necessary for Federal program lands or Indian lands because, as discussed below, these final rules are incorporated by reference in the regulatory programs for such lands, and will apply upon the effective date of these rules. Further, OSM is following its normal rulemaking procedures, consistent with the APA. OSM believes that in section 720(b) Congress contemplated notice-and-comment rulemaking as an appropriate mechanism for implementing section 720(a). Given the difficult and controversial issues in this rulemaking, OSM believes it is important to assure full and fair opportunity for all interested persons to comment, and opportunity for OSM to consider all comments before OSM adopts implementing rules. OSM also believes the procedures set out in these rules will assure reasonably timely compliance with section 720 with less uncertainty and less disruption of the existing process than would be caused by the actions advocated by these commenters.

OSM concludes that there will be no prejudice to the interests of

underground coal mine operations to the extent direct Federal enforcement will occur. The industry was on notice that section 720 does specifically require that underground mine operations promptly repair, replace, or compensate for subsidence damage to protected features. The obligation was not changed by this rulemaking. The only question was the mechanism by which the requirement for prompt action would be enforced. And, since Federal enforcement can occur without delay for State program amendments, OSM believes the direct Federal enforcement process will work to the advantage of all interested persons. In cases where direct Federal enforcement is instituted, any evidentiary issues in enforcement should be more readily resolved, because facts will be fresher and more readily recalled than they would be after the delay required for amendment of a State program. In such cases the question whether damage was caused by subsidence from an underground mining operation may be easier to resolve under direct Federal enforcement, than it would be later after the delays required to implement an amended State program.

Effect in Federal Program States and on Indian Lands

The rules adopted today will be applicable through cross-referencing in those States with Federal programs and on Indian lands. The States with Federal programs are California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The Indian lands program appears at 30 CFR Part 750. In accordance with 30 CFR 774.11, with respect to existing operations, OSM will notify permittees of the need to revise their permits to conform with the changes to 30 CFR 817.41(j) and 817.121(c).

Effect on State Programs

The performance standards set forth in 30 CFR 817.41(j) and 817.121(c)(2) are required to implement new SMCRA sections 720(a)(1) and (2). New SMCRA section 720(a) requires that operations conducted after October 24, 1992 comply with these provisions.

In the interim pending direct enforcement by a State, enforcement of paragraphs 817.121(c)(2), 817.121(c)(4), and 817.41(j) of this rule will be provided as set forth in section 843.25 of this rulemaking. For purposes of such interim enforcement, the definitions adopted in this rulemaking at section 701.5 and the presumption at paragraph 817.121(c)(4) will be effective and enforced on the same date as the provisions of paragraphs 817.41(j) and 817.121(c)(2).

For all other provisions in the final rule, OSM will follow established procedures for notice of required changes in State regulatory programs. The additional provisions will become effective upon the adoption of counterpart State regulatory program provisions in primacy States. OSM will evaluate permanent State regulatory programs approved under § 503 of the Act to determine whether any changes in these programs will be necessary. If the Director determines that certain State program provisions should be amended in order to be made no less effective than the revised Federal rules, the individual States will be notified in accordance with the provisions of 30 CFR 732.17.

III. Procedural Matters

Federal Paperwork Reduction Act

The collections of information contained in this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1029–0039 and 1029–0048.

Executive Order 12866

This rule has been reviewed under Executive Order 12866.

Benefits

While the cost of the rulemaking can be estimated, the benefits are not readily or completely quantifiable. Water loss and structural damage caused by subsidence from underground coal mining can have very disruptive personal and financial impacts, particularly to middle class and rural landowners. The benefit of avoiding the personal consequences, including those associated with health and safety, is difficult to assess. However, one of the clear benefits of the rule is that the responsibility to repair property damage and replace lost water supplies is shifted from property owners suffering the damage to the mining operations that cause the damage.

OSM's regulations would require replacement of the landowner's domestic water supply in a timely manner. The surface landowner would have water replacement, as necessary, without assuming any additional costs.

Under the regulations, landowners are afforded additional protections for their homes and domestic water supplies. The process for establishing causation between mining and damage to homes and land is simplified. Also, the rule provides that subsidence damage within a specified area associated with a coal mining operation will be presumed to have been caused by that operation, and that the operator will have the burden of refuting such a presumption. This shifts the burden of providing evidence from the property owner to the operator who would have better information as to the nature and timing of the mining activities.

The rule also provides the property owner with an option to receive compensation in a lump sum payment as an alternative to annual payments for operation and maintenance costs for a permanent water supply. If agreed to by the landowner, a one-time payment based on the present worth of the increased annual operating costs for a period of time agreed upon by the landowner and the coal mine operator would fulfill the operator's obligation. Such a payment plan, rather than annual or other periodic payments, would be preferable to the property owner in those cases where the operator might encounter financial difficulties or simply go out of business.

Property owners and coal mine operators would benefit from the requirement to conduct a pre-mine survey. The survey must inventory and document the pre-mining condition of the potentially affected structures and renewable resource lands. Under this requirement, both the surface owner and the mine operator are provided with a more accurate record of the status of the homes and land prior to mining. Hence, the record would be a fairer basis for enforcement in the event of subsidence.

Estimated Costs

The final rule requires all underground coal mining operations promptly to repair or compensate for any material damage to non-commercial buildings and occupied residential dwellings or related structures as a result of subsidence due to underground coal mining operations. Permittees in both primacy States and Federal program States, as well as on Indian lands, are required to comply with this provision for operations conducted after October 24, 1992. This provision is necessary to implement new SMCRA section 720(a)(1) of the Energy Policy Act of 1992.

The estimated cost to coal operators to meet this requirement of the Energy Policy Act is $12.6 million. Most states adopted provisions to implement this requirement following passage of the 1992 Act. These states account for $11.7 million of the $12.6 million estimated

cost. Other states will need to promulgate implementing provisions on or shortly after the effective date of these regulations. OSM estimates that the cost to coal operators to meet this requirement in those additional states will be $900,000.

The final rule also requires the permittee to promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence prior to the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption. This requirement that the permittee promptly replace any drinking, domestic, or residential water supplies that have been adversely affected by underground activities is necessary to implement the provision of new SMCRA section 720(a)(2) of the Energy Policy Act of 1992.

