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Tuesday
July 11, 1995

Briefings on How To Use the Federal Register
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WHO: The Office of the Federal Register.

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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: July 27 at 9:00 am

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

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Contents

Federal Register

Vol. 60, No. 132

Tuesday, July 11, 1995

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
Inter Tribal Council, 35749–35750
Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 35750

Agriculture Department
See Animal and Plant Health Inspection Service

Animal and Plant Health Inspection Service
PROPOSED RULES
Plant-related quarantine; foreign:
Khapra beetle, brassware and wooden screens from India; importation, 35712–35713

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Assassination Records Review Board
NOTICES
Meetings; Sunshine Act, 35794

Coast Guard
RULES
Ports and waterways safety:
Connecting waters from Lake Huron to Lake Erie; speed limits, 35701–35702
Upper Mississippi River; safety zone, 35702–35703
Regattas and marine parades:
Port Huron to Mackinac Island Race, 35699–35701

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 35724

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Board of Trade—
Property claims services, 35725
Chicago Mercantile Exchange—
Brazilian real futures and futures options, 35725–35726
New York Mercantile Exchange—
New York Harbor conventional gasoline, 35726
National Futures Association:
Telemarketing activities supervision, 35726–35728

Customs Service
NOTICES
Petitions by domestic interested parties:
Safety glasses; country of origin marking, 35792–35793

Defense Department
See Defense Logistics Agency
RULES
Freedom of Information Act; implementation:
Defense Contract Audit Agency; new address, 35699

Defense Logistics Agency
PROPOSED RULES
Acquisition regulations:
Quality assurance, 35720–35723

Education Department
NOTICES
Agency information collection activities under OMB review, 35728

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
Global Environment & Technology Foundation, 35729
Meetings:
DOE Nuclear Safety External Regulation Advisory Committee, 35729–35730
Natural gas exportation and importation:
ProGas U.S.A., Inc., 35743
Redwood Resources Inc., 35743
Tanglewood Storage & Transportation Corp., 35743–35744

Environmental Protection Agency
RULES
Air pollution control:
Federal regulatory review
Correction, 35796
Hazardous waste:
Liquids in landfills; non-biodegradable sorbent test, 35703–35706
PROPOSED RULES
Acquisition regulations:
Information Resources Management policies; electronic access, 35719–35720
Hazardous waste:
Liquids in landfills; non-biodegradable sorbent test, 35718–35719
NOTICES
Meetings:
Common sense initiative—
Automobile manufacturing and computers and electronics sectors, 35744

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
NOTICES
Airport noise compatibility program:
Noise exposure map—
Boise Air Terminal, ID, 35785–35786
Meetings:
Aviation Rulemaking Advisory Committee, 35786
Passenger facility charges; applications, etc.:
Eastern Oregon Regional Airport, OR, 35786–35787

Federal Communications Commission
PROPOSED RULES
Radio services, special:
Private land mobile services—
900 MHz specialized mobile radio proceedings; designated entities treatment, 35719
NOTICES
Agency information collection activities under OMB review, 35744–35747
Meetings; Sunshine Act, 35794
Rulemaking proceedings; petitions filed, granted, denied, etc., 35747

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Virginia Electric & Power Co., et al., 35730–35732
Natural gas certificate filings:
Williams Natural Gas Co. et al., 35732–35735
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 35735
Carnegie Interstate Pipeline Co., 35735
CNG Transmission Corp., 35735
East Tennessee Natural Gas Co., 35735–35736
El Paso Natural Gas Co., 35736
Iroquois Gas Transmission System, L.P., 35736
Koch Gateway Pipeline Co., 35737
Midwestern Gas Transmission Co., 35737
National Fuel Gas Supply Corp., 35737–35738
Northern Natural Gas Co., 35738
Overthrust Pipeline Co., 35738
Questar Pipeline Co., 35739
Tennessee Gas Pipeline Co., 35739–35740
Texas Eastern Transmission Corp., 35740–35741
Transcontinental Gas Pipe Line Corp., 35741
Williams Natural Gas Co., 35741–35742
Williston Basin Interstate Pipeline Co., 35742–35743
Young Gas Storage Co., Ltd., 35743

Federal Highway Administration
NOTICES
Meetings:
Intelligent Transportation Society of America, 35787

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
BancTenn Corp., 35747–35748
Marblehead Bancorp et al., 35748
Princeton/LeClaire Agency, Inc., et al., 35748–35749

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 35794

Food and Drug Administration
PROPOSED RULES
Dental devices:
Denture cushions or pads and denture repair kits (OTC); premarket approval, 35713–35718
NOTICES
Biological products:
Development and manufacture; pilot manufacturing facilities use guidance, 35750–35753

General Services Administration
RULES
Federal property management:
Utilization and disposal—
Port facilities; cost-free conveyances of surplus real property, 35706–35710

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
See Public Health Service
RULES
Grants:
Objectivity in research, 35810–35819
NOTICES
Scientific misconduct findings; administrative actions:
Urban, James, M.D., Ph.D., 35749

Housing and Urban Development Department
RULES
Public and Indian housing:
Participation and compliance requirements, 35691–35692

Interior Department
See National Biological Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Commercial News USA (CNUSA); solicitation of private sector partner to collaborate in production and distribution, 35724–35725

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Claussen, H. Peter, et al., 35753–35754

Labor Department
See Mine Safety and Health Administration

Mine Safety and Health Administration
RULES
Technical amendments; nomenclature changes and corrections, 35692–35696

National Biological Service
NOTICES
Agency information collection activities under OMB review, 35753

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities National Council, 35754
Humanities Panel, 35754–35755

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 35787–35788

National Institute for Literacy
RULES
Literacy leader fellowship program, 35798–35801
NOTICES
Grants and cooperative agreements; availability, etc.:
Literacy leader fellowship program, 35802–35808

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 35711

National Park Service
NOTICES
Native American human remains and associated funerary objects:
Hood Museum of Art, NH; Zuni prayer sticks; correction, 35796

National Science Foundation
NOTICES
Investigator financial disclosure policy, 35820–35823

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Wisconsin Electric Power Co., 35755–35756
Meetings:
Reactor Safeguards Advisory Committee, 35756
Meetings; Sunshine Act, 35794–35795

Presidential Documents
ADMINISTRATIVE ORDERS
Palestine Liberation Organization; suspending restriction on U.S. relations (Presidential Determination No. 95–31 of July 2, 1995), 35827

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
RULES
Grants:
Objectivity in research, 35810–35819

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Stock Exchange, Inc., 35756–35757
National Association of Securities Dealers, Inc., 35757–35759
New York Stock Exchange, Inc., 35759–35771
Philadelphia Stock Exchange, Inc., 35771–35773
Applications, hearings, determinations, etc.:
Hartford Life Insurance Co. et al., 35773–35777
Paine Webber Group Inc. et al., 35777–35778
Pioneer America Fund, Inc., 35779
Pioneer Money Market Account, Inc., 35779–35780
Public utility holding company filings, 35780–35782
Smith Hayes Trust, Inc.-Capital Builder Fund et al., 35782–35783

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Illinois, 35696–35699

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
NOTICES
Agency information collection activities under OMB review, 35783–35785

Treasury Department
See Customs Service
NOTICES
Agency information collection activities under OMB review, 35789–35790
Committees; establishment, renewal, termination, etc.:
Public Securities Association Treasury Borrowing Committee, 35790–35791
Meetings:
Debt Management Advisory Committee, 35791–35792

Separate Parts In This Issue

Part II
Department of Education, National Institute for Literacy, 35798–35808

Part III
Department of Health and Human Services, Public Health Service, 35810–35823

Part IV
The President, 35827

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 95–31 of July 2, 1995 35827

7 CFR

Proposed Rules:

319 35712

21 CFR

Proposed Rules:

872 35713

24 CFR

200 35691
905 35691
941 35691
968 35691

30 CFR

18 35692
19 35692
20 35692
22 35692
27 35692
28 35692
35 35692
36 35692
50 35692
56 35692
57 35692
70 35692
71 35692
74 35692
77 35692
90 35692
913 (2 documents) 35696, 35697

32 CFR

290 35699

33 CFR

100 35699
162 35701
165 35702

34 CFR

Ch. XI 35798
1100 35798

40 CFR

264 35703
265 35703
271 35703
436 35796

Proposed Rules:

264 35718
265 35718

41 CFR

101–47 35706

42 CFR

50 35810

45 CFR

94 35810

47 CFR

Proposed Rules:

90 35719

48 CFR

Proposed Rules:

1552 35719
5446 35720
5452 35720

50 CFR

672 35711

Rules and Regulations

Federal Register
Vol. 60, No. 132
Tuesday, July 11, 1995

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

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 905, 941, and 968

[Docket No. R–95–1724; FR–3645–F–02]

RIN 2577–AB42

Amendment to the Participation and Compliance Requirements for Public Housing Agencies and Indian Housing Authorities

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule deletes the current regulatory requirements that public housing agencies and Indian housing authorities (referred to as HAs) be subject to HUD's Previous Participation Review and Clearance Procedures. The purpose of the amendment is to streamline the contracting process for HAs and to enable them to obligate much needed development and modernization funding in a more timely fashion.

EFFECTIVE DATE: August 10, 1995.

FOR FURTHER INFORMATION CONTACT: William C. Thorson, Director, Maintenance and Supply Division, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4124, Washington, DC 20410. Telephone: (202) 708–4703. This is not a toll-free number.

Indian housing authorities may contact Dom Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708–0032. This is not a toll-free number.

Hearing or speech impaired individuals may contact this Office via TDD number (202) 708–9300 (which is not a toll-free number) or 1–800–877–8339 (which is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

This final rule does not impose any information collection requirements. Instead, it would eliminate the requirement for HAs and HA contractors to submit form HUD–2530, Previous Participation Certificate, to HUD. As a result of this final rule, there would be a reduction in the information burden on HUD program participants.

II. Background

Formerly, subpart H of 24 CFR part 200 of the HUD regulations made principals participating in projects financed pursuant to the United States Housing Act of 1937 subject to HUD approval under the previous participation and review requirements set forth in that Subpart. Principals included ''an individual, joint venture, partnership, corporation, trust, nonprofit association, or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, nursing home administrator or operator, packager, or consultant; and architects and attorneys who had any interest in the project other than an arms-length fee arrangement for professional services.''

Previously under subpart H, all principals were requested to sign personally a certificate setting forth their record of previous participation in HUD programs. These certifications were subjected to review and either approval or disapproval by the Department. An approval was required as a precondition to participation by the principal in a specific project.

HAs frequently cited the previous participation approval requirement as an obstacle to their timely obligation of funds. In reviewing the matter, the Department found that approximately 78,000 principals were entered into HUD's previous participation automated system during 1993. This figure included principals from all programs administered by the Assistant Secretary for Housing and the Assistant Secretary for Public and Indian Housing. The automated system approved over 73,500 principals while approximately 4,500 principals were referred to Headquarters for further review. About 1,500 of the referrals (less than 2 percent) involved principals in the public/Indian housing programs. Of the 1,500 public/Indian housing principals, the majority were found to be approvable. Only a limited number were disapproved, and most of the disapprovals were based on existing debarments or suspensions. It should also be noted that HAs already have the authority to disqualify contractors who are on the General Services Administration Debarred and Suspended List.

This Departmental analysis of the previous participation process raised serious questions regarding the benefits derived vs. the delays caused in program implementation. Also taken into account in the analysis was the fact that the Department's procurement regulations, at 24 CFR 85.36, require State and local grantees, including HAs, to award contracts only to contractors possessing the ability to perform successfully under the terms and conditions of their contract. In assessing their ability to perform, consideration should be given by grantees to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources. It was also noted that, in other similar State, local, or Indian Tribes grant programs administered by the Department, such as the Community Development Block Grant program, grantees are not subject to a second previous participation and compliance review by HUD. Instead, grantees, pursuant to the procurement procedures set forth at 24 CFR part 85, are given the responsibility to make their own determinations of contractor responsibility and are permitted to execute contracts without obtaining prior HUD approval.

Given the very low number of disapprovals of public/Indian housing principals compared to the relatively high dollar value of the program (approximately $3 billion annually) and the urgent need to streamline HUD procedures, the Department has concluded that the risk to the Government of eliminating the previous participation approval for HAs is extremely limited. Accordingly, the Department issued an interim rule on June 20, 1994 amending the existing regulations to remove public and Indian housing developments financed under the U.S. Housing Act of 1937 from the

Previous Participation and Compliance Requirements set forth in 24 CFR part 200, Subpart H. HAs are still expected, however, to determine, pursuant to 24 CFR 85.36, if a contractor is responsible, based on its own records, the GSA Debarred and Suspended list, the HUD Limited Denial of Participation List, and any other information available to the HA. HUD is now issuing a final rule to complete this regulatory action.

III. Public Comment on Interim Rule

Seven written comments were received from the public on the June 20, 1994 interim rule. All were from public housing authorities. Six of the commenters strongly endorsed the rule.

One commenter (Town of Rampano Housing Authority) objected to the rule's elimination of the previous participation certificate requirement for HAs. It argued that ''* * * without the necessity of a contractor completing HUD 2530, the Authority has no way of verifying whether or not the contracting firm is both ethical and/or viable. Said unethical company might start out in Texas, however, by the time it reaches New York—other than through the use of the 2530, the Authority has no way of making the appropriate determination. Certainly, you must agree that the aforementioned will not be indicated on either the GSA Debarred list.''

As noted above, HAs are required by the Department's procurement regulations at 24 CFR 85.36 to determine contractor responsibility. As a part of that determination, HAs can and should obtain a list of references indicating the contractor's past experiences. HAs should check those references to verify that the contractor's past performance was acceptable. The Department does not believe that it should continue to maintain this additional approval level which only serves to delay contract award and the completion of much needed work.

IV. Other Matters

A. Environmental Impact

The subject matter of this final rule is categorically excluded from HUD's environmental clearance procedures under 24 CFR 50.20(k). It relates to administrative procedures whose content does not constitute a development decision but only to the preparation of reports and HUD management activities.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this final rule do not have ''federalism implications'' within the meaning of the Order. This final rule does not, in any substantive manner, change existing relationships between the Federal government and State and local authorities.

C. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication and, by approving it, certifies that it will not have a significant economic impact on small entities. This final rule only directly affects PHAs and IHAs which are State and local governmental entities. The final rule should prove beneficial to PHAs and IHAs and should have no negative impact upon their contractors.

D. Executive Order 12606, The Family

The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the provisions of this final rule do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order.

E. Regulatory Agenda

This rule was listed as item 1529 in the Department's Semiannual Agenda of Regulations published on May 8, 1995 (60 FR 23368, 23402) under Executive Order 12866 and the Regulatory Flexibility Act.

F. Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program number is 14.852.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 905

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

24 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

24 CFR Part 968

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, parts 200, 905, 941, and 968 of title 24 of the Code of Federal Regulations are amended by adopting the interim rule published in the **Federal Register** June 20, 1994 (59 FR 31521) as final, without change.

Dated: July 3, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–16935 Filed 7–10–95; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 18, 19, 20, 22, 27, 28, 35, 36, 50, 56, 57, 70, 71, 74, 77, 90

Technical Amendments

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule; technical amendments.

SUMMARY: The Mine Safety and Health Administration (MSHA) is amending its regulations to make certain nomenclature changes and to correct addresses which have changed since the regulations were originally issued.

EFFECTIVE DATE: July 11, 1995.

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

SUPPLEMENTARY INFORMATION: MSHA has identified numerous sections with inaccurate addresses and in need of other nomenclature changes. This final rule makes technical amendments to update these sections. The address for MSHA's Approval and Certification Center is corrected; obsolete references to two specific testing laboratories are removed; references to metal and nonmetal subdistrict offices, which no longer exist, are removed; the name of the Denver Safety and Health

Technology Center is corrected; the street address for the Pittsburgh Safety and Health Technology Center is added to accommodate delivery of overnight mail; certain addresses for obtaining documents incorporated by reference are corrected. As this amendment involves nonsubstantive matters relating to agency management and organization, it is exempt from the notice and comment procedures of 5 U.S.C. 553.

List of Subjects in 30 CFR Parts 18, 19, 20, 22, 27, 28, 35, 36, 50, 56, 57, 70, 71, 74, 77, and 90

Mine safety and health.

Dated: June 30, 1995.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Accordingly, under the authority of 30 U.S.C. 957, chapter I, title 30 of the Code of Federal Regulations is amended as follows:

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

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

Authority: 30 U.S.C. 957, 961.

2. Section 18.6 is amended by revising the third sentence of paragraph (a) to read as follows:

§ 18.6 Applications.

(a) * * * The application, all related matters, and all correspondence concerning it shall be addressed to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

3. Section 18.81 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 18.81 Field modification of approved (permissible) equipment; application for approval of modification; approval of plans for modification before modification.

(a) * * * The application, together with the plans of modifications, shall be filed with Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

4. Section 18.82 is amended by revising the second sentence of paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 18.82 Permit to use experimental electric face equipment in a gassy mine or tunnel.

(a) * * * The user shall submit a written application to the Assistant Secretary of Labor for Mine Safety and Health, 4015 Wilson Boulevard, Arlington, VA 22203, and send a copy to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

(c) *Final inspection*. Unless equipment is delivered to MSHA for investigation, the applicant shall notify Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, when and where the experimental equipment will be ready for inspection by a representative of MSHA before installing it on a trial basis. * * *

* * * * *

PART 19—ELECTRIC CAP LAMPS

5. The authority citation for part 19 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

6. Section 19.3 is amended by revising the second sentence to read as follows:

§ 19.3 Applications.

* * * This application, in duplicate, accompanied by a check, bank draft, or money order, payable to U.S. Mine Safety and Health Administration, to cover all the necessary fees, shall be sent to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, together with the required drawings, one complete lamp, and instructions for its operation.

7. Section 19.4 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 19.4 Conditions governing investigations.

(a) * * * This material should be sent prepaid to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

8. Section 19.13 is amended by revising paragraph (a) to read as follows:

§ 19.13 Instructions for handling future changes in lamp design.

* * * * *

(a) The manufacturer shall write to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, requesting an extension of the original approval and stating the change or changes desired. With this letter, the manufacturer should submit a revised drawing or drawings showing the changes in detail, and one of each of the changed lamp parts.

* * * * *

PART 20—ELECTRIC MINE LAMPS OTHER THAN STANDARD CAP LAMPS

9. The authority citation for part 20 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

10. Section 20.3 is amended by revising the second sentence to read as follows:

§ 20.3 Applications.

* * * This application, in duplicate, accompanied by a check, bank draft, or money order, payable to the U.S. Mine Safety and Health Administration, to cover all the necessary fees, shall be sent to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, together with the required drawings, one complete lamp, and instructions for its operation.

11. Section 20.5 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 20.5 Conditions governing investigations.

(a) * * * This material should be sent prepaid to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

12. Section 20.14 is amended by revising the introductory paragraph and paragraph (a) to read as follows:

§ 20.14 Instructions for handling future changes in lamp design.

All approvals are granted with the understanding that the manufacturer will make the lamp according to the drawings submitted to MSHA, which have been considered and included in the approval. Therefore, when the manufacturer desires to make any change in the design of the lamp, the manufacturer should first obtain an extension of the original approval to cover the change. The procedure is as follows:

(a) The manufacturer shall write to the Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, requesting an extension of the original approval and describing the change or changes proposed. With this letter, the manufacturer should submit a revised drawing or drawings showing the changes in detail, and one of each of the changed lamp parts.

* * * * *

PART 22—PORTABLE METHANE DETECTORS

13. The authority citation for part 22 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

14. Section 22.4 is amended by revising the second sentence to read as follows:

§ 22.4 Applications.

* * * This application, in duplicate, accompanied by a check, bank draft, or money order, payable to the U.S. Mine Safety and Health Administration, to cover all the necessary fees, shall be sent to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, together with the required drawings, one complete detector, and instructions for its operation.

15. Section 22.5 is amended by revising paragraph (a) to read as follows:

§ 22.5 Conditions governing investigations.

(a) One complete detector, with assembly and detail drawings that show the construction of the device and the materials of which it is made, should be forwarded prepaid to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, at the time the application for tests is made.

* * * * *

16. Section 22.11 is amended by revising the introductory paragraph and paragraph (a) to read as follows:

§ 22.11 Instructions on handling future changes in design.

All approvals are granted with the understanding that the manufacturer will make the detector according to the drawings submitted to MSHA which have been considered and included in the approval. Therefore, when the manufacturer desires to make any changes in the design, the manufacturer should first obtain MSHA's approval of the change. The procedure is as follows:

(a) The manufacturer should write to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, requesting an extension of the original approval and stating the change or changes desired. With this request, the manufacturer should submit a revised drawing or drawings showing changes in detail, together with one of each of the parts affected.

* * * * *

PART 27—METHANE-MONITORING SYSTEMS

17. The authority citation for part 27 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

18. Section 27.3 is amended by revising the first sentence to read as follows:

§ 27.3 Consultation.

By appointment, applicants or their representatives may visit Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, to discuss with qualified MSHA personnel proposed methane-monitoring systems to be submitted in accordance with the regulations of this part. * * *

19. Section 27.4 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 27.4 Applications.

(a) * * * The application and all related matters and correspondence concerning it shall be addressed to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

PART 28—FUSES FOR USE WITH DIRECT CURRENT IN PROVIDING SHORT-CIRCUIT PROTECTION FOR TRAILING CABLES IN COAL MINES

20. The authority citation for part 28 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

21. Section 28.10 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 28.10 Application procedures.

(a) Each applicant seeking approval of a fuse for use with direct current in providing short-circuit protection for trailing cables shall arrange for submission, at applicant's own expense, of the number of fuses necessary for testing to a nationally recognized independent testing laboratory capable of performing the examination, inspection, and testing requirements of this part.

* * * * *

(c) Upon satisfactory completion by the independent testing laboratory of the examination, inspection, and testing requirements of this part, the data and results of such examination, inspection, and tests shall be certified by both the applicant and the laboratory and shall be sent for evaluation of such data and results to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059. * * *

* * * * *

22. Section 28.31 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 28.31 Quality control plans; contents.

* * * * *

(b) * * * Military Specification MIL-F–15160D is available for examination at Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059. * * *

* * * * *

23. Section 28.40 is amended by revising the second sentence of paragraph (d) to read as follows:

§ 28.40 Construction and performance requirements; general.

* * * * *

(d) * * * This document is available for examination at Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, and copies of the document are available from Underwriters Laboratories, Inc., 161 Sixth Avenue, New York, NY 10013.

* * * * *

PART 35—FIRE-RESISTANT HYDRAULIC FLUIDS

24. The authority citation for part 35 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

25. Section 35.3 is amended by revising the first sentence to read as follows:

§ 35.3 Consultation.

By appointment, applicants or their representatives may visit Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, to discuss with qualified MSHA personnel proposed fluids to be submitted in accordance with the regulations of this part. * * *

26. Section 35.6 is amended by revising the second sentence of paragraph (a) and the third sentence of paragraph (g) to read as follows:

§ 35.6 Applications.

(a) * * * The application and all related matters and correspondence concerning it shall be sent to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

(g) * * * All samples and related materials required for testing must be delivered (charges prepaid) to Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

PART 36—MOBILE DIESEL-POWERED TRANSPORTATION EQUIPMENT FOR GASSY NONCOAL MINES AND TUNNELS

27. The authority citation for part 36 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

28. Section 36.3 is amended by revising the first sentence to read as follows:

§ 36.3 Consultation.

By appointment, applicants or their representatives may visit Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059, to discuss with qualified MSHA personnel proposed mobile diesel-powered transportation equipment to be submitted in accordance with the regulations of this part. * * *

29. Section 36.6 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 36.6 Applications.

(a) * * * The application and all related matters and correspondence concerning it shall be addressed to the Approval and Certification Center, RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059.

* * * * *

PART 50—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS, INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

30. The authority citation for part 50 is revised to read as follows:

Authority: 29 U.S.C. 577a; 30 U.S.C. 951, 957, 961.

31. Section 50.20 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 50.20 Preparation and submission of MSHA Report Form 7000–1—Mine Accident, Injury, and Illness Report.

(a) * * * These may be obtained from MSHA Metal and Nonmetal Mine Safety and Health District Offices and from MSHA Coal Mine Safety and Health Subdistrict Offices. * * *

* * * * *

§ 50.20–1 [Amended]

32. In § 50.20–1 remove the words ''MSHA—Health and Safety Analysis Center'' wherever they appear and add, in their place, the words ''Denver Safety and Health Technology Center.'' In addition, remove the phrase ''(HSAC)'' from the fifth sentence.

§ 50.30 [Amended]

33. In § 50.30 remove the words ''MSHA Health and Safety Analysis Center'' and add, in their place, the words ''Denver Safety and Health Technology Center''; and remove the words ''MSHA Metal and Nonmetallic Mine Health and Safety Subdistrict Offices'' and add, in their place, the words ''MSHA Metal and Nonmetal Mine Safety and Health District Offices.''

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

34. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811, 957, 961.

§ 56.2 [Amended]

35. In § 56.2, in the definitions of ''Blasting agent,'' ''Explosive,'' and ''Potable water,'' remove the word ''Subdistrict'' and add, in its place, the word ''District.''

§ 56.1000 [Amended]

36. In § 56.1000 remove the word ''Subdistrict'' and add, in its place, the word ''District.''

§§ 56.5001, 56.5005, 56.5050, and 56.12047 [Amended]

37. Remove the words ''or Subdistrict'' in the following places:

a. § 56.5001(a)
b. § 56.5005(b)
c. § 56.5050(a)
d. § 56.12047

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

38. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811, 957, 961.

§ 57.2 [Amended]

39. In § 57.2, in the definitions of ''Blasting agent,'' ''Explosive,'' and ''Potable water,'' remove the word ''Subdistrict'' and add, in its place, the word ''District.''

§§ 57.1000, 57.5040, 57.5047 [Amended]

40. In §§ 57.1000, 57,5040(b)(4), and 57.5047(b), remove the word ''Subdistrict'' and add, in its place, the word ''District.''

§§ 57.5001, 57.5005, 57.5050, and 57.12047 [Amended]

41. Remove the words ''or Subdistrict'' in the following places:

a. § 57.5001(a)
b. § 57.5005(b)
c. § 57.5050
d. § 57.12047

PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

42. The authority citation for part 70 continues to read as follows:

Authority: 30 U.S.C. 811, 813(h), 957, 961.

§ 70.209 [Amended]

43. In § 70.209(a), add the words ''Cochrans Mill Road, Building 38,'' after the words ''Pittsburgh Safety and Health Technology Center''.

PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

44. The authority citation for part 71 is revised to read as follows:

Authority: 30 U.S.C. 811, 951, 957, 961.

§ 71.209 [Amended]

45. In § 71.209(a), add the words ''Cochrans Mill Road, Building 38,'' after the words ''Pittsburgh Safety and Health Technology Center''.

PART 74—COAL MINE DUST PERSONAL SAMPLER UNITS

46. The authority citation for part 74 continues to read as follows:

Authority: 30 U.S.C. 957, 961.

§ 74.6 [Amended]

47. In § 74.6(a) remove the words ''Box 201 B, Industrial Park Road, Dallas Pike, Triadelphia, W. Va. 26059'' and add, in their place, the words ''RR 1, Box 251, Industrial Park Road, Triadelphia, WV 26059''.

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

48. The authority citation for part 77 continues to read as follows:

Authority: 30 U.S.C. 811, 957, 961.

49. Section 77.403b is amended by revising the fifth and sixth sentences to read as follows:

§ 77.403b Incorporation by reference.

* * * SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096. American Welding Society Structural Welding Code D1–1–73 is available from the American Welding Society, Inc., 550 N.W. LeJeune Road, Miami, FL 33126.

* * *

PART 90—MANDATORY HEALTH STANDARDS—COAL MINERS WHO HAVE EVIDENCE OF THE DEVELOPMENT OF PNEUMOCONIOSIS

50. The authority citation for part 90 is revised to read as follows:

Authority: 30 U.S.C. 811, 813(h).

§ 90.209 [Amended]

51. In § 90.209(a), add the words ''Cochrans Mill Road, Building 38,'' after the words ''Pittsburgh Safety and Health Technology Center''.

[FR Doc. 95–16849 Filed 7–10–95; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[IL–090]

Illinois Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Illinois regulatory program (hereinafter referred to as the ''Illinois program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois proposed to merge the Illinois Department of Mines and Minerals into the newly created Illinois Department of Natural Resources. The amendment is intended to improve operational efficiency.

EFFECTIVE DATE: July 11, 1995.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Acting Director, Springfield Field Office, 511 West Capitol, Suite 202, Springfield, Illinois 62704. Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

II. Submission of the Proposed Amendment

By letter dated March 3, 1995 (Administrative Record No. IL–1700), Illinois submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Illinois proposed to merge the Illinois Department of Mines and Minerals into the new Illinois Department of Natural Resources by virtue of Executive Order Number 2 (1995) signed by the Governor of Illinois on March 1, 1995, effective July 1, 1995. Article V, Section 11 of the Constitution of the State of Illinois authorizes the Governor to reassign functions or reorganize executive agencies to simplify the organizational structure of the Executive Branch, to improve accountability, to increase accessibility, and to achieve efficiency and effectiveness in operation.

OSM announced receipt of the proposed amendment in the March 27, 1995, **Federal Register** (60 FR 15726), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on April 26, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Part I(C)—Redesignation

At Part I(C) of Executive Order Number 2, Illinois provides that the Department of Natural Resources will have within it an Office of Mines and Minerals which will be responsible for the functions previously vested in the Department of Mines and Minerals and the Abandoned Mined Lands Reclamation Council.

B. Part II(C)—Transfer of Powers

At Part II(C), Illinois is transferring the Surface-Mined Land Conservation and Reclamation Act (225 ILCS 715/1 *et seq.*) and the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720.1.01 *et seq.*) from the Department of Mines and Minerals to the Department of Natural Resources along with the rights, powers, and duties by law incidental to these Acts.

C. Part III(A–C)—Effect of Transfer

At Part III(A), Illinois is abolishing the Department of Mines and Minerals. At Part III(B), Illinois is abolishing the office of the Director of Mines and Minerals. At Part III(C), Illinois is transferring personnel previously assigned to the Department of Mines and Minerals to the Department of Natural Resources.

D. Part IV(F)—Savings Clause

At part IV(F), Illinois states that the Executive Order will not affect the legality of any rules in the Illinois Administrative Code. It is requiring that the Department of Natural Resources (and other affected departments) propose and adopt under the Illinois Administrative Procedure Act those rules necessary to consolidate and clarify the rules that will be administered by the successor agency.

In its submittal letter dated March 3, 1995 (Administrative Record No. IL–1700), Illinois stated, ''Under the planned agency reorganization, the currently approved state regulatory authority over coal mining and reclamation operations will cease to exist in name only. The Illinois Department of Mines and Minerals' (IDMM) regulatory functions, including those mandated by section 503 of SMCRA, 30 U.S.C. 1253, will continue uninterrupted. In short, the upcoming agency reorganization will not change the IDMM's authority to implement, administer or enforce the currently approved regulatory program; the IDMM will simply be known by another name.''

There are no direct Federal counterparts to the revisions contained in Executive Order Number 2. Because the proposed revisions do not affect the regulatory authority's implementation of its approved program, the Director finds the revisions not inconsistent with the requirements of SMCRA and the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Illinois program. No comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Illinois proposed to make in this amendment pertain to air or water quality standards. However, by letter dated March 22, 1995 (Administrative Record No. IL–1704), the EPA concurred without comment.

V. Director's Decision

Based on the above finding(s), the Director approves the proposed amendment as submitted by Illinois on March 3, 1995.

The Federal regulations at 30 CFR part 913, codifying decisions concerning the Illinois program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section.

However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 30, 1995.

Ronald C. Recker,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended by adding paragraph (r) to read as follows:

§ 913.15 Approval of regulatory program amendments.

* * * * *

(r) The following amendment, as submitted to OSM on March 3, 1995, is approved effective July 11, 1995.

Executive Order Number 2, Sections I(C), II(C), III, IV(F)—Reorganization

[FR Doc. 95–16887 Filed 7–10–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 913

[IL–091]

Illinois Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Illinois abandoned mine land reclamation plane (hereinafter referred to as the ''Illinois plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois proposed to merge the Abandoned Mined Lands Reclamation Council (Council) into the newly created Department of Natural Resources, Office of Mines and Minerals. The amendment is intended to improve operational efficiency and provide formal notification of this pending reorganization.

EFFECTIVE DATE: July 11, 1995.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Acting Director, Springfield Field Office, 511 West Capitol, Suite 202, Springfield, Illinois 62704. Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Plan
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Illinois Plan

On June 1, 1982, the Secretary of the Interior approved the Illinois plan. Background information on the Illinois plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the June 1, 1982, **Federal Register** (47 FR 23886). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 913.25.

II. Submission of the Proposed Amendment

By letter dated April 10, 1995 (Administrative Record No. IL–800–AML), Illinois submitted a proposed amendment to its plan pursuant to SMCRA at its own initiative. In accordance with 30 CFR 884.15, Illinois notified OSM that effective July 1, 1995, by virtue of Executive Order Number 2 (1995) signed by the Governor of Illinois on March 1, 1995, the authority and administrative responsibility for the Illinois plan will be transferred from the Council to the Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mined Lands Reclamation Division.

OSM announced receipt of the proposed amendment in the April 20, 1995, **Federal Register** (60 FR 19697) and in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on May 22, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Part I(C)—Redesignation

At Part I(C) of Executive Order Number 2, Illinois provides that the Department of Natural Resources will have within it an Office of Mines and Minerals which will be responsible for the functions previously vested in the Council and such other related functions and responsibilities as may be appropriate.

B. Part II(D)—Transfer of Powers

At Part II(D), Illinois is transferring the Abandoned Mined Lands and Water Reclamation Act (20 ILCS *et seq.*), section 6a–1–a of the Illinois Purchasing Act (30 ILCS 505/6a–1–a), section 21(r)(2) of the Environmental Protection Act (415 ILCS 5/21(r)(2)), section 2 of the Surface Coal Mining Fee Act (20 ILCS 1915/2), section 1–3 of the Build Illinois Act (30 ILCS 750/1–3), and section 67.35 of the Civil Administrative Code (20 ILCS 405/67.35) from the Council to the Department of Natural Resources along with all rights, powers, and duties incidental to these Acts.

C. Part III (A), (C)—Effect of Transfer

At Part III(A), Illinois is abolishing the Council. At Part III(C), Illinois is transferring personnel previously assigned to the Council to the Department of Natural Resources.

D. Part IV(F)—Savings Clause

At Part IV(F), Illinois states that the Executive Order will not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of the Order that have been duly adopted. It is requiring that the Department of Natural Resources (and other affected departments) propose and adopt under the Illinois Administrative Procedures Act those rules necessary to consolidate and clarify the rules that will be administered by the successor agency.

In its submittal letter dated April 10, 1995 (Administrative Record No. IL–800–AML), Illinois stated, ''the new Department of Natural Resources will have full authority under State law to conduct the abandoned mined lands reclamation program in accordance with the requirements of Title IV of the Federal Act.''

There are no direct Federal counterparts to the revisions contained in Executive Order Number 2. Because the proposed revisions do not affect the regulatory authority's implementation of its approved program, the Director finds the revisions not inconsistent with the requirements of SMCRA and the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Illinois plan. No comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director is required to solicit the written concurrence of the Administrator of the EPA with respect to those provisions of the proposed plan amendment which relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1252 *et seq.*). None of the revisions that Illinois proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

V. Director's Decision

Based on the above findings, the Director approves the proposed plan amendment as submitted by Illinois on April 10, 1995.

The Federal regulations at 30 CFR part 913, codifying decisions concerning the Illinois plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each plan is drafted and promulgated by a specified State or Tribal, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 30, 1995.

Ronald C. Recker,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. *et seq.*

2. Section 913.25 is amended by adding paragraph (f) to read as follows:

§ 913.25 Approval of Abandoned Mine Land Reclamation Plan Amendments.

* * * * *

(f) The Illinois Abandoned Mine Land Reclamation Plan, as submitted on April 10, 1995 is approved effective July 11, 1995.

[FR Doc. 95–16888 Filed 7–10–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 290

[DCAA Reg. 5410.8]

Defense Contract Audit Agency (DCAA) Freedom of Information Act Program

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Headquarters for the Defense Contract Audit Agency of the Department of Defense is moving from its present location on Cameron Station, Alexandria, Virginia to Fort Belvoir, Virginia due to the closure of Cameron Station. This administrative amendment necessitates revisions to the Cameron Station addresses in the Freedom of Information Act regulation to reflect the new Fort Belvoir address.

EFFECTIVE DATE: July 24, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. D. Henshall 703–274–4400.

SUPPLEMENTARY INFORMATION: The Defense Contract Audit Agency published the Freedom of Information rule on October 1, 1991 (56 FR 49685), November 7, 1991 (56 FR 56932), April 27, 1992 (57 FR 15254), July 13, 1992 (57 FR 30904), and November 30, 1993 (58 FR 63084).

List of Subjects in 32 CFR Part 290

Freedom of information.

Accordingly, 32 CFR part 290 is amended to read as follows:

PART 290—[AMENDED]

1. The authority citation for part 290 continues to read as follows:

Authority: 5 U.S.C. 552.

§ 290.4 [Amended]

2. Section 290.4 is amended by revising footnote 3 to read as follows:

[3] Copies may be obtained from the Defense Contract Audit Agency, Attn: CMO, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219.

§ 290.7 [Amended]

3. Section 290.7 is amended in paragraph (e), last sentence, by removing ''Headquarters, DCAA, Attn: CMR, Cameron Station, Alexandria, Virginia 22304–6178'' and adding in its place ''Defense Contract Audit Agency, Attn: CMO, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219.'' and in paragraph (f)(7)(iii), last sentence, by removing ''Headquarters, DCAA, Cameron Station, Alexandria, VA 22304–6178.'' and adding in its place ''Defense Contract Audit Agency, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219.''

Appendix A to Part 290—[Amended]

4. Appendix A to part 290, paragraph (e)(2) is amended by removing ''Cameron Station, Alexandria,'' and adding in its place ''Fort Belvoir,''

Appendix B to Part 290—[Amended]

5. Appendix B to Part 290, under VIRGINIA, the introductory text is amended by removing ''Cameron Station, Alexandria, VA 22304–6178, (703) 274–4400'' and adding in its place ''8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219, (703) 767–1244'' and in paragraph (a)(1) by removing ''CMR, Cameron Station, Alexandria, VA 22304–6178, (703) 274–4400'' and adding in its place ''CMO, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219, (703) 767–1244.''

Appendix C to Part 290—[Amended]

6. Appendix C to Part 290 is amended by revising footnote 2 to read as follows:

[2] Copies may be obtained from the Defense Contract Audit Agency, Attn: CMO, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060–6219.

Dated: June 27, 1995.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–16650 Filed 7–10–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–95–015]

Special Local Regulation; Start of the Port Huron, MI to Mackinac Island Sailboat Race

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: A special local regulation is being adopted for portions of lower Lake Huron, St. Clair River and Black River during the festivities surrounding the beginning of the annual Port Huron to Mackinac Island Race on July 22, 1995. This regulation establishes a ''Caution Area'' from the lower part of the Black River to the International Boundary in the St. Clair River northward to the Lake Huron Cut Buoys 5 and 6, Lake Huron in United States Waters. Due to a dramatic increase in boating traffic, which could pose hazards to navigation

in the area, this regulation is needed to provide for the safety of life, limb, and property on navigable waters during the event.

EFFECTIVE DATE: This regulation is effective from 10 P.M. on July 21, 1995, through 4 P.M. July 22, 1995, unless extended or terminated sooner by the Coast Guard Patrol Commander, (Officer in Charge, U.S. Coast Guard Station Port Huron, MI).

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Second Class Jeffrey M. Yunker, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, Room 2083, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until June 9, 1995, and there was not sufficient time remaining to publish a proposed final rule in advance of the event or provide for a delayed effective date. The Coast Guard has decided to proceed with a temporary rule for this year's event and publish a NPRM, as part of the Great Lakes annual marine events list, prior to next year's event.

Drafting Information

The drafters of this notice are Lieutenant Junior Grade Byron D. Willeford, Project Officer, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, and Lieutenant Charles D. Dahill, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from past experiences with congestion and confrontations before, during, and after the start of the annual Port Huron to Mackinac Island Race. This event, based on past records, has drawn in excess of 100,000 people and dramatically increased boating traffic in the general vicinity. This regulation requires that all vessels in the designated ''Caution Area'' from the lower part of the Black River to the International Boundary in the St. Clair River northward to the Lake Huron Cut Buoys 5 and 6, Lake Huron, in United States waters, be operated at NO-WAKE speed meaning that all vessels transiting the area be operated at bare steerageway, keeping the vessel's wake at a minimum, and exercise a high degree of caution in the area. This regulation is necessary to ensure the protection of life, limb, and property prior to and until approximately six hours after the start of the race.

This regulation is issued pursuant to 33 U.S.C. 1233 as set out in the authority citation for all of part 100.

Federalism Implications

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

Environment

The Coast Guard is conducting an environmental analysis for this event pursuant to section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, and the Coast Guard Notice of final agency procedures and policy for categorical exclusions found at (59 FR 38654; July 29, 1994).

Economic Assessment and Certification

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulation

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

PART 100—[AMENDED]

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

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

2. A temporary § 100.35–T09–015 is added to read as follows:

§ 100.35–T09–015 Start of the Port Huron, MI to Mackinac Island Sailboat Race.

(a) *Regulated area.* That portion of the Black River, St. Clair River, and Lower Lake Huron from:

Latitude	*Longitude*
42°58.8′ N	082°26.0′ W, to
42°58.4′ N	082°24.8′ W, thence northward along the International Boundary to
43°02.8′ N	082°23.8′ W, to
43°02.8′ N	082°26.8′ W, thence southward along the U.S. shoreline to
42°58.9′ N	082°26.0′ W, thence to
42°58.8′ N	082°26.0′ W.