Under the regulations, the operator would pay the capital costs of installing the replacement water supply. For example, if the use of well water can continue, the operator would pay the cost of designing, drilling, and completing a new or deeper well; purchasing and installing a pump; and/or purchasing and installing a treatment system, as necessary. If the replacement water supply involves a hook-up to a public or private water supply system, the operator would pay the hook-up costs, including fees, purchase of equipment and supplies, and construction. If a temporary water supply is necessary before the permanent replacement water supply is provided, the operator would pay the cost of providing the temporary water supply.

The estimated cost to coal operators to meet this requirement of the Energy Policy Act is $11.2 million. Most states adopted provisions to implement this requirement since passage of the 1992 Act. These states account for $9.5 million of the $11.2 million estimated cost. Other states will need to promulgate implementing provisions on or shortly after the effective date of these regulations. OSM estimates that the cost to coal operators to meet this requirement in those additional states will be $1.7.

In addition to the above requirements, OSM believes that the following provisions with an estimated cost to coal operators of $2.7 million were essential to implement the requirements of the Energy Policy Act.

- Pre-Mine Survey: an explicit requirement to establish and document the location and pre-mining condition of protected structures and lands, and the location and pre-mining quantity and quality of protected water supplies, is essential to establish a sufficient baseline against which the effects of subsidence may be measured and to ensure full implementation of SMCRA sections 516 and 720. Estimated cost to coal operators is $1.6 million.
- Pre-subsidence Survey and Subsidence Control Plan: majority of applicants provide the survey, including map, and the subsidence control plan under the existing regulations; cost corresponds to those operators not currently providing the information. Estimated cost to coal operators for both requirements is $65,000.
- Presumption of Causation: presumes that damage was caused by underground coal mining operations; the operator must bear the cost of rebutting the presumption. Estimated cost to coal operators is $420,000.
- Additional Bonding: requirement to increase bond coverage within 90 days of the occurrence of any damage that is not repaired. Estimated cost to coal operators is $620,000.

The total estimated cost to coal operators to meet the subsidence control provisions in the Energy Policy Act of 1992 is $26.5 million. However, because many states have already implemented provisions of the Act accounting for an estimated cost of $21.2 million, the cost that will be incurred by coal operators resulting from promulgation of this final rule is estimated to be $5.3 million.

There are a number of provisions discussed in the proposed rule that have not been adopted in the final rule. A significant change is the decision by OSM not to adopt the proposed requirement to replace agricultural, commercial and industrial water supplies. OSM agreed with commenters that these provisions of the proposed rule went beyond the requirements of the Energy Policy Act. OSM estimates that these provisions not included in the final rule would have cost coal operators more than $7 million. Another proposed requirement that all facilities be covered was not adopted in the final rule. However, this change does not appreciably alter the cost to coal operators of meeting the requirements in this rule.

Regulatory Flexibility Act

The DOI certifies that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. This determination is based on the fact that the revisions will have the greatest effect on underground mining operations, and only a small number of small entities mine coal by underground methods. For the purposes of this determination, a small entity is considered anyone whose total annual production at all locations does not exceed 300,000 tons.

National Environmental Policy Act

OSM has prepared a final environmental assessment (EA), and has made a finding that the rule will not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). A finding of no significant impact (FONSI) has been approved in accordance with OSM procedures under NEPA. The EA and FONSI are on file in the OSM Administrative Record, Room 660, 800 North Capitol Street, Washington, DC.

Executive Order 12778 on Civil Justice Reform

This rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, ''Civil Justice Reform'' (56 FR 55195). In general, the requirements of section 2(b)(2) are covered by the preamble discussion of this rule. Individual elements of the order are addressed below:

A. What would be the preemptive effect, if any, to be given to the regulation?

Section 843.25 sets out a procedure by which OSM may determine on a State-by-State basis that direct Federal enforcement is required in States with approved regulatory programs, in the interim before those programs are amended to implement section 720, to ensure prompt compliance with section 720 of SMCRA, 30 U.S.C. 1309a, and implementing Federal regulations. Any such action would be instituted only upon a determination that in a particular State the action was necessary on an interim basis, to ensure the congressionally mandated prompt compliance with SMCRA section 720, for underground operations conducted after October 24, 1992. This procedure is discussed in the preamble discussion of section 843.25. The other provisions in this rulemaking would have the same preemptive effect as other standards adopted pursuant to SMCRA. To retain primacy, States have to adopt and apply standards for their regulatory programs that are no less effective than those set forth in OSM's regulations. Any State law that is inconsistent with or that would preclude implementation of the regulation would be subject to preemption under SMCRA section 505 and implementing regulations at 30 CFR

730.11. To the extent that the regulation would result in preemption of State law, the provisions of SMCRA are intended to preclude inconsistent State laws and regulations. This approach is established in SMCRA, and has been judicially affirmed. See *Hodel* v. *Virginia Surface Mining and Reclamation Ass'n,* 452 U.S. 264 (1981).

B. What would be the effect of the regulation on existing Federal law or regulation, if any, including all provisions repealed or modified?

The regulation would modify the implementation of SMCRA as described herein, and is not intended to modify the implementation of any other Federal statute. The preceding discussion of the action specifies the Federal regulatory provisions that are affected by the revision.

C. Would the regulation provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of SMCRA.

D. What would be the retroactive effect, if any, to be given to the regulation?

The Energy Policy Act amended SMCRA by adding a new section 720, 30 U.S.C. 1309a, requiring that underground coal mine operations promptly replace certain adversely affected water supplies and repair or compensate for subsidence damage to specified structures. The requirements are effective October 24, 1992, and apply to underground coal mining operations after that date. Section 720 also required OSM to adopt implementing regulations thereafter. This rulemaking includes provisions to implement those requirements. Thus, those provisions do not create any new retroactive requirements to replace, repair, or compensate; but rather implement the effective date established for these requirements by the Energy Policy Act. Implementing provisions were previously discussed in the preamble.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings would be required before parties may file suit in court challenging the provisions of the revision under section 526(a) of SMCRA, 30 U.S.C. 1276(a). Prior to any judicial challenge to the application of the rule, however, administrative procedures must be exhausted. Applicable administrative procedures may be found at 43 CFR Part 4.