(b) *(NAD 83) Special local regulation.* The regulation area in paragraph (a) of this section is designated as a ''Caution Area.'' All vessels transiting the regulated area will operate at bare steerageway, keeping the vessel's wake at a minimum, and exercise a high degree of caution in the area. (c) *Patrol Commander.* (1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station Port Huron, MI). The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign ''Coast Guard Patrol Commander.''

(2) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area.

A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(4) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(5) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life, limb, or property.

(6) All persons in the area shall comply with the orders of the Coast Guard Patrol Commander.

(d) *Effective date.* This section is effective from 10 p.m. on July 21, 1995, through 4 p.m. on July 22, 1995, unless extended or terminated sooner by the

Coast Guard Patrol Commander, (Officer in Charge, U.S. Coast Guard Station Port Huron, MI).

Dated: June 20, 1995.

Rudy K. Peschel,

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

[FR Doc. 95–16958 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 162

[CGD–09–95–002]

RIN 2115–AF04

Amendment to Inland Waterways Navigation Regulations Establishing Speed Limits on Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the existing speed limits for vessels, less than 100 gross tons, operating in the nondisplacement mode on connecting waters from Lake Huron to Lake Erie. The normal speed limits in this area are determined in large part by concerns about wake damage. However, lesser wakes are created by nondisplacement vessels. The Coast Guard allowed nondisplacement vessels to operate at higher speeds during two temporary test periods from April 1, 1993 to November 30, 1994, with satisfactory results.

EFFECTIVE DATE: This rule is effective July 11, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dave Sprunt, Chief, Case Management Section, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3994.

SUPPLEMENTARY INFORMATION: On March 27, 1995, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) regarding this regulation (60 FR 15734). A 60 day comment period was provided and interested persons were invited to submit comments during that period. No comments were received.

Background and Purpose

Current regulations in 33 CFR 162.138 which apply to connecting waters from Lake Huron to Lake Erie set the maximum speed for vessels 20 meters or more in length at limits ranging from 4 to 12 statute miles per hour in various areas. One of the primary purposes of these speed regulations is to limit wake damage, but they were not written to account for the substantially lesser wake-generating characteristics of nondisplacement vessels. During the 1993 and 1994 navigation season, the Commander of the Ninth Coast Guard District temporarily amended 33 CFR 162.138 in order to allow trial runs of these nondisplacement vessels (33 CFR 162.T139), 58 FR 17526, April 5, 1993 and 59 FR 16563 April 7, 1994). A corresponding exemption was granted by the Central Region of the Canadian Coast Guard, which has authority over the Canadian waters in the same area. The two year trial period has proven successful and the Coast Guard has therefore determined that there should now be a permanent amendment to the regulations in order to prevent an unnecessary restriction on the operation of such vessels. It should be noted that this amendment to the speed regulations for nondisplacement vessels does not in any way excuse the general obligation to exercise good seamanship when maneuvering in close quarters or the responsibility for damage which might be caused by a wake which is excessive in a location close to other vessels or shore structures.

The Coast Guard is setting an upper limit of 40 statute miles per hour for nondisplacement vessels 20 meters or more in length but less than 100 gross tons, and is allowing such nondisplacement vessels to overtake other vessels when otherwise safe. All other navigational regulations will remain in force, and the use of this special rule for nondisplacement vessels is subject to the prior approval of the Captain of the Port in order to insure that the special rule is only used by vessels which are of suitable design and which are in fact operated safely in this waterway.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Katherine E. Weathers, Assistant Chief of the Port and Environmental Safety Branch, and Commander M. Eric Reeves, Chief of the Port and Environmental Safety Branch.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation, and has so certified in the docket file.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation is not intended to preempt any state or local regulation which may also be applicable to vessels operating in the nondisplacement mode.

Regulatory Evaluation

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979). The Coast Guard expects the economic impact of this rule be so minimal that a full Regulatory Evaluation under paragraph 10e is unnecessary.

Small Entities

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities. The effect of this regulation is to ease what has now been determined to be an unnecessarily restrictive regulation as applied to one business developing the use of nondisplacement vessels in the area.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 33 CFR Part 162

Inland waterways, Navigation.

Regulations

In consideration of the foregoing the Coast Guard is amending Part 162 of title 33, Code of Federal Regulations as follows:

PART 162—[AMENDED]

1. The authority citation for Part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. In § 162.134, paragraph (f) is added to read as follows:

§ 162.134 Connecting waters from Lake Huron to Lake Erie; traffic rules.

* * * * *

(f) The prohibitions in this section on overtaking in certain areas do not apply to vessels operating in the nondisplacement mode. In this section, ''nondisplacement mode'' means a mode of operation in which the vessel is supported by hydrodynamic forces, rather than displacement of its weight in

the water, to an extent such that the wake which would otherwise be generated by the vessel is significantly reduced.

3. Section 162.138 is revised to read as follows:

§ 162.138 Connecting waters from Lake Huron to Lake Erie; speed rules.

(a) *Maximum speed limit for vessels in normal displacement mode.* (1) Except when required for the safety of the vessel or any other vessel, vessels of 20 meters or more in length operating in normal displacement mode shall proceed at a speed not greater than—

(i) 12 statute miles per hour (10.4 knots) between Fort Gratiot Light and St. Clair Flats Canal Light 2;

(ii) 12 statute miles per hour (10.4 knots) between Peche Island Light and Detroit River Light; and

(iii) 4 statute miles per hour (3.5 knots) in the River Rouge.

(2) The maximum speed limit is 5.8 statute miles per hour (5 knots) in the navigable channel south of Peche Island (under Canadian jurisdiction).

(b) *Maximum speed limit for vessels operating in nondisplacement mode.* (1) Except when required for the safety of the vessel or any other vessel, vessels 20 meters or more in length but under 100 gross tons operating in the nondisplacement mode and meeting the requirements set out in paragraph (c) of this section, may operate at a speed not exceeding 40 miles per hour (34.8 knots)—

(i) During daylight hours (sunrise to sunset);

(ii) When conditions otherwise safely allow; and

(iii) When approval has been granted by the Coast Guard Captain of the Port, Detroit or Commander of the Ninth Coast Guard District prior to each transit of the area.

(2) In this section, ''nondisplacement mode'' means a mode of operation in which the vessel is supported by hydrodynamic forces, rather than displacement of its weight in the water, to an extent such that the wake which would otherwise be generated by the vessel is significantly reduced.

(c) *Unsafe vessels.* The Captain of the Port or the District Commander may deny approval for operations under paragraph (b) of this section if it appears that the design and operating characteristics of the vessels in question are not safe for the designated waterways, or if it appears that operations under this section have become unsafe for any reason.

(d) *Temporary speed limits.* The District Commander may temporarily establish speed limits or temporarily amend existing speed limit regulations on the waters described in § 162.130(a).

Dated: June 20, 1995.

Rudy K. Peschel,

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

[FR Doc. 95–16959 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP St. Louis 95–010]

RIN 2115–AA97

Safety Zone; Upper Mississippi River, Mile 412.0 to 796.8

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Upper Mississippi River between mile 412.0 and 796.8. This regulation is required for the prevention of groundings where shoaling has occurred. This regulation will restrict general navigation in the required area for the protection of life and property along the river.

EFFECTIVE DATES: This regulation is effective on June 26, 1995 and will terminate on July 26, 1995, unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG A.B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, receding river levels after weeks of flood conditions and increased river current have caused shoaling all along this reach of the Upper Mississippi River, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a rule without waiting for comment period or delayed effective date because of immediate need to limit barge drafts.

Background and Purpose

The Upper Mississippi River from the mouth, mile 412.0, to mile 796.8, has seen a significant drop in the water level and shoaling has occurred. This rule is required to impose vessel draft limits to prevent groundings within the regulated area.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539–3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has

been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Reporting and recordkeeping requirements, Security measures, Waterways.

Temporary Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A temporary section 165.T02–047 is added, to read as follows:

§ 165.T02–047 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 412.0 and 796.8 is established as a safety zone.

(b) *Effective dates.* This section is effective on June 26, 1995 and will terminate on July 26, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHZ).

Dated: June 26, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95–16960 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, and 271

[FRL 5226–9]

Hazardous Waste Management: Liquids in Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule to grant a petition to add a test method.

SUMMARY: On November 18, 1992, the Agency promulgated a final rule on liquids in landfills. That rule satisfied a statutory requirement in the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 regarding the landfill disposal of containerized liquids. Specifically, the statute required EPA to issue a rule that prohibited the disposal in hazardous waste landfills of liquids that have been absorbed in materials that biodegrade. The November 18, 1992 rule includes two tests that could be used to demonstrate non-biodegradability. Today's rulemaking, which is issued in response to a petition, provides increased flexibility to the regulated community by adding another test to demonstrate that a sorbent is non-biodegradable.

In the proposed rules section of today's **Federal Register**, EPA is proposing to grant the petition to add the additional test for biodegradability and is soliciting public comment on the addition of the third test. If significant adverse comments are received, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule based on the related proposed rule. No additional opportunity for public comment will be provided.

DATES: This final action will become effective on September 11, 1995, unless EPA receives significant adverse comment on the proposal by August 10, 1995. If such comments are received, EPA will withdraw this direct final rule, and publish timely notice in the **Federal Register**.

ADDRESSES: Materials supporting this rulemaking are contained in EPA RCRA Docket No. F–95–ALLF–FFFFF, Room M2616, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Call 202–260–9327 for an appointment to examine the docket. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are $0.15 per page. Those wishing to notify EPA of their intent to submit adverse comments on this action should contact David Eberly, Assistance Branch, Permits and State Programs Division, Office of Solid Waste (5303W), 401 M St. SW, Washington, DC 20460, (Docket No. F–95–ALLP–FFFFF).

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at 1–800–424–9346 (toll free), or 703–412–9810 in the Washington, DC area. For information on technical aspects of this rule, contact David Eberly, U.S. EPA, Office of Solid Waste (5303W), 401 M St. SW., Washington, DC 20460; 260–4288.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being issued under the authority of section 3004(c) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6924(c).

II. Background

Section 3004(c)(2) of RCRA requires EPA to issue regulations that ''prohibit the disposal in landfills of liquids that have been absorbed in materials that *biodegrade* * * *''

To demonstrate that a sorbent is non-biodegradable, the material must be listed in paragraph (e)(1) of § 264.314 or paragraph (f)(1) of § 265.314 or pass one of two tests cited in paragraph (e)(2) of § 264.314 and paragraph (f)(1) of § 265.314. The two tests are ASTM Method G21–70, a test for resistance of synthetic polymer materials to fungi, and G22–76, a test for determining resistance of plastics to bacteria.

At the time of proposal of the two ASTM tests, the Agency recognized that other biodegradability tests existed, but they were not identified in the proposal or in the comments received on the proposed rule. The Agency, therefore, did not evaluate other tests. Instead, the Agency decided to require that further tests be added under the already established 40 CFR part 260 petition process.

The Agency has received a petition for another test for biodegradability and, based on its review, has decided to include it as one that could be used instead of the ASTM tests. The test is one that has been recently adopted by the Organization for Economic Cooperation and Development (OECD), of which the United States is a member. The test, OECD 301B (Modified Sturm Test), was recommended by an OECD Expert Group on Degradation/Accumulation to determine the biodegradability of organic chemicals in water. The Agency has concluded that the test is applicable, that it effectively measures the biodegradability of sorbents, and that its use in determining biodegradability of sorbents in a hazardous waste landfill will not have a negative environmental impact.

The United States was represented on the OECD Expert Group on Degradation/Accumulation that evaluated and recommended tests for biodegration in

water, abiotic degradation, bioaccumulation, and behavior of chemicals in soils and sediments. Tests were recommended by the group for each situation.

The OECD adopted three tests for inherent biodegradability (in 1981) and six tests for ready biodegradability (in 1992), all in an aerobic aqueous medium. The guidelines for all nine biodegradability tests are in the docket. The tests for inherent biodegradability require that the material being tested be soluble in water. As the sorbent materials to be tested must clearly not be soluble (otherwise they could not be used as sorbents), those tests are not applicable. In addition, these tests assume ideal conditions for biodegradability in an aerobic environment. Because the conditions to be encountered in a hazardous waste landfill are not ideal for either aerobic or anaerobic biodegradability, the tests for inherent biodegradability are not relevant.

The tests for ready biodegradability, while not simulating the actual conditions to be found in a landfill, do provide an indication of the propensity of the material to biodegrade without enhanced conditions. Of the six tests adopted for ready biodegradability, test 301B is best suited for compounds that are poorly soluble, non-volatile, and absorbing. Sorbents used in spill responses or in sorbing liquid wastes share these properties.

The Agency recognizes that the OECD test 301B is a test for biodegradability in an aerobic environment, as are the two ASTM tests that were promulgated in the November 18, 1992 rule. The Agency also recognizes that the actual environment in which the sorbents will be used, i.e., in a container in a landfill, will be anaerobic. The Agency does not know, however, of any published, widely accepted, tests for the biodegradability of materials in anaerobic conditions that would be practical for the purposes of this rule. The Agency believes, however, that OECD 301B is an acceptable surrogate for determining if a sorbent will biodegrade in containerized liquids in a hazardous waste landfill.

III. State Authority

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under Sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR Part 271.

Today's amendment to the provisions of the November 18, 1992 liquids in landfills rule is being promulgated under authority that was added to RCRA by the Hazardous and Solid Waste Amendments (HSWA) of 1984. Under RCRA Section 3006(g), new requirements imposed by HSWA take effect in authorized States at the same time that they take effect in non-authorized States. Today's final rule for containerized liquids in landfills is issued under RCRA Section 3004(c), which was added by HSWA. These HSWA-based requirements are being added to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA.

Today's final rule adds a third test to the two already allowed under existing Federal regulations that were promulgated on November 18, 1992, and therefore does not qualify as a ''more stringent'' requirement. Instead, today's rule in effect makes a technical amendment to the definition of ''biodegradability'' that does not affect the current regulations' stringency. Authorized States are only required to modify their programs when EPA promulgates Federal regulations that are more stringent or broader in scope than the existing Federal regulations. Therefore, States that are authorized for the November 18, 1992 rule are not required to modify their programs to adopt today's rule. However, EPA strongly urges States to do so. EPA will implement the provisions of today's rule in other States that have not been authorized for the liquids in landfills requirements in RCRA Section 3004(c)(2) pursuant to RCRA Section 3006(g) until they adopt and receive authorization to implement the November 18, 1992 rule. EPA's authorization guidance to States will link the November 18, 1992 rule and today's final amendments.

Given the minor scope of today's amendment, those States that are authorized for the November 18, 1992 rule may submit an abbreviated authorization revision application to the Region for today's amendment. This application should consist of a letter from the State to the appropriate Regional office, certifying that it has adopted provisions equivalent to and no less stringent than today's final rule (see the December 19, 1994, memorandum from Michael Shapiro, Director of the Office of Solid Waste, to the EPA Regional Division Directors that is in the docket for today's rule). The State should also submit a copy of its final rule or other authorizing authority. A revised Program Description, Memorandum of Agreement, and Attorney General's statement is not necessary (see 40 CFR 271.21(b)(1)). EPA expects that this simplified process will expedite the review of the authorization submittal for this rule.

Finally, States authorized for the containerized liquids in landfills requirements may accept results of the OECD test promulgated in today's rule, consistent with State law, as evidence of non-biodegradability, pending EPA review of a State program revision. States whose programs accept the OECD test would be no less stringent than the Federal program and would therefore be consistent with RCRA Section 3004(c)(2).

IV. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], EPA must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) 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 the Executive Order.

EPA has determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal regulatory agencies to prepare a Regulatory Flexibility Analysis (RFA) for all regulations that have ''a significant economic impact on a substantial number of small entities.'' Today's rule simply adds one more test that industry may use to test sorbents that are not listed as acceptable in the November 18, 1992 rule. Additionally,

the test need only be used once for each sorbent type. Therefore, EPA certifies that today's regulation will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

C. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because no additional information is being required to be collected by this rule, and it does not require that additional records be retained.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duties on any of these governmental entities or the private sector. The rule merely provides an optional alternative test method for determining biodegradability to satisfy a specific provision of RCRA. In any event, EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects

40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: June 30, 1995.

Fred Hansen,

Acting Administrator.

For the reasons set forth in the preamble, 40 CFR parts 264, 265, and 271 are amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.314 is amended by removing the period at the end of paragraph (e)(2)(ii) and adding ''; or'' and by adding paragraph (e)(2)(iii) to read as follows:

§ 264.314 Special requirements for bulk and containerized liquids.

* * * * *

(e) * * *

(2) * * *

(iii) The sorbent material is determined to be non-biodegradable under OECD test 301B: [CO_2 Evolution (Modified Sturm Test)].

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, 6935, and 6936, unless otherwise noted.

2. Section 265.314 is amended by removing the period at the end of paragraph (f)(2)(ii) and adding ''; or'' and by adding paragraph (f)(2)(iii) to read as follows:

§ 265.314 Special requirements for bulk and containerized liquids.

(f) * * *

(2) * * *

(iii) The sorbent material is determined to be non-biodegradable under OECD test 301B: [CO_2 Evolution (Modified Sturm Test)].

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for part 271 is amended to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) and 6926.

2. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

§ 271.1 Purpose and scope.

* * * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * *	* * *	* * *	* * *
July 11, 1995	Containerized Liquids in Landfills	35705	September 11, 1995.
* * *	* * *	* * *	* * *

* * * * *

[FR Doc. 95–16951 Filed 7–10–95; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–47

[FPMR Amendment H–192]

RIN 3090–AF34

Utilization and Disposal of Real Property; Port Facilities

AGENCY: Public Buildings Service, GSA.

ACTION: Final rule.

SUMMARY: Section 2927 of Pub. L. 103–160 (November 30, 1993) amended section 203 of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 484) by adding a subsection (q) to provide for cost-free conveyances of Federal surplus real property suitable for use as port facilities. This regulation is required to implement the new subsection. It prescribes the method whereby affected property may be assigned to the Secretary of Transportation for subsequent conveyance for approved port facility and related economic development programs.

EFFECTIVE DATE: July 11, 1995.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division, Office of Governmentwide Real Property Policy, Public Buildings Service, General Services Administration (202) 501–1256.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) is amending its regulations to include procedures for making conveyances of Federal surplus real property to nonfederal political bodies for port facility and related economic development purposes.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. The rule is written to ensure maximum benefits to Federal agencies. This Governmentwide management regulation will have little or no cost effect on society. Therefore, the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

List of subjects in 41 CFR Part 101–47

Government property management, Surplus Government property.

For the reasons set out in the preamble, 41 CFR part 101–47 is amended as follows:

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for part 101–47 is revised to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 101–47.2—Utilization of Excess Real Property

2.–3. Section 101–47.203–5 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101–47.203–5 Screening of excess real property.

* * * * *

(b) Notices of availability for information of the Secretary of Health and Human Services and the Secretary of Education in connection with the exercise of the authority vested under the provisions of section 203(k)(1) of the Act, and for information of the Secretary of the Interior in connection with the exercise of the authority vested under the provisions of section 203(k)(2) of the Act or a possible determination under the provisions of section 203(k)(3) of the Act, will be sent to the offices designated by the Secretaries to serve the areas in which the properties are located. Similar notices of availability for information of the Attorney General in connection with a possible determination under the provisions of section 203(p)(1) of the Act, and for information of the Secretary of Transportation in connection with the exercise of the authority vested under the provisions of section 203(q) of the Act, will be respectively sent to the Office of Justice Programs, Department of Justice, and the Maritime Administration, Department of Transportation.

(c) The Departments of Health and Human Services, Education, Interior, Justice, and Transportation shall not attempt to interest a local applicant in a property until it is determined surplus, except with the prior consent of GSA on a case-by-case basis or as otherwise agreed upon. When such consent is obtained, the local applicant shall be informed that consideration of the application is conditional upon the property being determined surplus to Federal requirements and made available for the purposes of the application. However, these Departments are encouraged to advise the appropriate GSA regional office of those excess properties which are suitable for their programs.

* * * * *

3. Section 101–47.204–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101–47.204–1 Reported property.

* * * * *

(a) The holding agency, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, the Attorney General, and the Secretary of Transportation will be notified of the date upon which determination as surplus becomes effective. Any Federal agency that has identified a property as being required for replacement housing for displaced persons under section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will also be notified of the date upon which determination as surplus becomes effective. The Secretary of the Department of Energy will be notified when real property is determined surplus and advised of any known interest in the property for its use or development for energy facilities. Appropriate steps will be taken to ensure that energy site needs are considered along with other competing needs in the disposal of surplus real property, since such property may become available for use under sections 203(e)(3) (G) and (H) of the Act.

(b) The notices to the Secretary of Health and Human Services, the

Secretary of Education, the Secretary of the Interior, and the Secretary of Energy will be sent to the offices designated by them to serve the area in which the property is located. The notices to the Attorney General will be sent to the Office of Justice Programs, Department of Justice. The notices to the Secretary of Transportation will be sent to the Maritime Administration. The notices to the Federal agencies having a requirement pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be sent to the office making the request unless another office is designated.

* * * * *

Subpart 101–47.3—Surplus Real Property Disposal

4. Section 101–47.303–2 is amended by revising paragraphs (d), (f), and (g) to read as follows:

§ 101–47.303–2 Disposals to public agencies.

* * * * *

(d) A copy of the notice described in paragraph (b) of this section shall be furnished to the appropriate regional or field offices of (1) the National Park Service (NPS) and the Fish and Wildlife Service of the Department of the Interior and (2) the Federal Aviation Administration, the Federal Highway Administration, and the Maritime Administration of the Department of Transportation concerned with the disposal of property to public agencies under the statutes named in the notice.

* * * * *

(f) If the disposal agency is not informed within the 29-calendar-day period provided in the notice of the desire of a public agency to acquire the property under the provisions of the statutes listed in § 101–47.4905, or is not notified by ED or HHS of a potential educational or public health requirement, or is not notified by the Department of the Interior of a potential park or recreation requirement, or is not notified by the Department of Justice (DOJ) of a potential correctional facilities use, or is not notified by the Department of Transportation (DOT) of a potential port facility use; it shall be assumed that no public agency or nonprofit institution desires to procure the property. (The requirements of this § 101–47.303–2(f) shall not apply to the procedures for making Federal surplus real property available to assist the homeless in accordance with Section 501 of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11411).)

(g) The disposal agency shall promptly review each response of a public agency to the notice given pursuant to paragraph (b) of this section. The disposal agency shall determine what constitutes a reasonable period of time to allow the public agency to develop and submit a formal application for the property or its comments as to the compatibility of the disposal with its development plans and programs. When making such determination, the disposal agency shall give consideration to the potential suitability of the property for the use proposed, the length of time the public agency has stated it will require for its action, the protection and maintenance costs to the Government during such length of time, and any other relevant facts and circumstances. The disposal agency shall coordinate such review and determination with the proper office of any interested Federal agencies listed below:

(1) National Park Service, Department of the Interior;

(2) Department of Health and Human Services;

(3) Department of Education;

(4) Federal Aviation Administration, Department of Transportation;

(5) Fish and Wildlife Service, Department of the Interior;

(6) Federal Highway Administration, Department of Transportation;

(7) Office of Justice Programs, Department of Justice; and

(8) Maritime Administration, Department of Transportation.

* * * * *

5. Section 101–47.308–2 is amended by revising paragraph (a) to read as follows:

§ 101–47.308–2 Property to public airports.

(a) Pursuant and subject to the provisions of section 13(g) of the Surplus Property Act of 1944 (49 U.S.C. 47151), airport property may be conveyed or disposed of to a State, political subdivision, municipality, or tax-supported institution for a public airport. Airport property is any surplus real property including improvements and personal property located thereon as a part of the operating unit (exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this section) which, in the determination of the Administrator of the Federal Aviation Administration (FAA) is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, as defined in the Federal Airport Act, as amended (49 U.S.C. 1101), or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

* * * * *

6. Section 101–47.308–10 is added to read as follows:

§ 101–47.308–10 Property for port facility use.

(a) Under section 203(q)(1) of the Act, in his/her discretion, the Administrator, the Secretary of the Department of Defense (DOD) in the case of property located at a military installation closed or realigned pursuant to a base closure law, or the designee of either of them, may, as the disposal agency, assign to the Secretary of the Department of Transportation (DOT) for conveyance, without monetary consideration, to any State, or to those governmental bodies named therein, or to any political subdivision, municipality, or instrumentality thereof, such surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, as is recommended by DOT as being needed for the development or operation of a port facility.

(b) The disposal agency shall notify established State and regional or metropolitan clearinghouses and eligible public agencies, in accordance with the provisions of § 101–47.303–2, that property which may be disposed of for use in the development or operation of a port facility has been determined to be surplus. A copy of such notice shall be transmitted to DOT accompanied by a copy of the holding agency's Report of Excess Real Property (Standard Form 118 and supporting schedules).

(c) The notice to eligible public agencies shall state:

(1) that any planning for the development or operation of a port facility, involved in the development of the comprehensive and coordinated plan of use and procurement for the property, must be coordinated with DOT;

(2) that any party interested in acquiring the property for use as a port facility must contact the Department of Transportation, Maritime Administration, for instructions concerning submission of an application; and

(3) that the requirement for use of the property in the development or operation of a port facility will be contingent upon approval by the

disposal agency, under paragraph (i) of this section, of a recommendation from DOT for assignment of the property to DOT and that any subsequent conveyance shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(q)(2) of the Act and referenced in paragraph (j) of this subsection.

(d) DOT shall notify the disposal agency within 20 calendar-days after the date of the notice of determination of surplus if there is an eligible applicant interested in acquiring the property. Whenever the disposal agency, has been so notified of a potential port facility requirement for the property, DOT shall submit to the disposal agency, within 25 calendar-days after the expiration of the 20-calendar-day notification period, either a recommendation for assignment of the property or a statement that a recommendation will not be submitted.

(e) Whenever an eligible public agency has submitted a plan of use for property for a port facility requirement, in accordance with the provisions of § 101–47.303–2, the disposal agency shall transmit two copies of the plan to DOT. DOT shall either submit to the disposal agency, within 25 calendar-days after the date the plan is transmitted, a recommendation for assignment of the property to DOT, or inform the disposal agency, within the 25-calendar-day period, that a recommendation will not be made for assignment of the property to DOT.

(f) Any assignment recommendation submitted to the disposal agency by DOT shall be accompanied by a copy of the explanatory statement required under section 203(q)(3)(C) of the Act and shall set forth complete information concerning the contemplated port facility use, including:

(1) an identification of the property;

(2) an identification of the applicant;

(3) a copy of the approved application, which defines the proposed plan of use of the property;

(4) a statement that DOT's determination that the property is located in an area of serious economic disruption was made in consultation with the Secretary of Labor; and

(5) a statement that DOT's approval of the economic development plan associated with the plan of use of the property was made in consultation with the Secretary of Commerce.

(g) Holding agencies shall cooperate to the fullest extent possible with representatives of DOT and the Secretary of Commerce in their inspection of such property, and of the Secretary of Labor in affirming that the property is in an area of serious economic disruption, and in furnishing any information relating thereto.

(h) In the absence of an assignment recommendation from DOT submitted pursuant to paragraph (d) or (e) of this section, and received within the 25-calendar-day time limit specified therein, the disposal agency shall proceed with other disposal action.

(i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from DOT, it shall assign the property by letter or other document to DOT. If the recommendation is disapproved, the disposal agency shall likewise notify DOT. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.

(j) Subsequent to the receipt of the letter of assignment from the disposal agency, DOT shall furnish to the disposal agency, a Notice of Proposed Conveyance in accordance with section 203(q)(2) of the Act. If the disposal agency has not disapproved the proposed transfer within 35 calendar-days of the receipt of the Notice of Proposed Conveyance, DOT may proceed with the conveyance.

(k) DOT shall furnish the Notice of Proposed Conveyance within 35 calendar-days after the date of the letter of assignment from the disposal agency, prepare the conveyance documents, and take all necessary actions to accomplish the conveyance within 15 calendar-days after the expiration of the 30-calendar-day period provided for the disposal agency to consider the notice. DOT shall furnish the disposal agency two conformed copies of the instruments conveying property under subsection 203(q) of the Act and all related documents containing restrictions or conditions regulating the future use, maintenance, or transfer of the property.

(l) DOT has the responsibility for enforcing compliance with the terms and conditions of conveyance; for reformation, correction, or amendment of any instrument of conveyance; for the granting of release; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of subsection 203(q)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency, by DOT, of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(m) In each case of repossession under a reversion of title by reason of noncompliance with the terms or conditions of conveyance or other cause, DOT shall, at or prior to such reversion of title, provide the appropriate GSA regional office, with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and appropriate accompanying schedules shall be used for this purpose. Upon receipt of advice from DOT that such property has been repossessed, GSA will review and act upon the Standard Form 118. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101–47.4913.

Subpart 101–47.49—Illustrations

7. Section 101–47.4905 is revised to read as follows:

§ 101–47.4905 Extract of statutes authorizing disposal of surplus real property to public agencies.

Statute: 16 U.S.C. 667b–d. Disposals for wildlife conservation purposes.

Type of property*: Any surplus real property (with or without improvements) that can be utilized for wildlife conservation purposes other than migratory birds, exclusive of (1) oil, gas, and mineral rights, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agency: The agency of the State exercising the administration of the wildlife resources of the State.

Statute: 23 U.S.C. 107 and 317. Disposals for Federal aid and other highways.

Type of property *: Any real property or interests therein determined by the Secretary of Transportation to be reasonably necessary for the right-of-way of a Federal aid or other highway (including control of access thereto from adjoining lands) or as a source of material for the construction or maintenance of any such highway adjacent to such real property or interest therein, exclusive of (1) oil, gas, and mineral rights; and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agency: State wherein the property is situated (or such political subdivision of the State as its law may provide), including the District

of Columbia and Commonwealth of Puerto Rico.

Statute: 40 U.S.C. 122. Transfer to the District of Columbia of jurisdiction over properties within the District for administration and maintenance under conditions to be agreed upon.

Type of property: Any surplus real property, except property for which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agency: District of Columbia.

Statute: 40 U.S.C. 345c. Disposals for authorized widening of public highways, streets, or alleys.

Type of property *: Such interest in surplus real property as the head of the disposal agency determines will not be adverse to the interests of the United States, exclusive of (1) oil, gas and mineral rights; (2) property subject to disposal for Federal aid and other highways under the provisions of 3 U.S.C. 107 and 317; and (3) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agency: State or political subdivision of a State.

Statute: 40 U.S.C. 484(e)(3)(H). Disposals by negotiations.

Type of property: Any surplus real property including related personal property.

Eligible public agency: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality, political subdivision, or tax-supported agency in any of them.

Statute: 40 U.S.C. 484(k)(1)(A). Disposals for school, classroom, or other educational purposes.

Type of property *: Any surplus real property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality, political subdivision, or tax-supported educational institution in any of them.

Statute: 40 U.S.C. 484(k)(1)(B). Disposals for public health purposes including research.

Type of property *: Any surplus real property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality, political subdivision, or tax-supported medical institution in any of them.

Statute: 40 U.S.C. 484(k)(2). Disposals for public park or recreation areas.

Type of property*: Any surplus real property recommended by the Secretary of the Interior as being needed for use as a public park or recreation area, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of § 101–47.308–5; and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality or political subdivision in any of them.

Statute: 40 U.S.C. 484(k)(3). Disposals for historic monuments.

Type of property: Any surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of § 101–47.308–5; and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act. Before property may be conveyed under this statute, the Secretary of the Interior must determine that the property is suitable and desirable for use as a historic monument for the benefit of the public. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments established by section 3 of the act entitled ''An Act for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes,'' approved Aug. 21, 1935 (49 Stat. 666), and only so much of any such property shall be so determined to be suitable or desirable for such use as is necessary for the preservation and property observation of its historic features. The Administrator of General Services may authorize the use of the property conveyed under this subsection for revenue-producing activities if the Secretary of the Interior (1) determines that such activities are compatible with use of the property for historic monument purposes, (2) approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property, (3) approves grantee's plan for financing repairs, rehabilitation, restoration, and maintenance of the property which must provide that incomes in excess of the costs of such items shall be used by the grantee only for public historic preservation, park, or recreational purposes, and (4) approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality or political subdivision in any of them.

Statute: 40 U.S.C. 484(p). Disposals for correctional facilities.

Type of property: Any surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of § 101–47.308–5; and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act. Before property may be conveyed under this statute, the Attorney General must determine that the property is required for correctional facility use and approve an appropriate program or project for the care or rehabilitation of criminal offenders.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality or political subdivision in any of them.

Statute: 40 U.S.C. 484(q). Disposals for port facility purposes.

Type of property: Any surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of § 101–47.308–5; and (4) property which the holding

agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act. Before property may be conveyed under this statute, the Secretary of Transportation must determine, after consultation with the Secretary of Labor, that the property is located in an area of serious economic disruption; and approve, after consultation with the Secretary of Commerce, an economic development plan associated with the plan of use of the property.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any instrumentality or political subdivision in any of them.

Statute: 49 U.S.C. 47151. Disposals for public airport purposes.

Type of property*: Any surplus real or personal property, exclusive of (1) oil, gas and mineral rights; (2) military chapels subject to disposal as a shrine, memorial or for religious purposes under the provisions of Sec. 101–47.308–5; (3) property subject to disposal as a historic monument site under the provisions of Sec. 101–47.308–3; (4) property the highest and the best use of which is determined by the disposal agency to be industrial and which shall be so classified for disposal, and (5) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act.

Eligible public agencies: Any State, the District of Columbia; any territory or possession of the United States; and any instrumentality or political subdivision in any of them.

Statute: 50 U.S.C. App. 1622(d). Disposals of power transmission lines needful for or adaptable to the requirements of a public power project.

Type of property*: Any surplus power transmission line and the right-of-way acquired for its construction.

Eligible public agency: Any State or political subdivision thereof or any State agency or instrumentality.

*The Commissioner, Public Buildings Service, General Services Administration, Washington, DC 20405, in appropriate instances, may waive any exclusions listed in this description, except for those required by law.

8. Section 101–47.4906 is revised to read as follows:

§ 101–47.4906 Sample notice to public agencies of surplus determination.

Notice of Surplus Determination—Government Property

_____
(Date)

_____
(Name of property)

_____
(Location)

Notice is hereby given that the above described property has been determined to be surplus Government property. The property consists of _____ acres of fee land, more or less, together with easements and improvements as follows:

This property is surplus property available for disposal under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), as amended, certain related laws, and applicable regulations. The applicable regulations provide that non-Federal public agencies shall be allowed a reasonable period of time to submit a formal application for surplus real property in which they may be interested. Disposal of this property, or portions thereof, may be made to public agencies for the public uses listed below whenever the Government determines that the property is available for such uses and that disposal thereof is authorized by the statutes cited and applicable regulations. (**Note**: List only those statutes and types of disposal appropriate to the particular surplus property described in the notice.)

16 U.S.C. 667b–d.	Wildlife conservation.
23 U.S.C. 107 and 317.	Federal aid and certain other highways.
40 U.S.C. 122	Transfer to the District of Columbia.
40 U.S.C. 345c.	Widening of highways, streets, or alleys.
40 U.S.C. 484(e)(3)(H).	Negotiated sales for general public purpose uses. (**Note**: This statute should not be listed if the affected surplus property has an estimated value of less than $10,000.)
40 U.S.C. 484(k)(1)(A).	School, classroom, or other educational purposes.
40 U.S.C. 484(k)(1)(B).	Protection of public health, including research.
40 U.S.C. 484(k)(2).	Public park or recreation area.
40 U.S.C. 484(k)(3).	Historic monument.
40 U.S.C. 484(p).	Correctional facility.
40 U.S.C. 484(q).	Port facility.
49 U.S.C. 47151.	Public airport.
50 U.S.C. App. 1622(d).	Power transmission lines.

If any public agency desires to acquire the property under any of the cited statutes, notice thereof must be filed in writing with

_____
(Insert name and address of disposal agency):

_____
Such notice must be filed not later than ____
(Insert date of the 21st day following the date of the notice.)

Each notice so filed shall:

(a) Disclose the contemplated use of the property;

(b) Contain a citation of the applicable statute or statutes under which the public agency desires to procure the property;

(c) Disclose the nature of the interest if an interest less than fee title to the property is contemplated;

(d) State the length of time required to develop and submit a formal application for the property. (Where a payment to the Government is required under the statute, include a statement as to whether funds are available and, if not, the period required to obtain funds.); and

(e) Give the reason for the time required to develop and submit a formal application.

Upon receipt of such written notices, the public agency shall be promptly informed concerning the period of time that will be allowed for submission of a formal application. In the absence of such written notice, or in the event a public use proposal is not approved, the regulations issued pursuant to authority contained in the Federal Property and Administrative Services Act of 1949 provide for offering the property for sale.

Application forms or instructions to acquire property for the public uses listed in this notice may be obtained by contacting the following Federal agencies for each of the indicated purposes:

(**Note:** For each public purpose statute listed in this notice, show the name, address, and telephone number of the Federal agency to be contacted by interested public body applicants.)

Dated: June 27, 1995.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 95–16454 Filed 7–10–95; 8:45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950509041–5041–01; I.D. 070395B]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 62 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 pollock in Statistical Area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the third quarterly allowance for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 6, 1995, until 12 noon, A.l.t, October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew 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 GOA (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.

The third quarterly allowance of pollock total allowable catch in Statistical Area 62 was established by the final specifications as 3,826 metric tons (mt) (60 FR 8470, February 14, 1995), determined in accordance with § 672.20(c)(1)(ii)(B).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1995 third quarterly allowance of pollock in Statistical Area 62 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 3,443 mt after determining that 383 mt will be taken as incidental catch in directed fishing for other species in Statistical Area 62 in the GOA. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 62.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

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

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

Dated: July 5, 1995.

Richard H. Schaefer,

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

[FR Doc. 95–16855 Filed 7–5–95; 4:20 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 132
Tuesday, July 11, 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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 95–002–1]

Khapra Beetle; Brassware and Wooden Screens From India

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to remove brassware and wooden screens from Bombay, India, from the list of articles whose importation into the United States is restricted because of possible infestation with the khapra beetle. This action would allow the importation of these articles without fumigation and other restrictions. We believe this action is warranted because brassware and wooden screens from Bombay, India, no longer present a significant risk of introducing the khapra beetle into the United States.

DATES: Consideration will be given only to comments received on or before August 10, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–002–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Levy, Staff Officer, Port Operations Permit Unit , PPQ, APHIS, Suite 4A03, 4700 River Road Unit 136, Riverdale, MD 20737–1236; (301) 734–8295.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319.75 through 319.75–9 (referred to below as the regulations), specify required procedures for importing certain articles into the United States. The purpose of the regulations is to protect against the introduction of khapra beetle into the United States.

The khapra beetle (*Trogoderma granarium* Everts) is a plant pest that damages grain and cereal products, seeds, cottonseed meal, nut meats, dried fruits, and other products. This pest can cause serious damage to stored products. When infested products are left undisturbed in storage for long periods of time, total loss can be expected.

The regulations impose restrictions on those articles that present a significant risk of carrying the khapra beetle at the time of importation into the United States. The articles subject to restrictions are designated as restricted articles. Restricted articles may be imported into the United States only when treated by fumigation as required in § 319.75–4 of the regulations, and when specified permit, marking, identification, and notification requirements are met.

The list of restricted articles in § 319.75–2 of the current regulations includes brassware and wooden screens from Bombay, India. We are proposing to remove brassware and wooden screens from Bombay, India, from the list of restricted articles. Numerous requests from importers have encouraged the Animal and Plant Health Inspection Service (APHIS) to revise the current restrictions. APHIS has determined that wooden screens and brassware no longer present a significant risk of introducing the khapra beetle into the United States. These articles are no longer stored in khapra beetle infested warehouses in Bombay, India, and are now packed in paper and plastic rather than in jute bagging and straw, which are materials that the khapra beetle live in.

Therefore, we are proposing to remove brassware and wooden screens from Bombay, India, from the list of restricted articles in § 319.75–2. We are also proposing to remove references to brassware and wooden screens from § 319.75–4, which sets out fumigation requirements.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The major economic impact of this proposed rule will be on methyl bromide producers and fumigators, and on domestic importers of brassware products. Ten percent of methyl bromide fumigation in the United States in FY 1993 was used on brassware products from India. The economic effect on the fumigators will be important only in the next few years because under provisions of a final rule published by the Environmental Protection Agency in the **Federal Register** on December 10, 1993 (58 FR 65018–65082), domestic use of methyl bromide must be phased out by the year 2001.

Fumigation using methyl bromide is done mainly by private contractors at the ports of entry, under the supervision of APHIS inspectors. Brassware is fumigated by approximately 17 private contractors at the following ports of entry: Los Angeles, San Francisco, and San Pedro, CA; Miami, FL; Savannah, GA; Chicago, IL; New Orleans, LA; Detroit, MI; Wilmington, NC; Elizabeth, NJ; Brooklyn, NY; Cleveland, OH; Charleston, SC; Houston, TX; Norfolk, VA; and Seattle, WA.

Methyl bromide is produced by two chemical manufacturers in the United States who, in turn, sell to distributors who may or may not be end users. Small Business Administration (SBA) standards consider agricultural chemical manufacturers and retailers small businesses if they employ 500 people or less. Methyl bromide manufacturers would not be considered small by these standards. The number of distributors of methyl bromide is not known. However, out of the 12 commercial suppliers listed in APHIS' Plant Protection and Quarantine Treatment Manual, which was revised in 1993, only one other company besides the primary manufacturer remains in business as a supplier/distributor of methyl bromide in the United States. APHIS estimates that over 90 percent of methyl bromide

fumigators would be considered small by SBA standards.