F. Would the action define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms which are important to the understanding of the action are set forth in 30 CFR 701.5.

G. Would the regulation address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

Agency Concurrence

Section 516(a) of the Act requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

Author

The principal author of this regulation is Nancy R. Broderick, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; telephone (202) 208–2564.

List of Subjects

30 CFR Part 701

Law enforcement, Surface mining, Underground mining.

30 CFR Part 784

Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 817

Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 843

Administrative practice and procedure, Direct federal enforcement for repair of subsidence damage, Law enforcement, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: January 5, 1995.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

Accordingly, 30 CFR Parts 701, 784, 817, and 843 are amended as set forth below.

SUBCHAPTER A—GENERAL

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 701 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

2. Section 701.5 is amended by adding alphabetically definitions of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied residential dwelling and structures related thereto,'' and ''replacement of water supply'' to read as follows:

§ 701.5 Definitions.

* * * * *

Drinking, domestic or residential water supply means water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use. Wells and springs that serve only agricultural, commercial or industrial enterprises are not included except to the extent the water supply is for direct human consumption or human sanitation, or domestic use.

* * * * *

Material damage, in the context of §§ 784.20 and 817.121 of this chapter, means:

(a) Any functional impairment of surface lands, features, structures or facilities;

(b) Any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or

(c) Any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition.

* * * * *

Non-commercial building means any building, other than an occupied residential dwelling, that, at the time the subsidence occurs, is used on a regular or temporary basis as a public building or community or institutional building as those terms are defined in § 761.5 of this chapter. Any building used only for commercial agricultural, industrial, retail or other commercial enterprises is excluded.

* * * * *

Occupied residential dwelling and structures related thereto means, for purposes of §§ 784.20 and 817.121, any building or other structure that, at the time the subsidence occurs, is used either temporarily, occasionally, seasonally, or permanently for human habitation. This term also includes any building, structure or facility installed on, above or below, or a combination thereof, the land surface if that building, structure or facility is adjunct to or used in connection with an occupied residential dwelling. Examples of such structures include, but are not limited to, garages; storage sheds and barns; greenhouses and related buildings; utilities and cables; fences and other enclosures; retaining walls; paved or improved patios, walks and driveways; septic sewage treatment facilities; and lot drainage and lawn and garden irrigation systems. Any structure used only for commercial agricultural, industrial, retail or other commercial purposes is excluded.

* * * * *

Replacement of water supply means, with respect to protected water supplies contaminated, diminished, or interrupted by coal mining operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

(a) Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.

(b) If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

* * * * *

SUBCHAPTER G—SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMITS AND COAL EXPLORATION SYSTEMS UNDER REGULATORY PROGRAMS

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

3. The authority citation for Part 784 is revised to read as follows:

Authority: 16 U.S.C. 470 *et seq.*, 30 U.S.C. 1201 *et seq.* as amended.

4. Section 784.10 is revised as follows:

§ 784.10 Information collection.

(a) The collections of information contained in Part 784 have been approved by Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0039. The information will be used to meet the requirements of 30 U.S.C. 1211(b), 1251, 1257, 1258, 1266, and 1309a. The obligation to respond is required to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 513 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.

5. In Section 784.14 paragraph (e)(3)(ii) is amended by removing the word ''and''; (e)(3)(iii)(E) is amended by removing the period and adding a semicolon in its place; and paragraph (e)(3)(iv) is added as follows:

§ 784.14 Hydrologic information.

* * * * *

(e) * * *

* * * * *

(3) * * *

(iv) Whether the underground mining activities conducted after October 24, 1992 may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas.

* * * * *

6. Section 784.20 is revised to read as follows:

§ 784.20 Subsidence control plan.

(a) *Pre-subsidence survey.* Each application must include:

(1) A map of the permit and adjacent areas at a scale of 1:12,000, or larger if determined necessary by the regulatory authority, showing the location and type of structures and renewable resource lands that subsidence may materially damage or for which the value or reasonably foreseeable use may be diminished by subsidence, and showing the location and type of drinking, domestic, and residential water supplies that could be contaminated, diminished, or interrupted by subsidence.

(2) A narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminish, or interrupt drinking, domestic, or residential water supplies.

(3) A survey of the condition of all non-commercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw; as well as a survey of the quantity and quality of all drinking, domestic, and residential water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. If the applicant cannot make this survey because the owner will not allow access to the site, the applicant will notify the owner, in writing, of the effect that denial of access will have as described in § 817.121(c)(4) of this chapter. The applicant must pay for any technical assessment or engineering evaluation used to determine the pre-mining condition or value of such non-commercial buildings or occupied residential dwellings and structures related thereto and the quantity and quality of drinking, domestic, or residential water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner and regulatory authority.

(b) *Subsidence control plan.* If the survey conducted under paragraph (a) of this section shows that no structures, or drinking, domestic, or residential water supplies, or renewable resource lands exist, or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands, and no contamination, diminution, or interruption of such water supplies would occur as a result of mine subsidence, and if the regulatory authority agrees with this conclusion, no further information need be provided under this section. If the survey shows that structures, renewable resource lands, or water supplies exist and that subsidence could cause material damage or diminution in value

or reasonably foreseeable use, or contamination, diminution, or interruption of protected water supplies, or if the regulatory authority determines that damage, diminution in value or foreseeable use, or contamination, diminution, or interruption could occur, the application must include a subsidence control plan that contains the following information:

(1) A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining, including the size, sequence and timing of the development of underground workings;

(2) A map of the underground workings that describes the location and extent of the areas in which planned-subsidence mining methods will be used and that identifies all areas where the measures described in paragraphs (b)(4), (b)(5), and (b)(7) of this section will be taken to prevent or minimize subsidence and subsidence-related damage; and, when applicable, to correct subsidence-related material damage;

(3) A description of the physical conditions, such as depth of cover, seam thickness and lithology of overlaying strata, that affect the likelihood or extent of subsidence and subsidence-related damage;

(4) A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce or correct material damage in accordance with § 817.121(c) of this chapter;

(5) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence-related damage, such as, but not limited to:

(i) Backstowing or backfilling of voids;

(ii) Leaving support pillars of coal;

(iii) Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and

(iv) Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface;

(6) A description of the anticipated effects of planned subsidence, if any;

(7) For those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to non-commercial buildings and occupied residential dwellings and structures related thereto; or the written consent of the owner of the structure or facility that minimization measures not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs of repair;

(8) A description of the measures to be taken in accordance with §§ 817.41(j) and 817.121(c) of this chapter to replace adversely affected protected water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures; and

(9) Other information specified by the regulatory authority as necessary to demonstrate that the operation will be conducted in accordance with § 817.121 of this chapter.

SUBCHAPTER K—PERMANENT PROGRAM PERFORMANCE STANDARDS

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

7. The authority citation for Part 817 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

8. Section 817.10 is revised as follows:

§ 817.10 Information collection.

(a) The collections of information contained in Part 817 have been approved by Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0048. The information will be used to meet the requirements of 30 U.S.C. 1211, 1251, 1266, and 1309a which provide, among other things, that permittees conducting underground coal mining operations will meet the applicable performance standards of the Act. This information will be used by the regulatory authority in monitoring and inspecting underground mining activities. The obligation to respond is required to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 4 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.

9. In § 817.41, paragraph (j) is added to read as follows:

§ 817.41 Hydrologic balance protection.

* * * * *

(j) *Drinking, domestic or residential water supply.* The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption. The baseline hydrologic information required in §§ 780.21 and 784.14 of this chapter and the geologic information concerning baseline hydrologic conditions required in §§ 780.21 and 784.22 of this chapter will be used to determine the impact of mining activities upon the water supply.

10. In § 817.121, paragraphs (a) and (c) are revised to read as follows:

§ 817.121 Subsidence control.

(a) *Measures to prevent or minimize damage.* (1) The permittee must either adopt measures consistent with known technology that prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands or adopt mining technology that provides for planned subsidence in a predictable and controlled manner.

(2) If a permittee employs mining technology that provides for planned subsidence in a predictable and controlled manner, the permittee must take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to non-commercial buildings and occupied residential dwellings and structures related thereto except that measures required to minimize material damage to such structures are not required if:

(i) The permittee has the written consent of their owners or

(ii) Unless the anticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair.

(3) Nothing in this part prohibits the standard method of room-and-pillar mining.

* * * * *

(c) *Repair of damage.*

(1) *Repair of damage to surface lands.* The permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.

(2) *Repair or compensation for damage to non-commercial buildings and dwellings and related structures.* The permittee must promptly repair, or

compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. If repair option is selected, the permittee must fully rehabilitate, restore or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence-related damage. The permittee may provide compensation by the purchase, before mining, of a non-cancelable premium-prepaid insurance policy. The requirements of this paragraph apply only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

(3) *Repair or compensation for damage to other structures.* The permittee must, to the extent required under applicable provisions of State law, either correct material damage resulting from subsidence caused to any structures or facilities not protected by paragraph (c)(2) of this section by repairing the damage or compensate the owner of the structures or facilities for the full amount of the decrease in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase before mining of a non-cancelable premium-prepaid insurance policy.

(4) *Rebuttable presumption of causation by subsidence.*—(i) *Rebuttable presumption of causation for damage within angle of draw.* If damage to any non-commercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption exists that the permittee caused the damage. The presumption will normally apply to a 30-degree angle of draw. A State regulatory authority may amend its program to apply the presumption to a different angle of draw if the regulatory authority shows in writing that the angle has a more reasonable basis than the 30-degree angle of draw, based on geotechnical analysis of the factors affecting potential surface impacts of underground coal mining operations in the State.

(ii) *Approval of site-specific angle of draw.* A permittee or permit applicant may request that the presumption apply to an angle of draw different from that established in the regulatory program. The regulatory authority may approve application of the presumption to a site-specific angle of draw different than that contained in the State or Federal program based on a site-specific analysis submitted by an applicant. To establish a site-specific angle of draw, an applicant must demonstrate and the regulatory authority must determine in writing that the proposed angle of draw has a more reasonable basis than the standard set forth in the State or Federal program, based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation.

(iii) *No presumption where access for pre-subsidence survey is denied.* If the permittee was denied access to the land or property for the purpose of conducting the pre-subsidence survey in accordance with § 784.20(a) of this chapter, no rebuttable presumption will exist.

(iv) *Rebuttal of presumption.* The presumption will be rebutted if, for example, the evidence establishes that: The damage predated the mining in question; the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence; or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.

(v) *Information to be considered in determination of causation.* In any determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the regulatory authority.

(5) *Adjustment of bond amount for subsidence damage.* When subsidence-related material damage to land, structures or facilities protected under paragraphs (c)(1) through (c)(3) of this section occurs, or when contamination, diminution, or interruption to a water supply protected under § 817.41 (j) occurs, the regulatory authority must require the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation, or replacement is completed within 90 days of the occurrence of damage, no additional bond is required. The regulatory authority may extend the 90-day time frame, but not to exceed one year, if the permittee demonstrates and the regulatory authority finds in writing that subsidence is not complete, that not all probable subsidence-related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that therefore it would be unreasonable to complete within 90 days the repair of the subsidence-related material damage to lands or protected structures, or the replacement of protected water supply.

* * * * *

PART 843—FEDERAL ENFORCEMENT

11. The authority citation for Part 843 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended:

12. Section 843.25 is added to read as follows:

§ 843.25 Energy Policy Act enforcement in States with approved State programs.

(a) *State-by-State determinations.* By July 31, 1995, OSM will determine for each State with an approved State regulatory program whether:

(1) Direct Federal enforcement of the Energy Policy Act and implementing Federal regulations will occur under paragraph (b) of this section with respect to some or all surface coal mining operations in each State, or

(2) The procedures of §§ 843.11 and 843.12(a)(2) will apply to State enforcement of the Energy Policy Act, or

(3) A combination of direct Federal enforcement and State enforcement will occur.

(4) Before making this determination, OSM will consult with each affected State and provide an opportunity for public comment. OSM will publish its determination in the **Federal Register**.