In FY 1993, approximately 37,800 pounds of methyl bromide was used to fumigate brassware products from India. Based on this figure, exempting Indian brassware products from fumigation, which costs approximately $1.50 a pound, would result in fumigators as a group losing about $56,700 a year in sales of methyl bromide. The contractor charges for methyl bromide and labor are approximately $275 per fumigation. In addition, those fumigators would also lose the unloading and loading charges of approximately $500 per fumigation. At the Long Beach, CA, port of entry the approximate annual revenue of methyl bromide fumigators for brassware fumigations was $337,400. Long Beach comprises 37.7 percent of the national brassware fumigations. Using the Long Beach estimate as a base, methyl bromide fumigators may lose approximately $894,960 on brassware fumigations nationwide.

Information on the number of importers of brassware from Bombay, India, is unavailable. Domestic importers would save on the treatment costs. The treatment costs include the charges of methyl bromide fumigators and overtime costs for APHIS inspectors during fumigations. In Long Beach, CA, the annual overtime charges are approximately $37,400. Using the Long Beach estimate as a base, overtime charges nationwide would be approximately $100,000 annually. As a group, importers would save about $1 million a year in overtime and contractor charges.

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

§ 319.75–2 [Amended]

2. Section 319.75–2 would be amended by removing paragraph (a)(2) and by redesignating paragraphs (a)(3) through (a)(8) as (a)(2) through (a)(7), respectively.

§ 319.75–4 [Amended]

3. In § 319.75–4, paragraph (a) introductory text would be amended by removing the words ''Brassware; wooden screens; goatskins;'' and by adding the word ''Goatskins;'' in their place.

Done in Washington, DC, this 30th day of June 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–16886 Filed 7–10–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. 95N–0034]

Dental Devices; Effective Date of Requirement for Premarket Approval of Over-the-Counter (OTC) Denture Cushions or Pads and OTC Denture Repair Kits

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of product development protocol (PDP) for OTC denture cushions or pads and OTC denture repair kits. The agency is also summarizing its findings regarding the benefits to the public from use of the device, as well as, the degree of risk of illness or injury intended to be eliminated or reduced by requiring that the devices have an approved PMA or a completed PDP. In addition, FDA is announcing the opportunity for interested persons to request the agency to change the classification of the device based on new information.

DATES: Submit written comments by October 10, 1995; requests for a change in classification by July 26, 1995. FDA intends that if a final rule based on this proposed rule is issued, PMA's or notices of completion of PDP's will be required to be submitted within 90 days of the effective date of the final rule.

ADDRESSES: Submit written comments or requests for a change in classification to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Louis Hlavinka, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval). Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. For the sake of convenience, this preamble refers to the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as ''preamendments devices.''

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or notice of completion of a PDP until 90 days after FDA issues a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act, whichever is later. Also, such a device is exempt from

the investigational device exemption (IDE) regulations in 21 CFR part 812 until the date stipulated by FDA in the final rule requiring the submission of a premarket approval application or a PDP for that device. At that time, an IDE must be submitted only if a PMA has not been submitted or a PDP completed.

Section 515(b)(2)(A) of the act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The proposed rule; (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device; (3) an opportunity for the submission of comments on the proposed rule and the proposed findings; and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change of classification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, issue a final rule to require premarket approval, or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or a notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device under section 513 of the act, whichever is later. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). FDA has in the past requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for OTC denture cushions or pads and OTC denture repair kits.

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed. The House Report on the amendments states that ''the thirty month grace period afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval.'' (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976).)

A. Classification of OTC Denture Cushions or Pads and OTC Denture Repair Kits

In the **Federal Register** of August 12, 1987 (52 FR 30082), FDA issued a final rule classifying the OTC denture cushion or pad and the OTC denture repair kit into class III. The preamble to the proposal to classify the device published in the **Federal Register** of December 30, 1980 (45 FR 85962), included the recommendation of the Dental Devices Panel (the panel), an FDA advisory committee, regarding the classification of the devices. The panel recommended that the OTC denture cushion or pad be in class III (premarket approval) if the device is made of a material different from wax-impregnated cotton cloth, and if it is intended for a use other than short-term use. The 1980 panel recommended that the OTC denture repair kit be in class III (premarket approval) for all uses. The panel believed that general controls and performance standards would not provide reasonable assurance of the safety and effectiveness of these devices and that there was insufficient information to establish such a standard.

In the **Federal Register** of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval for 31 class III preamendments devices. Among other things, the notice described the factors FDA takes into account in establishing priorities for proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's or declared completed PDP's. The OTC denture cushion or pad and the OTC denture repair kit were not included in the list of devices identified in that notice. However, using those factors, FDA updated its priorities in a preamendments class III devices strategy document made public through a **Federal Register** Notice of Availability published May 6, 1994 (59 FR 23731). Accordingly, FDA has recently determined that the OTC denture cushion or pad identified in 21 CFR 872.3540 and the OTC denture repair kit identified in 21 CFR 872.3570 have a high priority for initiating a proceeding to require premarket approval because the safety and effectiveness, of the devices have not been established by valid scientific evidence as defined in 21 CFR 860.7. Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the OTC denture cushion or pad and the OTC denture repair kit have approved PMA's or declared completed PDP's.

B. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the OTC denture cushion or pad and the OTC denture repair kit within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the OTC denture cushion or pad and the OTC denture repair kit during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days of the date of filing. FDA cautions that, under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period of a PMA beyond 180 days unless the agency finds that

''* * * the continued availability of the device is necessary for the public health.''

FDA intends that, under § 812.2(c)(2), the preamble to any final rule based on this proposal will state that, as of the date on which a PMA or a notice of completion of a PDP is required to be filed, the exemptions in § 812.2(c)(1) and (c)(2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any OTC denture cushion or pad and OTC denture repair kit which is: (1) Not legally on the market on or before that date, or (2) legally on the market on or before that date but for which a PMA or notice of completion of PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA, notice of completion of a PDP, or an IDE application for the OTC denture cushion or pad and OTC denture repair kit is not submitted to FDA within 90 days after the date of promulgation of any final rule requiring premarket approval for the device, commercial distribution of the device must cease. FDA, therefore, cautions that, for manufacturers not planning to submit a PMA immediately, IDE applications should be submitted to FDA at least 30 days before the end of the 90 day period after the final rule is published to minimize the possibility of interrupting all availability of the device. FDA does not consider an investigation of the OTC dental cushion or pad and the OTC denture repair kit to pose a significant risk as defined in the IDE regulation. The device may be distributed for investigational use if manufacturers, importers or other sponsors comply with the abbreviated requirements (21 CFR 812.1(b)) of theIDE regulation.

C. Description of Devices

An OTC denture cushion or pad is a prefabricated or noncustom device that is intended to improve the fit of a loose or uncomfortable denture, and may be available for purchase over-the-counter. It is a class I device if the OTC denture cushion or pad is made of wax-impregnated cotton cloth that the patient applies to the base or inner surface of a denture before inserting the denture into the mouth, and is intended to be discarded following 1 day of use. It is a class III device if the product is made of a material other than wax-impregnated cotton cloth, if it is not intended to be discarded after 1 day's use, and it is intended for a use other than short-term use.

An OTC denture repair kit is a device consisting of a material, such as a resin monomer system of powder and liquid glues, that is intended to be applied permanently to a denture to mend cracks or breaks. The device may by available for purchase OTC.

D. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the OTC denture cushion or pad and the OTC denture repair kit to have an approved PMA or a declared completed PDP; and (2) the benefits to the public from the use of the device.

E. Risk Factors

1. OTC Denture Cushions or Pads

OTC denture cushions or pads have been associated with changes in oral tissues, including tissue irritation, erythema, and bone resorption (due to the uneven pressure caused by the cushion and pad) (Ref. 1). There is also a risk of sensitivity to the cushion or pad material. Additionally, in 1980, the panel associated a potential unreasonable risk of illness or injury with OTC denture cushions or pads. The denture cushions or pads may cause an improper vertical dimension of a denture (Ref.2), which may result in increased occlusal (biting) forces and lead to bone loss through resorption (degeneration of the bone through gradual dissolution). The panel also believed that long-term irritation of oral tissue caused by incorrect vertical dimension could cause the formation of carcinomas. There is no recent evidence in the published scientific literature to suggest that these risks are no longer relevant.

2. OTC Denture Repair Kits

OTC denture repair kits may cause: Altered esthetics, contact dermatitis, soft tissue irritation (resulting from the use of commercially available cements or adhesives not specifically designed for intraoral use), and an ill fitting denture (Refs. 3, 4, 5, and 6). The 1980 Dental Devices Classification panel believed that OTC denture repair kits presented a potential unreasonable risk of illness or injury. The panel advised that if the repaired denture does not have the same characteristics and fit as the original denture, the repaired denture may cause a change in the vertical dimension of the denture, which may result in increased occlusal (biting) forces and lead to bone loss through resorption (degeneration of the bone through gradual dissolution) (Refs. 5 and 7). The panel also believed that long-term irritation of oral tissue caused by incorrect vertical dimension could cause the formation of carcinomas. There is no new evidence in the published scientific literature to suggest that these risks are no longer relevant.

F. Benefits of the Devices

1. OTC Denture Cushion or Pad

OTC denture cushions or pads are placed on the tissue contacting surface of a denture to help fill in areas where the acrylic denture material no longer contacts the oral tissue. The potential benefits intended from the use of an OTC denture cushion or pad are improvement in the retention, stability, and comfort of maxillary and mandibular dentures.

2. OTC Denture Repair Kit

An OTC denture repair kit provides the material for repairing cracks or breaks in a denture, or for reattaching dislodged teeth on a denture to the actual consumer. The denture repair kit restores the function and esthetics of a denture so that the denture can continue to be worn.

G. Need for Information for Risk/Benefit Assessment of the Device

FDA classified the OTC denture cushion or pad and the OTC denture repair kit into class III because FDA determined that insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance. FDA has determined that the special controls that may now be applied to class II devices under the Safe Medical Devices Act of 1990 also would not provide such assurance. FDA has weighed the probable risks and benefits to the public health from the use of the devices and believes that the literature reports and other information discussed above suggest the potential for unreasonable risks associated with use of the devices. These risks must be addressed by the manufacturers of OTC denture cushions or pads and OTC denture repair kits. FDA believes that OTC cushions or pads and OTC denture repair kits should undergo premarket approval to establish effectiveness and to determine whether the benefits to the patient are sufficient to outweigh any risk.

II. PMA Requirements

A PMA for these devices must include the information required by section 515(c)(1) of the act and § 814.20 (21 CFR 814.20) of the procedural regulations for PMA's. Such a PMA should also include

a detailed discussion of the risks identified above, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that reasonably should be known to the applicant that have not been identified in this document; (2) the effectiveness of the specific OTC denture cushion or pad and OTC denture repair kit that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA should include valid scientific evidence as defined in 21 CFR 860.7 and should be obtained from well-controlled clinical studies, with detailed data, in order to provide reasonable assurance of the safety and effectiveness of the OTC denture cushion or pad and the OTC denture repair kit for their intended uses. In addition to the basic requirements described in § 814.20(b)(6)(ii) for a PMA, it is recommended that such studies employ a protocol that meets the following criteria. Applicants should submit any PMA in accordance with FDA's ''Guideline for the Arrangement and Content of a PMA Application.'' The guideline is available upon request from FDA, Center for Devices and Radiological Health, Division of Small Manufacturers Assistance (HFZ–220), 1350 Piccard Dr., Rockville, MD 20850.

A. General Protocol Requirements

The OTC denture cushion or pad or OTC denture repair kit should be evaluated in a prospective, randomized, controlled clinical trial that uses adequate controls. The study must attempt to answer all of the general and specific questions about the safety and effectiveness of the devices, including the risk to benefit ratio. These questions should relate to the pathophysiologic effects which the device produces, as well as the primary and secondary variables analyzed to evaluate safety and effectiveness. Study endpoints and study success must be defined.

Animal toxicity studies should be conducted according to the International Standard ISO–10993, ''Biological Evaluation of Medical Devices Part–1: Evaluation and Testing'', specifically:

1. The selection of material(s) to be used in device manufacture and its toxicological evaluation should initially take into account full characterization of the material, for example, formulation, known and suspected impurities and processing.

2. The material(s) of manufacture, the final product and possible leachable chemicals or degradation products should be considered for their relevance to the overall toxicological evaluation of the device.

3. Any in vitro or in vivo experiments or tests must be conducted according to recognized good laboratory practices followed by an evaluation by competent informed persons.

4. Any change in chemical composition, manufacturing process, physical configuration or intended use of the device must be evaluated with respect to possible changes in toxicological effects and the need for additional toxicity testing.

5. The toxicological evaluation performed in accordance with the guidance should be considered in conjunction with other information from other nonclinical tests, clinical studies, and postmarket experiences for an overall safety assessment.

Examples of questions to be addressed by the clinical studies may include the following:

1. What morbidity (erythema, edema, soft tissue hyperplasia, ulceration, allergic response, bone resorption, or other adverse effects) is associated with the subject device in the patient population and how does this compare to the control?

2. Is the material composition of the device compatible with the denture base material?

3. Can the average consumer follow the instructions for use included with the device and adequately restore the function of the denture?

4. What impact does the device have on the vertical dimension of occlusion?

5. What are the long term effects of the device on the oral tissue?

6. What changes in the physical characteristics (hardness, dimensional stability) of the materials take place over time?

7. Does the device provide a functional level of retention for the user?

8. Does the device allow sufficient comfort for the user?

9. Does the denture repair kit provide adequate strength for the denture to function properly following temporary repair?

Statistically valid investigations should include a clear statement of the objectives of the study. Appropriate rationale, supported by background literature on previous uses of the device and proposed mechanisms for its effect, should be presented as justification of the questions to be answered, and the definitions of study endpoints and success. Clear study hypotheses should be formulated based on this information.

B. Study Sample Requirements

The subject population should be well defined. Ideally, the study population should be as homogeneous as possible in order to minimize selection bias and reduce variability. Otherwise, an excessively large population may be necessary to achieve statistical significance. Independent studies producing comparable results at multiple study sites using identical protocols are necessary to demonstrate repeatability. Justification must be provided for the sample size used to show that a sufficient number of patients were enrolled to attain statistically and clinically meaningful results. Eligibility criteria for the subject population should include the subjects' potential for benefit, the ability to detect a benefit in the subject, the absence of both contraindications and any competing risk, and assurance of subject compliance. In a heterogenous sample, stratification of the patient groups participating in the clinical study may be necessary to analyze homogeneous subgroups and thereby minimize potential bias. All endpoint variables should be identified, and a sufficient number of patients from each subgroup analysis should be included to allow for stratification by pertinent demographic characteristics.

The investigation should include an evaluation of comparability between treatment groups and control groups (including historical controls). Baseline (e.g., age, gender, etc.) and other variables should be measured and compared between the treatment and control groups. The baseline variables should be measured at the time of treatment assignment, not during the course of the study. Other variables should be measured during the study as needed to completely characterize the device's safety and effectiveness.

C. Study Design

All potential sources of error, including selection bias, information bias, misclassification bias, comparison bias, or other potential bias should be evaluated and minimized. The study should clearly measure any possible placebo effect. Treatment effects should be based on objective measurements. The validity of these measurement scales should be shown to ensure that the treatment effect being measured reflects the intended uses of the devices.

Adherence to the protocol by subjects, investigators, and all other individuals involved is essential and requires monitoring to assure compliance by

both patients and physicians. Subject exclusion due to dropout or loss to followup greater than 20 percent may invalidate the study due to bias potential; therefore, initial patient screening and compliance of the final subject population will be needed to minimize the dropout rate. All dropout must be accounted for and the circumstances and procedures used to ensure patient compliance must be well documented.

Endpoint assessment cannot be based solely on a statistical value. Instead, the clinical outcome, must be carefully defined to distinguish between the evaluation of the proper function of the device versus its benefit to the subject. Statistical significance and effectiveness of the device must be demonstrated by the statistical results. However, under certain restricted circumstances, a clinically significant result may be acceptable without statistical significance.

Observation of all potential adverse effects must be recorded and monitored throughout the study and the followup period. All adverse effects must be documented and evaluated.

D. Statistical Analysis Plan

The involvement of a biostatistician is recommended to provide proper guidance in the planning, design, conduct, and analysis of a clinical study. There must be sufficient documentation of the statistical analysis and results including: Comparison group selection, sample size justification, stated hypothesis test(s), population demographics, study site pooling justification, description of statistical tests applied, clear presentation of data and a clear discussion of the statistical results and conclusions.

In addition to this generalized guidance, the investigator or sponsor is expected to incorporate additional requirements necessary for a well-controlled scientific study. These additional requirements are dependent on what the investigator or sponsor intends to measure or what the expected treatment effect is based on each device's intended use.

E. Clinical Analysis

The analysis which results from the study should include a complete description of all the statistical procedures employed, including assumption verification, pooling justification, population selection, statistical model selection, etc. If any procedures are uncommon or derived by the investigator or sponsor for the specific analysis, an adequate description must be provided of the procedure for FDA to assess its utility and adequacy. Data analysis and interpretation from the clinical investigation should relate to the medical claims.

F. Monitoring

Rigorous monitoring is required to assure that study procedures are followed and that data are collected in accordance with the study protocol. Forceful monitors, who have appropriate credentials and who are not aligned with patient management or otherwise biased, contribute prominently to a successful study.

III. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (b)(2)(A)(iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of the OTC denture cushion or pad and the OTC denture repair kit are to be in the form of a reclassification petition containing the information required by § 860.123 (21 CFR 860.123), including information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by July 26, 1995.

The agency advises that, to ensure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the OTC denture cushion or pad or the OTC denture repair kit is submitted, the agency will, by September 11, 1995, after consultation with the appropriate FDA advisory committee and by an order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and 21 CFR 860.130 of the regulations.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

(1) Cinotti, W. R., et al., ''An Over-the-Counter Dental Cushion: A Study of Efficacy, Safety, and Compliance,'' vol. v, no. 10, pp. 792–801, ''The Compendium of Continuing Education,'' November/December 1984.

(2) Craig, R. G., et al., ''Dental Materials Properties and Manipulation,'' 5th ed., Mosby, pp. 282–283, 1992.

(3) Kapur, K. K., ''A clinical evaluation of denture adhesives,'' Journal of Prosthetic Dentistry, 10(6):550–558, 1967.

(4) Koudelka, B. M., et al., ''Denture self-repair: Experimental soft tissue response to selected commercial adhesives,'' Journal of Prosthetic Dentistry, 43(2):143–148, 1980.

(5) Ortman, L. F., ''Patient Education and Complete Denture Maintenance,'' Symposium on Complete Dentures, Dental Clinics of North America, 21(2):359–367, 1977.

(6) Phillips, R. W., ''Elements of Dental Materials for Dental Hygienists and Assistants,'' 3d ed., W. B. Saudners, pp. 138–139, 1977.

(7) Woelfel, J. B., et al., ''Additives sold over the counter dangerously prolong wearing period of ill-fitting dentures,'' Journal of the American Dental Association, 71(9):603–613, 1965.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environment assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because these devices have been classified into class III since August 12, 1987, and manufacturers of

these devices that were legally in commercial distribution before May 28, 1976, or found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing during FDA's review of the PMA or notice of completion of the PDP, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Comments

Interested persons may, on or before October 10, 1995, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before July 26, 1995, submit to the Dockets Management Branch a written request to change the classification of the OTC denture cushion or pad or the OTC denture repair kit. Two copies of any request are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2.Section 872.3540 is amended by revising paragraph (c) to read as follows:

§ 872.3540 OTC denture cushion or pad.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any OTC denture cushion or pad made of a material other than wax-impregnated cotton cloth, not intended to be discarded after 1 day's use, and intended for a use other than short-term use, that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to an OTC denture cushion or pad made of a material other than wax-impregnated cotton cloth, not intended to be discarded after 1 day's use, and intended for a use other than short-term use that was in commercial distribution before May 28, 1976. Any other OTC denture cushion or pad made of a material other than wax-impregnated cotton cloth, not intended to be discarded after 1 day's use, and intended for a use other than short-term use shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

3. Section 872.3570 is amended by revising paragraph (c) to read as follows:

§ 872.3570 OTC denture repair kit.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any OTC denture repair kit that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to the OTC denture repair kit that was in commercial distribution before May 28, 1976. Any other OTC denture repair kit shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: June 26, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–16962 Filed 7–10–95; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[FRL–5227–1]

Hazardous Waste Management: Liquids in Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking to grant a petition.

SUMMARY: On November 18, 1992, the Agency promulgated a final rule on liquids in landfills. That rule satisfied a statutory requirement in the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 regarding the landfill disposal of containerized liquids. Specifically, the statute required EPA to issue a rule that prohibited the disposal in hazardous waste landfills of liquids that have been absorbed in materials that biodegrade. Today's proposed rulemaking, which provides increased flexibility to the regulated community, would add an additional test to demonstrate that a sorbent is non-biodegradable.

In the final rules section of this **Federal Register**, EPA is promulgating a direct final rule without prior proposal because EPA views this as minor technical modification that merely broadens the scope of the testing. A detailed rationale for the amendment is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received by August 10, 1995.

ADDRESSES: Written comments (one original and two copies) should be addressed to: EPA RCRA Docket No. F–95–ALLP–FFFFF, room M2616, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Call 202–260–9327 for an appointment to examine the docket. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at 1–800–424–9346 (toll free), or 703–412–9810 in the Washington, D.C. area. For information on technical aspects of this rule, contact David Eberly, U.S. EPA, Office of Solid Waste (5303W), 401 M Street SW., Washington, DC 20460; 260–4288.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being proposed under the authority of section 3004(c) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6924(c).

II. Additional Information

For additional information, see the direct final rule published in the rules section of this **Federal Register**.

Dated: June 30, 1995.

Fred Hansen,

Acting Administrator.

[FR Doc. 95–16950 Filed 7–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89–553, PP Docket No. 93–253, GN Docket No. 93–252]

Request for Comments in 900 MHz SMR Proceeding

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On April 17, 1995, the Commission released a Second Report and Order and Second Further Notice of Proposed Rule Making in PR Docket No. 89–553, PP Docket No. 93–253, and GN Docket No. 93–252, FCC 95–159, 60 FR 21987 and 60 FR 22023, published May 4, 1995, adopting service rules and requesting comment on competitive bidding procedures for Specialized Mobile Radio (SMR) systems in the 900 MHz Band. This Public Notice is a request for comments in the 900 MHz SMR Proceeding on the appropriate measures to address the issues raised by the Supreme Court's recent decision in *Adarand Constructors, Inc.* v. *Peña*, as it may relate to the proposed treatment of designated entities in the 900 MHz SMR auction.

DATES: Comments may be filed on or before July 14, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Amy J. Zoslov, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice in PR Docket No. 89–553, PP Docket No. 93–253, and GN Docket No. 93–252, released June 20, 1995, requesting comment in the 900 MHz SMR Proceeding. The full text of this Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

By this action, we request comment on the appropriate measures to address the issues raised by the Supreme Court's recent decision in *Adarand Constructors, Inc.* v. *Peña*[1] (''Adarand'') as it may relate to the proposed treatment of designated entities in the 900 MHz SMR auction.[2] The term ''designated entities'' refers to small business, rural telephone companies, and businesses owned by minorities or women.[3] Because the *Adarand* decision was announced at the conclusion of the reply comment period for the *900 MHz SMR Auction Notice*,[4] interested parties did not have a sufficient opportunity to address this issue for the record.

Adarand imposes a strict scrutiny standard for evaluating federally imposed race-conscious provisions. That standard requires us to show a ''compelling government interest'' for taking race into account.[5] Under *Adarand*, the agency must show that it considered ''race-neutral alternatives'' and that the program is ''narrowly tailored'' to meet the compelling governmental interest established by the record and findings.[6] Therefore, we invite comment specifically on the impact of the *Adarand* decision on the proposals we have set forth with respect to the treatment of designated entities in the auction rules for the 900 MHz SMR service.[7]

Interested parties may file comments on or before July 14, 1995. In the interest of expediting the rule making proceeding in this docket and initiating an auction for the 900 MHz SMR service, we are not inviting reply comments. An original and four copies of all comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. If you would like each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies with the Office of the Secretary. Comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. This is a non-restricted proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules.[8]

Action by the Chief, Wireless Telecommunications Bureau, June 30, 1995. For additional information concerning this proceeding, contact Amy Zoslov (Legal Branch, Commercial Wireless Division) at (202) 418–0620.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 95–17070 Filed 7–10–95; 8:45 am]

BILLING CODE 6712–01–M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1552

[FRL–5225–7]

Acquisition Regulation; Compliance With EPA Policies for Information Resources Management

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes a change to the Environmental Protection

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[1] 63 U.S.L.W. 4523 (U.S. June 12, 1995).

[2] See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, Second Report and Order and Second Further Notice of Proposed Rule Making, PR Docket No. 89–553, 60 FR 21987 (May 4, 1995).

[3] Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, Title VI, § 6002(a), 107 Stat. 312, 388 (1993).

[4] See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool, Order, PR Docket No. 89–553, DA 95–1174, released May 26, 1995 (extending the reply comment deadline to June 12, 1995).

[5] Adarand, 63 U.S.L.W. at 4530.

[6] *Id.*

[7] See 900 MHz SMR Auction Notice at ¶¶ 122–147.

[8] See generally 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

Agency Acquisition Regulation (EPAAR) coverage on Information Resources Management (IRM) by providing electronic access to EPA IRM policies for the Agency's contractors. Electronic access is available through the Internet or a dial-up modem bulletin board service (BBS). Agency contractors will be required to review the Internet or bulletin board when receiving a work request (i.e. delivery order or work assignment) to ascertain the applicable IRM policies. The intended effect of this proposed rule is to ensure that contractors perform IRM related work in accordance with current EPA policies.

DATES: Written comments shall be submitted not later than September 11, 1995.

ADDRESSES: Comments should be addressed to: Environmental Protection Agency, Office of Acquisition Management (3802F), 401 M Street SW., Washington, DC 20460, Attention: Edward N. Chambers.

FOR FURTHER INFORMATION CONTACT: Edward N. Chambers, telephone: (202) 260–6028.

SUPPLEMENTARY INFORMATION:

A. Background

The required EPA IRM policies are currently referenced in a clause contained in all Agency solicitations and contracts. While this clause provides for revised and new directives through attachments to contracts, because of the rapid changes in the IRM field EPA may still be at risk for requiring compliance with outdated directives. By locating the references and providing the full text of all required IRM policies on the Internet or the Agency's bulletin board service, EPA will be able to update this information as changes occur to ensure contractor compliance with current IRM policies. This effort to provide electronic access is consistent with the Federally mandated Government Information Locator Service (GILS), a key initiative of the National Performance Review (NPR).

B. Executive Order 12866

This is not a significant regulatory action under Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44. U.S.C. 3501 *et seq.*

D. Regulatory Flexibility Act

The proposed rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, U.S.C. 601 et. seq.

Internet and electronic bulletin boards are widely available information services, used commonly in the conduct of business by both small and large entities. Compliance with this requirement will require minimal cost or effort for any entity, large or small.

List of Subjects in 48 CFR Part 1552

Government Procurement, Specifications, Standards, and other Purchase Descriptions, Solicitation Provisions and Contract Clauses.

Dated: June 14, 1995.

Betty L. Bailey,

Director, Office of Acquisition Management.

For reasons set out in the preamble, chapter 15 of title 48 Code of Federal Regulations is proposed to be amended as set forth below:

1. The authority citation for 48 CFR part 1552 continues to read as follows:

Authority: Section 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1552.210–79 is amended by revising the date in the clause heading and paragraphs (b), (c) and (d); and by removing paragraphs (e) and (f) to read as follows:

§ 1552.210–79 Compliance with EPA Policies for Information Resources Management.

* * * * *

Compliance With EPA Policies for Information Resources Management (XXX–1995)

* * * * *

(b) *General.* The contractor shall perform any IRM related work under this contract in accordance with the IRM policies, standards and procedures set forth in this clause and noted below. Upon receipt of a work request (i.e. delivery order or work assignment) the contractor shall check this listing of directives (See paragraph (d) for electronic access). The applicable directives for performance of the work request are those in effect on the date of issuance of the work request.

(1) *IRM Policies, Standards and Procedures.* The 2100 Series (2100–2199) of the Agency's Directives System contain the majority of the Agency's IRM policies, standards and procedures.

(2) *Groundwater Program IRM Requirement.* A contractor performing any work related to collecting groundwater data, or developing or enhancing data bases containing groundwater quality data, shall comply with *EPA Order 7500.1A—Minimum Set of Data Elements for Groundwater Quality.*

(3) *EPA Computing and Telecommunications Services. The National Data Processing Division (NDPD) Operational Directives Manual* contains procedural information about the operation of the Agency's computing and telecommunications services. Contractors performing work for the Agency's National Computer Center or those who are developing systems which will be operating on the Agency's national platforms must comply with procedures established in the Manual.

(c) *Printed Documents.* Documents listed in paragraphs (b)(1) and (b)(2) above may be obtained from: U.S. Environmental Protection Agency, Office of Administration, Facilities Management and Services Division, Distribution Section, Mail Code: 3204, 401 M Street SW., Washington, D.C. 20460, Phone: (202) 260–5797.

(d) *Electronic Access.*

(1) *Internet.* A complete listing, including full text, of documents included in the 2100 Series of the Agency's Directives System as well as the two other EPA documents noted in this clause is maintained on the EPA Public Access Server on the Internet. The listing is located in the EPA policy section under IRM Policy, Standards and Guidance. The address is gopher.epa.gov.

(2) *Bulletin Board Notices.* All documents, including the listing, are available for browsing and electronic download through a dial-up modem bulletin board service (BBS). Dial (919) 558–0335 for access to the BBS. Set the communication parameters to 8 data bits, no parity, 1 stop bit (8,N,1) Full Duplex, and the emulator to VT–100. The information is the same whether accessed through the BBS or the Internet. For technical assistance, call 1–800–334–2405.

(End of Clause)

[FR Doc. 95–16949 Filed 7–10–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

48 CFR Parts 5446 and 5452

DLA Acquisition Regulation; Quality Assurance

AGENCY: Defense Logistics Agency, DOD.

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Logistics Agency proposes to add a new part to 48 CFR Chapter 54, the Defense Logistics Acquisition Regulation (DLAR) part 5446 and add coverage to 48 CFR Chapter 54, Part 5452. The proposed coverage implements a test under which a contractor will be required to replace, repair or provide reimbursements for items which do not conform with the specifications of the contract when such nonconformances are discovered within one year after Government acceptance. Comments are hereby requested on the proposed coverage.

DATES: Comments must be submitted on or before September 11, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Logistics Agency, Directorate of Procurement, AQPLC, ATTN: Mary Massaro, Room 4D175, Cameron Station, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Mary Massaro, Defense Logistics Agency, AQPLC, (703) 274–6307.

SUPPLEMENTARY INFORMATION:

Background

From 1989 to 1993, the Office of the DoD Inspector General (DoDIG) conducted six audits dealing in some measure with the DoD product quality deficiency reporting (PQDR) program. The DoDIG has concluded that DoD does not have effective remedies to obtain reimbursement or replacement for major and critical nonconforming products. Current FAR coverage and clauses allow the Government to require contractor corrections of latent, but not patent, nonconformances discovered after acceptance of supplies delivered under fixed-price contracts. In order to correct this situation, the DODIG has suggested certain regulatory and procedural changes regarding Government acceptance. The Director of Defense Procurement (USD(A&T)) has agreed to permit DLA to test changes to acceptance procedures in accordance with the DoDIG's general recommendations to determine whether such changes are effective, cost-beneficial, and capable of widespread implementation. The proposed rule presents such a mechanism: a clause, not unlike a warranty, which provides that, notwithstanding acceptance of items, the Government can require the contractor to remedy any nonconformance determined to have been contractor-caused. Such a nonconformance must have been discovered either via testing at a Government-designated laboratory or by a completed, validated product quality deficiency report investigation; even in the latter case, lab testing may be used, as appropriate, for validation purposes. Any Government action for recoupment must have been initiated within one year of the date of acceptance. The clause will be used by three of DLA's buying activities, the Defense Construction Supply Center (DCSC), the Defense Electronics Supply Center (DESC), and the Defense Industrial Supply Center (DISC). In the former two, the clause will be incorporated in contracting actions for the purchase of supplies in certain federal supply classes (FSCs) that have yielded high or disproportionate rates of nonconformance in the recent past. At DISC, because of the wide variety and large numbers of individual items within FSCs, that Center will implement the test for selected national stock numbers (items) within two of the FSCs listed below, and for all the items within a third FSC. The FSCs to be included are:

DCSC–2520—Vehicular Power Transmission Components, 2815—Diesel Engines and Components, 4320—Power and Hand Pumps

DESC–5965—Headsets, Handsets, Microphones and Speakers

DISC–5307—Studs (all items), 5310—Nuts & Washers (Class 3 self-locking nuts IAW MIL–N–25027, only), 5340—Hardware, Misc. (zinc anodes only)

The proposed coverage will be included in the Defense Logistics Agency Acquisition Regulation (DLAR) 4105.1, which implements and supplements the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), and other DOD publications and, pursuant to FAR 1.304, establishes DLA procedures relating to the acquisition of supplies and services under the authority of 10 U.S.C. 301. This supplementary coverage and clause are designed to give contracting officers an effective tool for dealing with contractor-caused patent nonconformances.

Regulatory Flexibility Act

The proposed additions to 48 CFR parts 5446 and 5452 may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because they provide a means of recoupment for patently defective items when these nonconformances are discovered after Government acceptance. This remedy is provided against both small and large entities under the proposed rule. An Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows:

A limited number of procurements was selected for the test to provide valid test results while minimizing the impact on industry.

Elminating small business from the test would invalidate the test results. Most DLA contractors are small businesses.

The proposed coverage at 48 CFR parts 5446 and 5452 is required in order to provide DLA with a means of recoupment for patently defective items when these nonconformances are discovered after Government acceptance. The proposed rule will apply to all businesses, large and small, that enter into contracts with DLA field activities for the covered FSCs/items. Although the rule will apply to all and cannot be waived or relaxed for small entities, it will only have an adverse impact on those contractors that provide items with patent nonconformances. The proposed rule does not contain any information collection and recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.* Costs of compliance are dependent upon numbers of nonconforming items/lots delivered within the affected FSCs, and cannot be estimated at the present time. There are no alternatives to the proposed rule that will accomplish the stated objectives.

A copy of the Initial Regulatory Flexibility Analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the individual listed above. Comments from small entities concerning the affected DLAR Subparts will be considered in accordance with Section 610 of the Act.

Paperwork Reduction Act

The proposed rule does not impose any reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501*et seq.* and, therefore, the Paperwork Reduction Act does not apply.

Public Participation

Public participation in the rulemaking will be handled by means of the Defense Logistics Agency's consideration of written comments mailed to the address set forth above.

Government procurement.

List of Subjects in 48 CFR Parts 5446 and 5452

Therefore, it is proposed that 48 CFR chapter 54 be amended as follows:

1. Part 5446 is added to read as follows:

PART 5446—QUALITY ASSURANCE

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, 48 CFR Part 1, subpart 1.3 and 48 CFR part 201 subpart 201.3

5446.393 Remedies for post-acceptance discovery of nonconformance.

The contracting officer shall insert the clause at 5452.246–9005, Remedies for Post-Acceptance Discovery of Nonconformances (Test), in solicitations and contracts in accordance with 5446.590.

§ 5446.590 Post-acceptance discovery of defects (test).

(a) The purpose of this test is to determine the viability of contract coverage which provides remedies to the Government for patent defects discovered after acceptance. Specific procedures are set forth in the test plan. The test will apply to designated FSCs or items at DCSC, DESC, and DISC for which these Centers have experienced unusually high levels of nonconformances, as evidenced by PQDR data from the System for Analysis of Laboratory Testing (SALT) data base. The DLA laboratory testing program and/or completed, validated PQDR investigations will be used to uncover nonconformances and to support determinations of contractor causation. The clause at 5452.246–9005, Remedies for the Post-Acceptance Discovery of Nonconformances (Test), will be used in contracts for the covered FSCs/items to provide remedies for those nonconformances.

(b) The clause at 5452.246.9005 gives the Government the means to pursue repair, replacement or recoupment, at Government option, for a period of one year after the cognizant Government representative signifies acceptance by signature on the DD250 or similar documentation. These remedies also apply to replacements for up to one year after their acceptance. Remedies provided under this clause do not preclude the use of the nonconformance against the contractor in future sources selection decisions. After one year from the acceptance date, acceptance shall be conclusive in accordance with the FAR standard inspection clauses (e.g., paragraph (k) of FAR 52.246–2, which states that acceptance shall be conclusive except for latent defects, fraud, and the like). Future discoveries of patent defects (after the twelve-month period has ended) are subject to voluntary recoupment procedures.

(c) Receipts of the designated items will be targeted (identified/segregated) upon their delivery to a depot. Not all items or all lots in the designated FSCs will be subject to lab testing. However, in the event of a lab test failure, lab personnel will report their results to the ICP; the contracting officer will be notified through the Center Quality element. The contracting officer shall pursue remedies available under the clause at 5452.246–9005 when the nonconformance can be traced to a specific contract and is contractor-caused.

(d) Even for those nonconformances not originally uncovered via random laboratory testing, labs may be used as necessary to validate the existence of the patent defects. Positive lab test results shall not prohibit the Government's pursuit of remedies for nonconformances subsequently identified by depot personnel, end-users, or others (whether or not confirmed by lab testing) within the twelve months after acceptance. As stated in paragraph (b) of this section after the one-year period has passed, any discovery of patent defects in these items shall be handled in accordance with voluntary recoupment procedures.

(e) Like warranties, the clause requires that the items or packages be marked with notice of coverage, and contractor-prepared shipping documents must also carry notice of the clause's applicability to the shipped items.

(f) During the test period, the contracting officer shall include the clause at 5452.246–9005, Remedies for Post-Acceptance Discovery of Nonconformances (Test), in all non-SASPS–I contracting actions for the covered FSCs/items, except where the contracting officer determines that the cost for inclusion of the clause is unreasonable. The cost reasonableness will be based on evaluation of the contractor's stated prices for the item with and without clause inclusion. (The latter is to be expressed via ''additive CLIN.'') A determination that the cost is unreasonable must be approved at a level above the contracting officer and documented in the contract file. Since the purpose of the test is to determine the viability of the clause, such determinations must not be used customarily.

(g) Contracting officers shall maintain a separate log, in the same fashion and containing the same data fields as the Warranty Log, for all items covered by the Remedies for Post-Acceptance Discovery of Nonconformances (Test) clause. The log must distinguish between patent and latent defects.

PART 5452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5452.246–9005 [Added]

2. The authority citation for part 5452 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, 48 CFR part 1, subpart 1.3 and 48 CFR part 201, subpart 201.3.

3. Part 5452, subpart 5452.2, is amended by adding section 5452.246–9005 to read as follows:

§ 5452.246–9005 Remedies for Post-Acceptance Discovery of Nonconformance (test).

As prescribed in 5446.590, insert the following clause in contracts for designated FSCs or items at DCSC, DESC, and DISC to provide remedies for nonconformances.

5452.246–9005—Remedies for Post-Acceptance Discovery of Nonconformances (Test) (June 1995) (DLAR)

(a) *Definitions.* (1) *Acceptance:* The word acceptance as used herein means the execution of the acceptance block and signing of a DD Form 250 (or similar documentation) by the authorized Government representative.

(2) *Supplies*: The word supplies as used herein means the end-item furnished by the contractor and any related services required under this contract. The word does not include technical data.

(b) *Purpose and scope.* Notwithstanding Government inspection and acceptance in accordance with any of the standard inspection clauses of supplies furnished under this contract, or any other term or condition of the contract concerning the conclusiveness thereof, and notwithstanding that the contractor may already have been paid for contractual performance and the contract otherwise closed, such acceptance shall not be considered final for a period of one year after the date that a cognizant Government representative signifies acceptance by signature on the DD Form 250 or similar documentation. Upon discovery during the one-year period of any nonconforming supplies delivered under this contract, acceptance may be rescinded in accordance with the terms set forth below. After one year, the terms of the standard inspection clause concerning the conclusiveness of acceptance shall apply.

(c) *Contractor's obligations.* (1) As stated above, notwithstanding Government acceptance, the contractor agrees that at the time of delivery of each item, lot, or shipment, and continuing for a period of one year following acceptance:

(i) All supplies delivered under this contract shall be free from defects in material and workmanship (and design, if it is the contractor's, rather than the Government's, design that shall be used), and shall conform with all requirements of this contract;

(ii) The preservation, packaging, packing and marking, and the preparation for, and method of, shipment of all end-items shall conform with the requirements of this contract; and

(iii) All nonconformances discovered by the Government during the one-year period after acceptance that are determined/adjudged not to be the fault of the Government shall subject the contractor to the remedies set forth in (e), below.

(2) All items delivered under this contract may be subject to post-acceptance laboratory testing by a Government-designated laboratory in accordance with applicable sampling plans set forth elsewhere in this contract. If either such testing or a completed, validated product quality deficiency report investigation uncovers or

confirms contractor-caused nonconformances, acceptance of the items, or the lots or shipments of which they are representative, shall be rescinded, and the contractor shall be obligated to provide such remedies to the Government as are set forth in (e), below.

(3) The contractor shall make note of the existence of this clause, and all rights and remedies afforded to the Government thereby, on all shipping documents for items delivered under this contract.