(b) *Interim Federal enforcement.* (1) If OSM determines under paragraph (a) that direct Federal enforcement is necessary, §§ 817.41(j), 817.121(c)(2), and 817.121(c)(4) of this chapter will apply to each underground mining operation subject to that determination that is conducted in a State with an approved State regulatory program.

(2) If OSM determines under paragraph (a) of this section that direct Federal enforcement is necessary, the provisions of § 843.12(a)(2) will not apply to direct Federal enforcement actions under this paragraph (b). When, on the basis of any Federal inspection under this paragraph, an authorized representative determines that a violation of § 817.41(j) or § 817.121(c)(2) exists, the authorized representative

must issue a notice of violation or cessation order, as appropriate.

(3) This paragraph (b) will remain effective in a State with an approved State regulatory program until the State adopts, and OSM approves, under Part 732 of this chapter, provisions consistent with §§ 817.41(j) and 817.121(c)(2) of this chapter. After these provisions are approved, this paragraph will remain effective only for violations of §§ 817.41(j) and 817.121(c)(2) that are not regulated by the State regulatory authority.

[FR Doc. 95–7954 Filed 3–30–95; 8:45 am]

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federal register

Friday
March 31, 1995

Part V

Department of Health and Human Services

Public Health Service

42 CFR Part 124

Medical Facility Construction and Modernization; Requirements for Provision of Services to Persons Unable to Pay; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

RIN: 0905–AE33

Medical Facility Construction and Modernization; Requirements for Provision of Services to Persons Unable to Pay

AGENCY: Public Health Service, DHHS.

ACTION: Final rule.

SUMMARY: This document revises the rules currently governing how certain health care facilities, assisted under Titles VI and XVI of the Public Health Service Act, fulfill the assurance, given in their applications for assistance, that they would provide a reasonable volume of services to persons unable to pay. Public comment on the current rules and operational experience with them indicated the need to revise the current requirements with respect to nursing homes, many of which are unable under current requirements to meet their obligation to provide such services. The rules below should permit qualified facilities to satisfy their uncompensated services assurance.

DATES: These rules are effective on May 1, 1995.

Applicability For facilities certified under 42 CFR 124.516(b)(1), these rules are applicable on the later of May 1, 1995 or the beginning of the facility's next fiscal year. For all other facilities, these rules are applicable on May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Eulas Dortch, 301–443–5656.

SUPPLEMENTARY INFORMATION: On April 4, 1994, the Secretary of Health and Human Services proposed amending the rules governing what is popularly known as the Hill-Burton uncompensated services program. 59 FR 15693. As explained more fully below, the Notice of Proposed Rulemaking (NPRM) proposed to expand the income eligibility limits applicable to patients served by obligated nursing homes, to help such facilities meet their existing uncompensated services obligations.

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.

Regulatory Background

Health care facilities covered by the program received construction assistance under two titles of the Public Health Service Act, Title VI (the ''Hill-Burton Act'', 42 U.S.C. 291, *et seq.*) and Title XVI (42 U.S.C. 300q, *et seq.*). Under both titles, facilities receiving such construction assistance have been required, as a condition of receiving the construction assistance, to provide an assurance that ''there will be available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor * * *.'' 42 U.S.C. 291c(e). See also 42 U.S.C. 300s–1(b)(1)(K)(ii). This assurance is known as the ''uncompensated services assurance.''

Regulations governing compliance with the uncompensated services assurance were first issued in 1947, and have been revised several times. On May 18, 1979, comprehensive regulations governing compliance with the assurance were issued at 44 FR 29372. Among other things, the 1979 regulations: established a minimum level of uncompensated services facilities were required to provide; set an annual compliance level of uncompensated services to be provided and required facilities to make up any deficit in meeting the annual compliance level through provision of more uncompensated services in later years; required facilities to allocate their uncompensated services either under a plan meeting certain requirements or on a first-request, first-served basis; required facilities to notify the public of the existence of their uncompensated services programs through public notice and provision of personal notice to individuals served by the facilities; and required facilities to keep records documenting compliance and to periodically report concerning compliance. The 1979 regulations also for the first time established national eligibility criteria, based on income: Individuals whose annual income was at or below the poverty level (known as ''Category A individuals'') were automatically eligible for uncompensated services; individuals whose annual income was at or below two times the poverty level (known as ''Category B individuals'') were also eligible for uncompensated services, unless the facility decided to limit its services to Category A individuals only. However, the 1979 regulations also provided that amounts to which an individual was entitled under a third-party insurance or governmental program could not be credited towards a facility's uncompensated services quota.

On December 3, 1987, the Secretary revised the 1979 regulations at 52 FR 46022. As pertinent here, the 1987 regulations effected a technical revision of the 1979 regulations, making explicit what had formerly been implicit in those regulations; *i.e.*, that coverage of an indigent under a third-party insurance or governmental program precludes eligibility for uncompensated services. 42 CFR 124.505(a)(1) (1988). This policy simply reflects the long-standing agency view of the uncompensated services program as a program of last resort, designed to serve persons who have no source of payment, such as Medicaid or private insurance, for medical care.

This policy has created major compliance problems for many Hill-Burton-obligated nursing homes. HHS determined that, of the 287 nursing homes with outstanding uncompensated services obligations under the general compliance standards of the regulations, 243 have deficits; the majority of these have received no uncompensated services credit. These deficits persist despite many attempts by HHS to provide technical assistance to nursing homes to bring them into compliance. The fundamental problem is that, in most of these nursing homes, the only individuals who meet the income-eligibility requirements for receipt of uncompensated services are also covered by their state's Medicaid program; hence, they are by definition *ineligible* for uncompensated services under § 124.505(a)(1). Thus, in states in which the Medicaid eligibility limits exceed the Hill-Burton eligibility limits and which cover most or all medical services, nursing homes are chronically unable to fulfill their uncompensated services obligations.