(4) The contractor shall be expected to quote two separate prices for the supplies furnished under this contract: one for the items without reference to this coverage, and another reflecting the price increase (if any) that is a consequence of this clause's inclusion.

(d) *Notification*. The contracting officer shall give written notification to the contractor of any nonconformance within one year after delivery of the nonconforming items.

(e) *Remedies*. With respect to each item or lot in which a nonconformance is discovered and confirmed, the contracting officer shall require the prompt repair or replacement of the item or lot. If this remedy is impractical under the particular circumstances, the contracting officer shall retain the item or lot and require, in lieu of repair or replacement, monetary restitution in the form of a decrease in contract price on any remaining open contract(s) with the contractor, or refund of the price of the nonconforming items or lots, at the election of the contracting officer.

(f) *Transportation costs*. The contractor shall bear the cost of transportation of items for return, replacement, or correction from the place of delivery specified in the contract to the contractor's plant. Any additional transportation costs (e.g., shipment from other than the original delivery site) shall be borne by the Government. Responsibility for supplies while in transit remains with the contractor.

(g) *Contractor's failure to remedy*. The contracting officer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies and charge to the contractor the cost occasioned thereby if the contractor: (1) fails to make redelivery of the corrected or replaced supplies within the time established for their return; or (2) fails either to accept return of the nonconforming supplies or fails to make progress after their return; or (3) fails to make restitution for same.

(h) *Timeframe for correction, repair, replacement, or reimbursement.* Unless otherwise set forth in this contract, the contractor shall have 90 days from the date of notification of the defect or return of the items/lots, whichever is later, within which to effect the required restitution.

(i) *Continuing liability*. Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The period during which the Government can require correction of these defective replacements shall also be one year from the date of delivery thereof.

(j) *Government property*. Items accepted by the Government and subsequently returned to the contractor under the terms of this clause remain the property of the Government. Disposal and replacement of these items are subject to the terms and conditions of the Government property clause(s) set forth elsewhere in this contract.

(k) *Disposition instructions from contractor.* When the Government elects the equitable adjustment remedy, in lieu of correction or replacement, the contractor shall provide disposition instructions for the nonconforming items within 60 days of notification thereof.

(l) *Contract closeout.* Notwithstanding the contract closeout timeframes established for contracts of this type, and notwithstanding the fact that final payment has already been effected, this contract shall remain open solely for purposes of enforcement of this clause for one year subsequent to Government acceptance of the items, lots, or shipments delivered under this contract.

(m) *Rights and remedies: scope.* The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

(n) *Price consequences.* As stated in (c)(4), above, you must indicate the amount, if any, by which the item price you have quoted is affected by, or raised in response to, inclusion of this clause. You should express any such change by means of a second quoted price for the items that takes this coverage into account.

[End of clause]

Dated: June 30, 1995.

Margaret J. Janes,

Assistant Executive Director (Procurement Policy).

[FR Doc. 95–16846 Filed 7–10–95; 8:45 am]

BILLING CODE 5000–04–M

Notices

Federal Register
Vol. 60, No. 132
Tuesday, July 11, 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.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit for Certain Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the People's Republic of China

July 5, 1995.

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

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

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, 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) 927–6703. 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).

In a Memorandum of Understanding (MOU) dated March 8, 1995 the Governments of the United States and the People's Republic of China agreed to increase the 1995 specific limit for Category 870.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current limit for Category 870. The amended limit includes a previous adjustment for carryforward used in 1994.

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 65760, published on December 21, 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.

Chairman, Committee for the Implementation of Textile Agreements.

July 5, 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 December 16, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on July 6, 1995, you are directed to amend further the directive dated December 16, 1994 to increase the limit for Category 870 to 31,165,556 kilograms [1] as provided under the terms of the Memorandum of Understanding dated March 8, 1995 between the Governments of the United States and the People's Republic of China.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–16897 Filed 7–10–95; 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.

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Opportunity for Collaboration

Background

In the February 8, 1995 issue of *The Commerce Business Daily* (CBD) Export Promotion Services (EPS) of the U.S. & Foreign Commerce Service (US&FCS) published a Request for Information (RFI) to determine the interest of private sector organizations in producing and distributing *Commercial News USA* (CNUSA), its export catalog-magazine, published ten times annually by ITA.

Based on responses to the RFI and a review of overall requirements, EPS now envisions a collaborative arrangement rather than one based upon a procurement.

This notice is herewith posted as a Request for Expressions of Interest:

The U.S. Department of Commerce's International Trade Administration (ITA) is seeking a private sector partner to collaborate with it to produce and distribute *Commercial News USA* (CNUSA), its international export catalog-magazine.

Aimed at assisting the export marketing efforts of small- to medium-size firms, *Commercial News USA* (CNUSA) is currently printed in the United States by a contractor for exclusive overseas distribution by U.S. embassies and consulates in 161 countries. Published ten times annually, it has a current circulation of 137,000, augmented by 37 electronic bulletin boards (EBBs) with more than 2 million subscribers.

Typically, an issue carries 130 to 160 listings (advertisements) of U.S. products and services, the majority of which consist of text with a product photograph. The publication is printed in 2 colors (black and one additional color) on white coated stock, with page counts ranging between 32 to 44 pages, including covers. Trim size is 17 inches by 22 inches, saddle-wire stitched in two places and folded to 8½ × 11.

Each edition consists of four or more product and service sections, including three Industry Highlight Sections, focusing on products and services in specific industries, and an all-inclusive ''USA Marketplace''. In addition, a Table of Contents, Index, and ''Quick Response Fax'' page are included. State and regional sections, as well as

demographic sections (eg., minority-owned small businesses) are often featured. Also, from time to time, foreign language editions are produced.

The private sector partner would bear all publication costs, (in fiscal year 1994, approximately $400,000) including marketing, writing, design, and printing. The private sector partner would be recognized through a message to be carried in each issue. ITA would continue to distribute *CNUSA* overseas, and would continue to collect user fees to pay for distribution (but would not provide any of those funds to the private sector publisher). In addition, while ITA would retain control over editorial content and policy, publication and industry feature schedules, pricing, and participation requirements, CNUSA would be open to any suggestions the private sector partner might care to offer, including those that would enhance the economic benefits of collaboration to the private sector partner.

ITA envisions this collaborative effort lasting three to five years.

Private sector organizations interested in collaborating with EPS for the production and distribution of *Commercial News USA* should provide information relating their previous experience in marketing and producing a periodical publication, including: direct mail marketing; work force size and composition (salespersons, writers, editors, designers, and graphic artists) and a brief corporate history.

Respondents to the above-noted *Commerce Business Daily* RFI need not respond to this notice.

Responses should be made by mail no later than August 10, 1995, to U.S. Department of Commerce, *Commercial News USA*, Room 2106, 14th and Constitution Ave., NW., Washington, DC 20230, ATTN: Joseph J. English.

Mary Fran Kirchner,

Deputy Assistant Secretary of Commerce, Export Promotion Services, International Trade Administration, Department of Commerce.

[FR Doc. 95–16891 Filed 7–10–95; 8:45 am]

BILLING CODE 3510–FP–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Option Contracts

AGENCY: Commodity Futures Trading Commission.

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

SUMMARY: The Chicago Board of Trade (CBOT) has applied for designation as a contract market in nine physical option contracts for PCS (Property Claims Services) catastrophe insurance based on the following nine regions: National, Eastern, Northeastern, Southeastern, Midwestern, Western, California, Florida and Texas. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 10, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBOT PCS catastrophe insurance options.

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

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

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

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

Issued in Washington, DC, on July 5, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–16910 Filed 7–10–95; 8:45 am]

BILLING CODE 6351–01–P

Chicago Mercantile Exchange Proposed Brazilian Real Futures and Futures Options Contracts

AGENCY: Commodity Futures Trading Commission

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

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract market in Brazilian real futures and options contracts. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 10, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CME futures and options on the Brazilian real.

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

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

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

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

Issued in Washington, DC, on July 5, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–16908 Filed 7–10–95; 8:45 am]

BILLING CODE 6351–01–P

New York Mercantile Exchange Proposed Futures Contract in New York Harbor Conventional Gasoline

AGENCY: Commodity Futures Trading Commission.

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

SUMMARY: The New York Mercantile Exchange (NYMEX or Exchange) has applied for designation as a contract market in New York Harbor conventional gasoline futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 10, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the NYMEX conventional gasoline futures contract.

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

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

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

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

Issued in Washington, DC, on July 5, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–16911 Filed 7–10–95; 8:45 am]

BILLING CODE 6351–01–P

The National Futures Association's Proposed Requirements for the Supervision of Telemarketing Activities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed registered futures association rule changes.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') has determined pursuant to Section 17(j) of the Commodity Exchange Act (''Act'') to review the National Futures Association's (''NFA's'') proposed amendment to its Interpretive Notice to Compliance Rule 2–9. The proposal would revise NFA requirements regarding the supervisory procedures which certain NFA members must use with respect to their telemarketing activities. The Commission has determined that publication of NFA's proposal is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Act.

DATES: Comments must be received by August 10, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated March 15, 1995, and received March 20, 1995, the NFA submitted to the Commission for its approval, pursuant to Section 17(j) of the Act, a proposed amendment to its Interpretive Notice to Compliance Rule 2–9. NFA's submission indicates that NFA intends to make the proposed amendment effective upon notice of Commission approval.

II. Description of NFA's Proposal

NFA Compliance Rule 2–9 requires each NFA member [1] to supervise diligently its employees and agents in all aspects of their futures activities. NFA Compliance Rule 2–9 generally was designed to, among other things, prevent abusive sales practices. On January 19, 1993, the Commission approved an amendment and Interpretive Notice to NFA Compliance Rule 2–9 which required NFA member firms which met prescribed criteria to adopt specific supervisory procedures designed to prevent abusive telemarketing sales practices.[2]

[1] NFA Compliance Rule 1–1 defines the term ''member'' to mean all Commission registrants except floor brokers and floor traders.

[2] NFA's telemarketing supervision requirements responded to a 1992 amendment of Section 17(p)(4) to the Act which required NFA to establish special supervisory guidelines for telephone solicitation of new futures and options accounts and to make the guidelines applicable to those members determined to require such procedures in accordance with standards established by the Commission consistent with the Act. § 204 of the Futures Trading Practices Act of 1992 (''FTPA''), Pub. L. No. 102–546, 106 Stat. 3590 (1992) (codified at Section 17(p) of the Act, 7 U.S.C. § 21(p)).

Under the current Interpretive Notice, an NFA member firm is required to adopt enhanced supervisory procedures over its telemarketing activities if the member: (1) Has at least five but less than ten associated persons (''APs'') and 50% or more of those APs have been employed by one or more member firms which have been disciplined by the NFA or the Commission for sales practice fraud; (2) has a least ten but less than 20 APs and five or more of those APs have been employed by one or more member firms which have been disciplined by the NFA or the Commission for sales practice fraud; or (3) has 20 or more APs and 25% or more of those APs have been employed by one or more members which have been disciplined by the NFA or the Commission for sales practice fraud.[3]

Currently, an NFA member firm which meets the above-described criteria is required to tape-record all of its APs' sales solicitations which occur prior to the receipt of a customer's initial deposit and until the first order is received and entered for the customer's account. Firms meeting the criteria must tape-record such solicitations for a one-year period and retain the tapes up until six months after the one-year recording period ends.[4]

Based upon its experience overseeing the current telemarketing supervision requirements, NFA believes that the requirements have reduced the occurrence of widespread telemarketing fraud and have facilitated the gathering of evidence in enforcement actions related to deceptive telemarketing sales practices.

NFA's subject proposal would revise three different aspects of its current telemarketing supervision requirements. NFA contends that its proposed adjustments should increase the effectiveness of these requirements.

First, NFA's proposal would lower the thresholds at which NFA member firms would be required to adopt enhanced telemarketing supervision measures. Under the proposal, a firm would have to implement the enhanced procedures if it: (1) had at least five but less than ten APs and 40% or more of the APs had been previously employed by a disciplined firm (the current threshold is 50%); (2) had at least ten but less than 20 APs and four or more of the APs had been previously employed by a disciplined firm (the current threshold is five or more APs); and, (3) had 20 or more APs and 20% or more of the APs had previously been employed by a disciplined firm (the current threshold is 25% or more).[5] The NFA contends that lowering the threshold at which member firms must implement telemarketing supervision measures should offer increased protection from fraudulent telemarketing practices.

Second, NFA's proposal would revise the telemarketing supervision measures for those member firms which met the amended thresholds. Specifically, the proposal would require that such firms tape record all telephone conversations which occurred between their APs and any potential or existing customers. Currently, NFA does not have any taping requirement after a customer's first order is received and entered into the customer's account. NFA has found, however, that in many cases sales practice violations occur after the customer already has begun trading. In order to address this problem, NFA's proposal would expand the taping requirement to all AP-customer conversations.

Third, NFA's proposal would require that firms which were subject to the telemarketing supervision measures must submit their promotional material[6] to the NFA for approval at least ten days before the marketing material was used.[7] In support of this measure NFA contends that it has found that member firms which have lax supervisory requirements relating to telemarketing often have similar lax requirements with respect to the review and use of promotional material.

The Commission also notes that on August 16, 1994, the President signed into law the Telemarketing and Consumer Fraud and Abuse Prevention Act (''Telemarketing Act''), Public Law No. 103–297, which requires that the Federal Trade Commission (''FTC'') adopt rules prohibiting various deceptive and abusive telemarketing practices within one year of the enactment of the Telemarketing Act. The Telemarketing Act also added a new Section 6(f) to the Commodity Exchange Act[8] requiring, subject to certain exceptions, that the Commission ''promulgate, or require each registered futures association to promulgate, rules substantially similar'' to the FTC rules implementing the Telemarketing Act within six months of the effective date of those rules, unless the Commission determines otherwise.[9]

On February 14, 1995, the FTC published its proposed telemarketing rules.[10] The proposed rules generally prohibit certain deceptive and abusive telemarketing activities as well as establishing various requirements with respect to the time and frequency of telephone solicitations. The FTC published a revised notice of its proposed rules on June 8, 1995.[11]

Currently, the Commission is reviewing the FTC's proposed rules. The Commission will continue to monitor the FTC's efforts to promulgate telemarketing rules in order to determine whether the Commission's and the NFA's rules provide substantially similar protections.

III. Request for Comments

The Commission requests general comment on NFA's proposed amendment to its Interpretive Notice to Compliance Rule 2–9. The Commission

[3] For these purposes, the Interpretive Notice to Compliance Rule 2–9 defines ''disciplined member firm'' as a firm which: (1) has been formally charged by either the Commission or the NFA with deceptive telemarketing practices; (2) has had those charges resolved; and (3) has been closed down and permanently barred from the futures industry as a result of those charges.

[4] NFA can grant waivers from these requirements upon a satisfactory showing that a member firm's supervisory procedures provide effective supervision over its employees.

[5] Under NFA's proposal, member firms with fewer than five APs would continue to be exempt from any enhanced telemarketing supervision requirements.

[6] NFA Compliance Rule 2–29(g) defines ''promotional material'' to include:

(1) Any text of a standardized oral presentation, or any communication for publication in any newspaper, magazine or similar medium, or for broadcast over television, radio, or other electronic medium, which is disseminated or directed to the public concerning a futures account, agreement or transaction; (2) any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to the public for the purpose of soliciting a futures account, agreement or transaction * * *

[7] It should be noted that NFA already has a ''pre-review'' program whereby members may voluntarily submit promotional material to NFA staff for review prior to its first use. NFA staff reviews material for consistency with the requirements of Compliance Rule 2–29 and provides its comments to submitting members. Given that NFA staff is not able to review material for factual accuracy, a member who submits promotional material to NFA under the pre-review program does not receive any safe harbor protection with respect to those materials.

[8] § 6(f) of the Act and § 3(e) of the Telemarketing Act.

[9] Section 6(f)(2) of the Act provides that the Commission is not required to promulgate rules if it determines that:

(1) its rules provide protection from deceptive and abusive telemarketing by persons subject to its jurisdiction substantially similar to that provided by the FTC's rules under the Telemarketing Act; or,

(2) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that either of these exceptions applies, it must publish the reasons for its determination in the **Federal Register**.

[10] 60 FR 8313.

[11] 60 FR 30406. The FTC's proposed rules generally were revised to address various concerns raised by commenters regarding the original proposed rules.

also requests specific comment on two particular aspects of NFA's proposal. First, comment is requested concerning whether the NFA's proposed revisions to the Interpretive Notice's ''triggering thresholds'' are appropriate. Second, comment is requested concerning whether the NFA has adequate measures to ensure compliance with the taping requirements of the current and proposed Interpretive Notice. In addition, the Commission also requests specific comment on NFA's proposal in the context of the Telemarketing Act and the FTC's implementing rules.

Copies of NFA's proposed Interpretive Notice amendment will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, except to the extent that the proposal may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9 (1994). Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314.

Any person interested in submitting written data, views or arguments on NFA's proposed amendment to its Interpretive Notice to Compliance Rule 2–9 or with respect to other materials submitted by the NFA in support of the proposal should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by the specified date.

Issued in Washington, D.C. on July 5, 1995.

Alan L. Seifert,

Deputy Director, Division of Trading and Markets.

[FR Doc. 95–16909 Filed 7–10–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

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

DATES: Interested persons are invited to submit comments on or before August 10, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 6, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Revision
Title: Private School Survey
Frequency: Biennially
Affected Public: Business or other for-profit; Not for profit institutions
Reporting Burden:
Responses: 28,000
Burden Hours: 14,417
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Private School Survey collected every two years of the universe of approximately 28,000 schools. Information includes types of schools, length of school year and school day, number of students and teachers, number of high school graduates, and race/ethnic distribution of students. Data are used to 1) build and NCES private school universe; and 2) generate biennial data on total number of and characteristics of private schools.

Office of Educational Research and Improvement

Type of Review: Reinstatement
Title: Fund for the Improvement of Education
Frequency: Annually
Affected Public: Not for profit institutions; State, Local or Tribal Government
Reporting Burden:
Responses: 600
Burden Hours: 24
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational agencies, Local Educational agencies, IHEs, and other public and private agencies, organizations and institutions to apply for funding under the Fund for the Improvement of Education. The Department will use the information to make grant awards.

Office of the Under Secretary

Type of Review: Revision
Title: Even Start Information System
Frequency: Annually
Affected Public: Individual or households
Reporting Burden:
Responses: 91,040
Burden Hours: 57,035
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The Even Start Information System involves the refinement and maintenance of a data collection system, collection and analysis of additional outcome data from a sample of Even Start projects, training of local Even Start project directors in data collection and technical assistance to them, and preparation of final reports. The Department will use the information to provide Congress, state program administrators, and local grantees with the types of information that can be used to manage the program at the federal, state, and local levels.

[FR Doc. 95–16916 Filed 7–10–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance: Global Environment & Technology Foundation Annandale, VA; Cooperative Agreement

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.7, it intends to award a Cooperative Agreement for Agreement Number DE–FG07–95ID13340 to Global Environment & Technology Foundation Annandale, Virginia. The objective of the work to be performed under this agreement is to provide funds to demonstrate the technical, economic and sustainable viability of forming new processes for business development between government/private sector, and where needed, to look at infusion of technologies between private partners and government in innovative and effect ways. The Federal Domestic Catalog Number is 81.104.

FOR FURTHER INFORMATION CONTACT: Kara Twitchell, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS 1221, Idaho Falls, Idaho 83401–1563, (208) 526–4958.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is the Technology Development for Environmental Restoration and Waste Management Program, Atomic Energy Act of 1954 as amended and Pub. L. 95–91; the Department of Energy Organization Act. The proposal meets the criteria for ''non-competitive'' financial assistance as set forth in 10 CFR Part 600.7(b)(2)(i)(C). The applicant is a nonprofit organization. The anticipated period to complete the award is three (3) years. The total estimated cost of this project is $5,000,000. This award will not be made for at least 14 days from date of publication to allow for public comment.

J.O. Lee,

Acting Director, Procurement Services Division.

[FR Doc. 95–16945 Filed 7–10–95; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on External Regulation of Department of Energy Nuclear Safety

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the fifth meeting of the Advisory Committee on External Regulation of Department of Energy Nuclear Safety.

DATE AND TIMES: The Committee session will begin at the Sweeney Center, 201 West Marcy, Santa Fe, New Mexico 87501, at 8 a.m. on Thursday, July 27, 1995, and adjourn at 5 p.m. The committee will reconvene for a public comment session beginning at 7:30 p.m. The Friday, July 28, 1995, session will begin at 8 a.m. and adjourn at 11 a.m. at the Sweeney Center. A second public comment session will be held on Friday, July 28, beginning at 1 p.m., at the Fuller Lodge, 2132 Central St., Los Alamos, New Mexico 87544.