Proposed Rules

HHS established a task force to analyze nursing home compliance issues and develop strategies for dealing with compliance problems. Based on the task force findings and its own survey of regional offices of the Health Care Financing Administration, which administers the Medicaid program, HHS proposed to triple the income eligibility limit for individuals in nursing homes, to create a broader pool of eligible individuals for such facilities. The NPRM accordingly proposed to establish a third income eligibility level (Category C) for nursing home services only. *See*, proposed § 124.505(a)(2)(iii). A Category C individual would be an individual whose annual income is greater than two times, but does not

exceed three times, the poverty level. The regulations already define which facilities are ''nursing homes'' within the scope of the regulation. *See*, § 124.502(h). In addition, the NPRM proposed certain technical and conforming amendments to other sections of the regulations. The principal one was the proposed change to § 124.506(a)(1)(v), to provide that if a nursing home provides services on a reduced charge basis to both Category B and Category C individuals, it may not employ a discount method that gives Category C individuals greater discounts than those given to Category B individuals.

Public Comment and Department's Response

The Department received seven comments on the NPRM, two from nursing home associations and five from representatives of individual nursing homes. While most of the commentors applauded the proposed revisions as a step in the right direction, they made a number of suggestions for other policies that would, in their view, better address the chronic deficit problem faced by so many nursing homes. These comments and the Department's responses thereto are set out below.

1. The most common criticism was that the proposed remedy fails to address what the commentors in general see as the chief problem: The inadequacy of Medicaid reimbursements. The commentors generally noted that their facilities run large losses attributable to the differential between Medicaid reimbursement and actual costs, and suggested that facilities be permitted to write off this differential as uncompensated services. An Ohio facility that advocated this approach noted that, in Ohio, all persons with incomes up to the cost of nursing home services qualify for Medicaid, so that there are no non-Medicaid eligible patients who would qualify for uncompensated services. A variation of this approach was the suggestion that a compliance alternative be created for facilities with a Medicaid patient census of at least 70%.

The Department does not agree that it should treat as uncompensated services amounts in excess of ''reasonable costs'' (the amount reimbursed by Medicaid). To do so would result in facility credit for unreasonable charges and a reduction in the amount of uncompensated services to persons unable to pay. Rather, it wishes to look at the effect of the rules below, together with the recently adopted charitable facility alternative, on reducing the incidence of intractable deficits. For the same reasons, it is not prepared to craft a compliance alternative for majority-Medicaid facilities along the lines suggested. These facilities, by virtue of their high volume Medicaid levels, have an inherently smaller compliance level under the 3 percent compliance option. However, the Department intends to continue to study this issue.

With respect to the Ohio situation, it is likely that such facilities will qualify under the recently published charitable facility alternative. *See*, 59 FR 44634 (Aug. 30, 1994). Such facilities may be able to satisfy their obligations and make up their deficits under that alternative, as long as they collect no monies (other than those required to be collected under governmental programs) from Hill-Burton eligible patients.

2. One provider association, while supportive of the proposed rules, suggested that the Department adopt additional compliance alternatives for facilities in states which have medically needy programs and which, accordingly, are likely to be unable to benefit from the proposed increase in the income eligibility level. The association suggested that (1) services uncovered by Medicaid be identified and considered eligible for inclusion as uncompensated services, such as additional hours of nursing care, therapies, or other activities; (2) health-related services provided to eligible non-residents on the nursing facility premises be counted as uncompensated services; and (3) services provided by nursing homes off-premises under Medicaid home and community-based waivers be counted as uncompensated services.

Generally, the Department agrees that health services provided by a Hill-Burton facility that are not covered by Medicaid should count as uncompensated services, and it has traditionally accepted them as such. However, since Medicaid patients are not liable for additional hours of care provided which exceed established Medicaid standards, such costs are not considered to be uncompensated services. With respect to the second proposal, there is no problem under the present regulations with counting, toward a facility's uncompensated services quota, health services provided on-premises to eligible nonresidents of the facility. Thus, facilities may include such services in their allocation plans. However, the association's third proposal is not one that the Department can accept, since services which are reimbursed by Medicaid are, by definition, ineligible for Hill-Burton credit.

3. A couple of facilities objected to the proposed rules on the grounds that expanding the income eligibility limits would create a larger pool of eligibles and thus be devastating to facilities that are already in financial straits. One facility asked in particular that it be allowed to write off necessary building maintenance and improvement expenses as uncompensated services, as it is unable to afford to serve more persons below cost than it already does.

These facilities appear to misapprehend the requirements of the current uncompensated services regulations. Under the current regulations, facilities that are financially unable to meet their uncompensated services obligation may apply to have it deferred until they are financially able to make it up. See 42 CFR 124.503(b)(1)(i) and 124.511(c). However, except to the extent building maintenance and improvement expenses are factored into a facility's indirect cost rate that forms part of the basis for its charges for services, such expenses are not creditable as ''uncompensated services,'' because they are not ''services'' within the meaning of the statute.

4. A couple of commenters stated that the proposed increase in income eligibility limits would be problemmatic for other reasons: (1) Because such individuals would be covered under the proposed Health Security Act; and (2) because the proposed limit exceeds the costs of nursing home services in certain states. The Department, however, does not share the commenters' concerns in this regard. Should health care reform become law, this program (like others) will have to be reviewed for consistency with the operation of the reform statute enacted, but this is not an issue that can productively be addressed before enactment of such a statute. With respect to the second comment, the Department thinks that the income limit will not be a problem in such states, as a facility cannot, in any event, receive credit for more than it charges.

5. No comments were received concerning the conforming and technical amendments proposed. However, the recent adoption of the charitable facility compliance alternative has necessitated a conforming amendment to that section (see § 124.516 below). Otherwise, however, no changes to the proposed technical and conforming amendments have been made.

6. Dates. Note that, with respect to facilities certified under the alternative in the newly adopted § 124.516(b)(1), this amendment is applicable on May 1, 1995 or the beginning of the facility's

next fiscal year, whichever is later. Thus, it is the Department's intention that the three-year base in § 124.516 will operate prospectively only with respect to the amendment to the charging restriction of § 124.516(b)(1). For example, a nursing home applying for certification under § 124.516(b)(1) in 1996 would only have to demonstrate that it had not charged persons with incomes up to three times the poverty level for that part of the three-year period in which the amendment below applied to it, not for the entire three-year period.

It should be noted that the changes adopted below will not have the same automatic effect for other nursing homes. Rather, unless a nursing home has failed to adopt an allocation plan, it will generally not be required to provide uncompensated services to Category C individuals unless it takes an affirmative action to do so, through publication of a revised allocation plan covering Category C individuals. See, § 124.506(a)(1)(v) below. However, to facilitate prompt coverage of such individuals, a facility need not wait until the effective date of these amendments to publish a revised allocation plan under § 124.506(c), but may do so any time after publication of these amendments, with the effective date of the revised allocation plan being at least 60 days following publication.

Regulatory Flexibility Act and Executive Order 12866

The rules below do not change the existing procedural and reporting requirements for obligated facilities. The Department has determined that the impact will not approach the annual $100 million threshhold for major economic consequences as defined in Executive Order 12866. Therefore, a regulatory impact analysis is not required.

Consistent with the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

The rules below contain no information collection or reporting requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980.

List of Subjects in 42 CFR Part 124

Grant programs—health, Health facilities, Loan programs—health, Low income persons.

Dated: January 12, 1995.

Philip R. Lee,

Assistant Secretary for Health.

Approved: March 24, 1995.

Donna E. Shalala,

Secretary.

For reasons set out in the preamble, subpart F of 42 CFR part 124 is hereby amended to read as follows:

Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable to Pay

1. The authority citation for 42 CFR part 124, subpart F, continues to read as follows:

Authority: 42 U.S.C. 216; 42 U.S.C. 300s(3).

2. The first two sentences of § 124.503(b)(4) are revised to read as follows:

§ 124.503 Compliance level.

(a) * * *

(b) * * *

(4) *Affirmative action plan for precluding future deficits.* Except where a facility reports to the Secretary in accordance with § 124.509(a)(2)(iii) that it was financially unable to provide uncompensated services at the annual compliance level, a facility that fails to meet its annual compliance level in any fiscal year shall, in the following year, develop and implement a plan of action that can reasonably be expected to enable the facility to meet its annual compliance level. Such actions may include special notice to the community through newspaper, radio, and television, or expansion of service to Category B, or, with respect to nursing homes, Category C, persons. * * *

* * * * *

3. Section 124.505 is amended by revising paragraph (a)(2)(ii) and adding (a)(2)(iii) to read as follows:

§ 124.505 Eligibility criteria.

(a) * * *

(2) * * *

(ii) *Category B*—A person whose annual individual or family income, as applicable, is greater than but not more than twice the poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. If persons in Category B are included in the allocation plan, the facility shall provide uncompensated services to these persons without charge, or in accordance with a schedule of charges as specified in the allocation plan.

(iii) *Category C*—With respect only to persons seeking or receiving nursing home services, a person whose annual or family income, as applicable, is more than twice but not greater than three times the poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. If persons in Category C are included in the allocation plan, the facility shall provide uncompensated services to these persons without charge, or in accordance with a schedule of charges as specified in the allocation plan; and

* * * * *

4. Section 124.506 is amended by revising paragraph (a)(1)(iii) through (a)(1)(v), the first sentence of paragraph (b)(2), and by adding paragraph (a)(1)(vi), to read as follows:

§ 124.506 Allocation of services; plan requirement.

(a)(1) * * *

(iii) State whether Category B or, in the case of nursing homes only, Category C persons will be provided uncompensated services, and if so, whether the services will be available without charge or at a reduced charge;

(iv) If services will be made available to Category B persons at a reduced charge, specify the method used for reducing charges, and provide that the method is applicable to all persons in Category B;

(v) With respect to nursing homes only, if services will be made available to Category C persons at a reduced charge, specify the method used for reducing charges, provided that such method may not result in greater reductions than those afforded to Category B persons, and provide that this method is applicable to all persons in Category C; and

(vi) Provide that the facility provides uncompensated services to all persons eligible under the plan who request uncompensated services.

(b)(1) * * *

(2) If no plan was previously published in accordance with paragraph (a)(2) of this section, the facility must provide uncompensated services without charge to all applicants in Category A and Category B, and, with respect to nursing homes, Category C, who request service in the facility.* * *

* * * * *

5. Section 124.516 is amended by revising paragraph (b)(1) to read as follows:

§ 124.516 Charitable facility compliance alternative.

(a) * * *

(b) * * *

(1)(i) *For facilities that are nursing homes:* It received, for the three most recent fiscal years, no monies directly from patients with incomes up to triple the current poverty line issued by the

Secretary pursuant to 42 U.S.C. 9902, exclusive of amounts charged or received for purposes of claiming reimbursement under third party insurance or governmental programs, such as Medicaid or Medicare deductible or coinsurance amounts;

(ii) *For all other facilities.* It received, for the three most recent fiscal years, no monies directly from patients with incomes up to double the current poverty line issued by the Secretary pursuant to 42 U.S.C. 9902, exclusive of amounts charged or received for purposes of claiming reimbursement under third party insurance or governmental programs, such as Medicaid or Medicare deductible or coinsurance amounts; or

* * * * *

[FR Doc. 95–7846 Filed 3–30–95; 8:45 am]

BILLING CODE 4160–15–M

federal register

Friday
March 31, 1995

Part VI

Department of Education

National Institute on Disability and Rehabilitation Research; Knowledge Dissemination and Utilization (D&U) Program; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Knowledge Dissemination and Utilization (D&U) Program

AGENCY: Department of Education.

ACTION: Notice of proposed funding priority for fiscal years 1995–1996 for the Knowledge Dissemination and Utilization Program.

SUMMARY: The Secretary proposes a funding priority for the Knowledge Dissemination and Utilization (D&U) Program under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1995–1996. The Secretary takes this action to ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of individuals with disabilities and their families.

DATES: Comments must be received on or before May 1, 1995.

ADDRESSES: All comments concerning this proposed priority should be addressed to Betty Jo Berland, U.S. Department of Education, 600 Independence Avenue SW, Switzer Building, Room 3422, Washington, DC 20202–2601.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8133.

SUPPLEMENTARY INFORMATION: This notice contains one proposed priority under the D&U program, in the area of community integration for individuals with mental retardation.

Authority for the D&U program of NIDRR is contained in sections 202 and 204(a) and 204(b)(6) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program the Secretary makes awards to public and private agencies and organizations, including institutions of higher education and Indian tribes or tribal organizations.

This proposed priority supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Under the regulations for this program (see 34 CFR 355.32), the Secretary may establish research priorities by reserving funds to support particular research activities.

The Secretary will announce the final funding priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the final priority, the availability of funds, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this program only applications that meet this absolute priority:

Proposed Priority: Facilitating Community Integration for Individuals with Mental Retardation

Background

NIDRR has supported Rehabilitation Research and Training Centers in the area of mental retardation and developmental disabilities since 1965. In addition, NIDRR has supported a number of research projects targeted on this population in areas such as transition from school to work, public policy and expenditures for developmental disabilities in the U.S., and successful transitions from nursing homes into the community. As a result of such research and training efforts over many years, a large body of knowledge now exists relative to enabling individuals with mental retardation to live in their communities.

The population of public institutions for persons with mental retardation has decreased from 195,000 in 1967 to 81,200 persons in 1991, (Lakin, 1993) as a result of public policy decisions and vigorous efforts of public leadership groups to effect deinstitutionalization. However, successful integration into communities that includes residential, employment, and full participation components is not easily achieved.

During the past eight years there have been major developments in the understanding of community integration needs and strategies, including: Funding models that allow for individualized options; systems for assessing support needs for an individual and in a community; models for both formal and informal support systems, and for integrating the two approaches; and model strategies for systems change within States. (Horner, 1994). Yet in nearly every State, policy and practice do not reflect these advances in knowledge and understanding, and do not take advantage of the best practices models and implementation strategies that have evolved through research and practice.

As a result, innovative supports for living in their own home or community are available to very few of those who potentially could benefit from them. Many thousands of people with developmental disabilities continue to live in private and public institutions and ''mini-institutions'' in the community. In many cases, ''deinstitutionalization has resulted in trans-institutionalization''. (Taylor, 1994) There are approximately 64,800 persons with mental retardation and related conditions who are not receiving any form of residential services and who are now on waiting lists for community residential services (Lakin et al., 1993). And, although 48 percent of all individuals with mental retardation nationwide resided in large congregate care settings in 1992, there were 8 States that provided services to more than 60 percent of consumers in family-scale settings serving six or fewer individuals, while conversely, 6 States served fewer than 10 percent of their clients in such small settings (Braddock, 1994).

Thus, there is a demand for community integration assistance, coupled with a tremendous variation in State ability to meet those demands. This variation in services indicates that there is a critical need for information about innovative, state-of-the-art practices and for training and technical assistance on how to improve policies and practices on community integration at the State and community levels.

NIDRR received substantial public comment on its 1995 proposed priorities, contending that there is a national need for information on best practices for community integration and a demand for training of service providers and consumers to help communities overcome the challenges of fully including all of their citizens and their families, and to make community integration a reality. State and local policy makers, regulators, and service agencies, as well as community service providers require training and technical assistance to enable them to address the issues that will emerge as States and localities move toward a system of individualized supports. States and communities require

information and training on policies and strategies that could assist them in shifting from a provider-driven to a consumer-driven service delivery system. The quality of community services delivered to persons with disabilities and their families will also depend on the ability of educational, employment and residential service agencies to effectively address the training needs of their approximately 250,000 direct service personnel (Wallace, T. & Johnson, D., 1992 and Braddock, 1994).

The Secretary believes that there is a critical need for dissemination of information on model programs, integrated statewide systems of service delivery, exemplary practices, and systems change strategies. In addition, there is a need to develop more effective mechanisms for training community-level service providers to ensure the implementation of best practices, and to provide training and technical assistance to consumer-directed self-advocacy organizations and parent organizations.

Priority

Under this priority, the Secretary supports a dissemination and technical assistance center that—(1) identifies and disseminates exemplary practices in community integration for individuals with mental retardation; and (2) provides training and technical assistance to State and local agencies, community-based service providers, and consumer-controlled advocacy organizations to facilitate the adoption of exemplary practices in community integration for individuals with mental retardation.

In addition to activities proposed by the applicant to carry out these purposes, the center must conduct the following activities.

- Design and implement a national information resource on community integration to serve policymakers and administrators, community-based service providers, consumer-controlled advocacy organizations, and individuals with mental retardation and their families, ensuring that information is available in accessible formats appropriate to individuals with a range of sensory, cognitive, and other disabilities;
- Prepare materials on important topical issues, which might include, for example: Strategies to address social and cultural barriers to full inclusion; strategies for cross-agency collaboration in the development of individualized services or case management practices; and reasonable accommodations to facilitate community inclusion, and use them in information dissemination, training, and technical assistance activities as appropriate; and
- Coordinate with existing NIDRR-funded projects and centers, and build upon the products of past NIDRR projects and similar efforts funded by other Federal agencies, to ensure that the best and most current information on needs and best practices is incorporated into the information dissemination, training, and technical assistance of this center.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this proposed priority will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR parts 350 and 355.

Program Authority: 29 U.S.C. 760–762.

Dated: March 28, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Number 84.133D, Knowledge Dissemination and Utilization Program)

[FR Doc. 95–7942 Filed 3–30–95; 8:45 am]

BILLING CODE 4000–01–P

federal register

Friday
March 31, 1995

Part VII

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notices

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved First Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through her delegated authority, has approved the First Amendment to the Tribal/State Gaming Compact Between the Swinomish Indian Tribal Community and the State of Washington executed on January 26, 1995.

DATES: This action is effective March 31, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: March 17, 1995.

Ada E. Deer,

Assistant Secretary - Indian Affairs.

[FR Doc. 95–7939 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Third Amendment to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Third Amendment to the Tribal/State Gaming Compact Between the Tulalip Tribes of Washington and the State of Washington executed on January 26, 1995.

DATES: This action is effective March 31, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: March 17, 1995.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 95–7940 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureu of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary - Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal/State Gaming Compact between the Suquamish Tribe and the State of Washington, which was executed on January 26, 1995.

DATES: This action is effective March 31, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: March 17, 1995.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 95–7941 Filed 3–30–95; 8:45 am]

BILLING CODE 4310–02–P

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