ADDRESSES: Sweeney Center, 201 West Marcy, Sante Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Thomas H. Isaacs, Executive Director, Advisory Committee on External Regulation of Department of Energy Nuclear Safety, 1726 M Street NW., Suite 401, Washington, DC 20036, (202) 254–3826.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to provide the Secretary of Energy, the White House Council on Environmental Quality, and the Office of Management and Budget with advice, information, and recommendations on how new and existing Department of Energy (DOE) nuclear facilities and operations, except those operations covered under Executive Order 12344 (Naval Propulsion Program), might best be regulated with regard to safety. The Department currently self-regulates many aspects of nuclear safety, pursuant to the Atomic Energy Act of 1954, as amended. The Committee consists of 25 members drawn from Federal and State government and the private sector, and is co-chaired by John F. Ahearne, Executive Director of Sigma Xi, and Gerard F. Scannell, President of the National Safety Council. Members were chosen with environment, safety, and health backgrounds, balanced to represent different public, Federal, State, Tribal, regulatory, and industry interests and experience.

Purpose of the Meeting

To better understand the Department of Energy's existing regulatory and oversight structure, the Committee will hear presentations from DOE National Laboratory Directors, DOE senior program officials, and a panel of DOE managers on nuclear weapons related environment, safety, and health issues. The Committee will also hear from a panel of interested citizens on regulation of DOE nuclear facilities. In addition, the Committee will discuss its interim report to the Secretary of Energy and review the criteria and process for the evaluation of potential regulatory options. The Committee will hold two public comment periods to hear views on external regulation from workers and interested members of the public.

Tentative Agenda

In addition to conducting deliberations related to its charter, the Committee will hear from DOE and national laboratory officials on the evolving mission of the Department and on regulation and oversight of defense nuclear facilities. The Committee will hear perspectives on safety at DOE nuclear facilities from DOE officials and interested citizens. A final agenda will be available at the meeting. The agenda will provide an opportunity for public comments starting at 7 p.m. on July 27, 1995 at the Sweeney Center, 201 West Marcy, Sante Fe, New Mexico. Every effort will be made to hear all those wishing to speak.

Public Participation

The meeting is open to the public. Members of the public are welcome to make oral statements during the public comment period. Those who wish to do so may pre-register by contacting Glenda Oakley at (301) 924–6169. Individuals may also register on July 27, 1995, at the meeting site. Written comments are welcomed, and should be mailed to Thomas H. Isaacs, Executive Director, 1726 M Street NW., Suite 401, Washington, DC 20036. The Committee Co-Chairs are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes

A meeting transcript and minutes will be available for public review and copying four to six weeks after the meeting at the DOE Freedom of Information Public Reading Room, 1E–1990, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The transcript will also be made available at the Department's Field Office Reading Room locations.

Issued at Washington, DC on July 6, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–16940 Filed 7–10–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EC95–14–000, et al.]

Virginia Electric and Power Co., et al.; Electric Rate and Corporate Regulation Filings

July 3, 1995.

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

1. Virginia Electric and Power Company

[Docket No. EC95–14–000]

Take notice that on June 19, 1995, Virginia Electric and Power Company (VEPCO) tendered for filing an application for approval of the sale by VEPCO to Rappahannock Electric Cooperative (REC) of various electrical facilities.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. EL95–58–000]

Take notice that on June 23, 1995, Entergy Services, Inc., on behalf of Arkansas Power & Light Company (AP&L) filed to recover through Account 151, 18 CFR 101.51, the net cost associated with the existing steel railcar leases and the proposed lease of aluminum railcars.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Southwestern Public Service Company

[Docket No. EL95–59–000]

Take notice that on June 22, 1995, Southwestern Public Service Company (SPS) tendered for filing a petition for waiver of the Commission's fuel clause regulations to allow the flow-through of judgment costs resulting from litigation.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Southwestern Electric Power Company

[Docket No. ER95–927–000]

Take notice that on June 22, 1995, Southwestern Electric Power Company (SWEPCO) tendered for filing an amendment to its Power Supply Agreement with the City of Minden, Louisiana currently pending before the Commission. SWEPCO states that this amendment is being filed in response to requests by the Commission Staff for more detail concerning SWEPCO's service to Minden.

Comment date: July 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company

[Docket No. ER95–960–000]

Take notice that on June 23, 1995, Northern States Power Company tendered for filing a letter requesting that the filing filed in the above-referenced docket on April 27, 1995 be withdrawn.

Comment date: July 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Company

[Docket No. ER95–1029–000]

Take notice that on June 23, 1995, Pacific Gas and Electric Company (PG&E) tendered for filing an Amendment to the Power Scheduling Agreement dated May 1, 1995, the (Agreement), between the M–S–R Public Power Agency (M–S–R) and PG&E. M–S–R is a joint exercise of powers agency organized under California law with the Cities of Santa Clara and Redding and the Modesto Irrigation District as its members. The Agreement enables M-S-R to act as agent for its members for the purpose of scheduling certain electric power into, out of, or through the PG&E control area. The Amendment removes certain scheduling charges.

Copies of this filing have been served upon M–S–R and the California Public Utilities Commission.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER95–1228–000]

Take notice that Northeast Utilities Service Company (NUSCO) on June 16, 1995, tendered for filing a Service Agreement to provide non-firm transmission service to Rainbow Energy Marketing Corporation (Rainbow) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Rainbow.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. IES Utilities Inc.

[Docket No. ER95–1244–000]

Take notice that on June 21, 1995, IES Utilities Inc. (IES) tendered for filing an Operating and Transmission Agreement between IES and Central Iowa Cooperative.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER95–1247–000]

Take notice that on June 21, 1995, Commonwealth Edison Company (ComEd) submitted a Service Agreement, dated February 2, 1995, establishing Engelhard Energy Company (Engelhard) as a customer under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of May 21, 1995, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Engelhard and the Illinois Commerce Commission.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Long Island Lighting Company

[Docket No. ER95–1248–000]

Take notice that on June 22, 1995, Long Island Lighting Company (LILCO), tendered for filing a 1995 Summer Banking Agreement between LILCO and New York Power Authority (NYPA) and a 1995 Summer Operating Agreement between LILCO and the Village of Rockville Centre (Rockville Centre).

The two agreements facilitate the delivery of up to approximately 26 megawatts of NYPA power to Rockville Centre during the 1995 summer operating period. LILCO has requested an effective date of one day after the date of its filing these agreements with the Commission. LILCO also requests that the agreements be permitted to terminate on October 31, 1995.

Copies of this filing have been served by LILCO on NYPA, Rockville Centre, and The New York State Public Service Commission.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Company

[Docket No. ER95–1249–000]

Take notice that on June 22, 1995, New England Power Company (NEP), filed a Service Agreement and Certificate of Concurrence with North

American Energy Conservation, Inc. under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Electric Power Company

[Docket No. ER95–1250–000]

Take notice that on June 22, 1995, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Utility 2000 Energy Corp. (Utility-2000). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows Utility-2000 to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume 1, Rate Schedule T–1.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Utility-2000, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER95–1251–000]

Take notice that on June 22, 1995, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (IOA) between the City of Anaheim (Anaheim) and Edison, FERC Rate Schedule No. 246:

Supplemental Agreement For The Integration Of Non-Firm Energy From Howell Power Systems Between Southern California Edison Company And City of Anaheim

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Anaheim's purchases of non-firm energy under the Energy Sales Agreement between Anaheim and Howell Power Systems. Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign to the Agreement an effective date of June 23, 1995.

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

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER95–1252–000]

Take notice that on June 22, 1995, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (IOA) between the City of Anaheim (Anaheim) and Edison, FERC Rate Schedule No. 246:

Supplemental Agreement For The Integration Of Non-Firm Energy From Utility-2000 Energy Corporation Between Southern California Edison Company And City of Anaheim

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Anaheim's purchases of non-firm energy under the Energy Sales Agreement between Anaheim and Utility-2000 Energy Corporation. Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign to the Agreement an effective date of June 23, 1995.

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

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER95–1253–000]

Take notice that on June 22, 1995, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (IOA) between the City of Anaheim (Anaheim) and Edison, FERC Rate Schedule No. 246:

Supplemental Agreement For The Integration Of Non-Firm Energy From Rainbow Energy Marketing Corporation Between Southern California Edison Company And City of Anaheim

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Anaheim's purchases of non-firm energy under the Energy Sales Agreement between Anaheim and Rainbow Energy Marketing Corporation. Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign to the Agreement an effective date of June 23, 1995.

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

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Northern States Power Company (Minnesota)

[Docket No. ER95–1254–000]

Take notice that on June 22, 1995, Northern States Power Company (Minnesota) (NSP), tendered for filing the Second Connection Agreement between NSP and the City of St. James (City) dated May 3, 1995. This agreement allows the City to establish a second point of connection with NSP at the new St. James East Substation.

NSP requests that the Commission accept for filing this agreement effective as of October 1, 1995. NSP requests that the Agreement be accepted as a supplement to Rate Schedule No. 412, the rate schedule for previously filed agreements between NSP and the City.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company (Minnesota)

[Docket No. ER95–1255–000]

Take notice that on June 22, 1995, Northern States Power Company (Minnesota) (NSP), tendered for filing a Construction Agreement between NSP and Marshall Municipal Utilities (MMU). This Agreement allows NSP to modify its transmission line to accommodate the construction of a new MMU distribution line. NSP expects that the modifications to its transmission line will be completed by June 30, 1995.

NSP requests that the Commission accept for filing this Agreement on June 23, 1995, and requests waiver of Commission's notice requirements in order for the Supplement to be accepted for filing on that date. NSP requests that this filing be accepted as a supplement to Rate Schedule No. 403, the rate schedule for previously filed agreements between NSP and MMU.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. The Dayton Power and Light Company

[Docket No. ER95–1256–000]

Take notice that on June 23, 1995, The Dayton Power and Light Company (Dayton), tendered for filing an executed Interchange Agreement between Dayton and Electric Clearinghouse, Inc. (ECI).

Pursuant to the rate schedules attached as Exhibit B to the Interchange Agreement, Dayton and ECI will provide each other a variety of power supply services. ECI's rate schedules, attached as page 1 of Exhibit B to the Agreement, was approved by the Commission in Docket No. ER94–968–000. Dayton's rate schedules attached as pages 2 through 8 of Exhibit B to the Agreement, have been filed for the Commission's approval on June 5, 1995 in Docket No. ER94–1158–000, as was the cost support schedules and work papers.

Comment date: July 17, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16913 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–577–000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

July 3, 1995.

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

1. Williams Natural Gas Company

Docket No. CP95–577–000

Take notice that on June 22, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP95–577–000 a request pursuant to Sections 157.205, 157.208 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208, 157.216) for authorization to abandon pipeline and measuring and regulating facilities and to construct and operate new facilities for service to Kansas Gas & Electric (KG&E), a local distribution company, in Sedgwick County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to abandon in place 5,800 feet of 10-inch and 569 feet of 8-inch lateral pipeline and to abandon by reclaim obsolete measuring, regulating and appurtenant facilities installed to serve KG&E's Ripley power plant. It is asserted that, although the power plant ceased operations in 1983, WNG still has a need for gas service for heating an office and training center located on the premises. WNG also proposes to construct and operate 120 feet of 2-inch lateral pipeline to continue to provide service to KG&E. It is stated that WNG's deliveries to KG&E will not change. The construction cost is estimated at $7,435. The cost of reclaiming facilities is estimated at $17,506. WNG states that there will be no salvage value as a result of the abandonment. WNG further states that it has sufficient capacity to render the specified deliveries service without detriment or disadvantage to its other existing customers and that its tariff does not prohibit the addition of delivery points.

Comment date: August 17, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP95–578–000]

Take notice that on June 23, 1995, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP95–578–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to transfer various production and gas supply facilities and abandon certain facilities located in the State of New York to its affiliate, National Fuel Gas Distribution Corporation (Distribution), all as more fully set forth in the application on file with the Commission and open to public inspection.

National Fuel states that as part of its continuing review of the facilities classified on its books as production properties, National Fuel has identified 15 pipelines and 14 associated regulating and metering stations that are serving a distribution function for customers of Distribution. National Fuel states that all but one of the 15 pipelines, Line R–27 in Cattaraugus County, are nonjurisdictional gathering facilities and that Line R–27 was replaced under the authority granted to National Fuel in its blanket certificate at Docket No. CP83–4. National Fuel states that it proposes to abandon 66 delivery points located along the pipelines that are to be transferred to Distribution. National Fuel states that service to the customers served off the facilities will not be affected by the transfer. National Fuel states the net book value of the facilities is estimated to be $451,733.84 as of December 31, 1994. National Fuel states that the transfer of the facilities from National Fuel to Distribution will result in 14 new delivery points from National Fuel to Distribution.

National Fuel states that following the transfer of the facilities to Distribution, National Fuel will continue to own and operate 10 well lines connecting wells operated by Seneca Resources Corporation (Seneca), an affiliate of National Fuel and Distribution, to the facilities. National Fuel states that it has not yet been determined whether these lines will be sold to Seneca, or another party that may acquire the wells from Seneca, or whether one or more of these lines will be abandoned following the plugging of a well. National Fuel states the net book value of these well lines is estimated to be $4,056.74, as of December 31, 1994. National Fuel states that it seeks authority to establish new delivery points with Distribution at the intersection of these ten well lines with the pipelines they feed into, and pregranted authority to abandon these delivery points as the well lines are transferred to another party, or the wells are plugged.

Comment date: July 24, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. Midwestern Gas Transmission Trunkline Gas Company

[Docket No. CP95–581–000]

Take notice that on June 26, 1995, Midwestern Gas Transmission Company (Midwestern), Post Office Box 2511, Houston, Texas 77252–2511, and Trunkline Gas Company (Trunkline), Post Office Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–581–000 a joint application pursuant to Section 7(b) and (c) of the Natural Gas Act for permission and approval for Midwestern to abandon and Trunkline to acquire, by operating lease, firm capacity on Midwestern's system from Potomac, Illinois to downstream delivery points terminating around Chicago in Joliet, Illinois in order for Trunkline to provide a transportation service to Peoples Gas Light and Coke Company (Peoples), all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Midwestern proposes to abandon 110,000 Dth per day of firm capacity to Trunkline pursuant to a May 13, 1994, Agreement and a pro forma Operating Lease Agreement (the Agreements). Trunkline proposes to lease 110,000 Dth per day of firm capacity pursuant to the agreements to provide transportation service to Peoples at a point on Trunkline's system without the addition of new facilities. Trunkline proposes to acquire the abandoned capacity extending from Potomac, Illinois, where Midwestern currently interconnects with Trunkline to points downstream of Midwestern's system, through and including the Union Hill and Wilmington, Illinois points for deliveries to Peoples.

Midwestern and Trunkline would execute the Operating Lease Agreement upon approval of this application, it is stated. Trunkline states that Trunkline would operate and utilize the capacity as if the capacity was part of Trunkline's system and that all the delivery points on the leased capacity would be available to Trunkline's shippers in accordance with the provisions of Trunkline's open access transportation tariff and the agreements. Midwestern states that Midwestern would lease the 110,000 Dth per day of capacity to Trunkline commencing on December 1, 1995, for a primary term of ten years and that Trunkline would pay Midwestern a monthly lease payment of $1.734 per each Dth of leased capacity, plus applicable ACA and 1 per cent fuel throughout the primary term of the agreements.

Comment date: July 24, 1995, in accordance with Standard Paragraph F at the end of this notice.

4. Trunkline Gas Company

[Docket No. CP95–584–000]

Take notice that on June 28, 1995, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–584–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon one tap and the related service under Trunkline's blanket certificate issued in Docket No. CP83–84–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Trunkline proposes to abandon as requested by farm tap customer D. R. Siebarth, one tap and the related service. The tap is located in Beauregard Parish, Louisiana.

Comment date: August 17, 1995, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Company

[Docket No. CP95–585–000]

Take notice that on June 28, 1995, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska 68103–0330, filed in Docket No. CP95–585–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install and operate one new delivery point for Community Utilities Company (C U) for ultimate residential and commercial use, and upgrade four existing delivery points for Minnegasco for ultimate residential, commercial, and industrial use, under Northern's blanket certificate issued in Docket No. CP82–401–000 and Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes a new delivery point for C U to be located in Olmstead County, Minnesota. Northern states that the proposed point will deliver fifty-six Mcf on a peak day and 8,176 Mcf annually. Northern also proposes to upgrade four existing delivery points for Minnegasco located in Anoka, Isanti, Mille Lacs, and Wright Counties, Minnesota. Northern indicates that the upgrade of these existing delivery points will increase the peak day capacity of the Annandale No. 1 delivery point, the Cambridge No. 1 delivery point, the Lexington No. 1A delivery point, and the Princeton No. 1 delivery point, by 40 Mcf, 60 Mcf, 350 Mcf, and 110 Mcf, respectively. Northern further indicates that in addition to the installation and upgrade of the proposed and existing delivery points, it will construct branchline looping and compression pursuant to its blanket certificate and Section 157.208(a) of the Commission's Regulations once the authorization requested herein becomes effective.

Northern advises that the new delivery point and the upgrade of the four existing delivery points will accommodate deliveries to Minnegasco and C U pursuant to executed precedent agreements for self-implementing throughput service. Northern further advises that the throughput agreements will be executed prior to the construction of the subject facilities and that the total volumes to be delivered to Minnegasco and C U after the request will not exceed the total volumes authorized prior to the request.

Northern states that the proposed activity is not prohibited by its existing tariff and that Northern has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Northern's other customers. Northern estimates that the total cost to construct the new delivery point and to upgrade the four existing delivery points will be $236,000. Northern indicates that the financing of the construction will be in accordance with Section 4 of the General Terms and Conditions of Volume 1 of Northern's tariff.

Comment date: August 17, 1995, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP95–586–000]

Take notice that on June 26, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed a petition for a declaratory order in Docket No. CP95–586–000 requesting that the Commission issue an order permitting the reclassification of certain miscellaneous facilities owned by WNG from the gathering function to the transmission function, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

WNG states that as a result of the Commission's recognition of the separate and distinct nature of the gathering and processing business, WNG's corporate parent has entered into a restructuring process involving the separation of non-jurisdictional gathering and processing services and facilities from the jurisdictional interstate transmission companies. WNG notes that it has previously filed a series of applications seeking authority to abandon most of its gathering facilities to both affiliated and non-affiliated gathering companies. WNG asserts that certain minor facilities which had previously been functionalized as gathering but which, in WNG's view, do not perform a gathering function, were not included in any of the abandonment applications. WNG proposes to refunctionalize these facilities to the transmission function.

WNG states that it proposes to refunctionalize 95 pipeline delivery settings on its transmission system which consists of taps and associated piping and measurement facilities to receive gas from gathering facilities owned by others, gas processing plants or other pipelines. WNG relates that the facilities proposed to be refunctionalized had a net book value on October 1, 1994, of approximately $562,000.

Comment date: July 24, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

7. El Paso Natural Gas Company

[Docket No. CP95–587–000]

Take notice that on June 28, 1995, El Paso Natural Gas Company (El Paso), Post Office Box 1942, El Paso, Texas 79978, filed an application at Docket No. CP95–587–000, pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon the firm transportation and delivery of 300,000 Mcf per day of natural gas to Southern California Gas Company (SoCal) at the Ehrenberg Delivery Point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that El Paso and SoCal are parties to a Transportation Service Agreement (TSA) dated October 16, 1990, as amended and restated July 16, 1993. El Paso explains that Section 9.4 of Article IX of the TSA provides for an option which permits SoCal to reduce its Transportation Contract Demand. El Paso further explains that by letter dated June 1, 1994, SoCal informed El Paso that SoCal would exercise the option to reduce its Transportation Contract Demand at the Ehrenberg Delivery Point by 300,000 Mcf per day. Accordingly, El Paso proposes to reduce SoCal's Transportation Contract Demand by 300,000 Mcf per day to 1,150,000 Mcf per day, and firm deliveries under the TSA by El Paso to SoCal at the Ehrenberg Delivery Point would be limited to 610,000 Mcf per day.

Comment date: July 24, 1995, in accordance with Standard Paragraph F at the end of this notice.

8. Northwest Pipeline Corporation

[Docket No. CP95–591–000]

Take notice that on June 29, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP95–591–000 a request pursuant to Sections 157.205, 157.216, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216, and 157.211) for approval to abandon certain facilities at the Roseburg Meter Station in Douglas County, Oregon, and to construct and operate upgraded replacement facilities at the Roseburg Meter Station to better accommodate existing firm maximum daily delivery obligations at this delivery point to the Washington Water Power Company (Water Power) under the blanket certificate issued in Docket No. CP82–433–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to upgrade the Roseburg Meter Station by replacing the existing 4-inch orifice meter with a new 4-inch turbine meter. Northwest says it plans to install a 4-inch filter upstream of the new 4-inch turbine meter. Northwest states that the proposed facility upgrade will increase the maximum design capacity of the meter station from 3,440 Dth per day to approximately 6,880 Dth per day at the 150 psig contract pressure.

Northwest relates that the total cost of the proposed facility upgrade at the Roseburg Meter Station is estimated to be approximately $82,652. Northwest indicates that because the upgrade will be made to allow Northwest to better accommodate existing delivery obligations at the Roseburg Meter Station, Northwest will not require any cost reimbursement from Water Power. Northwest states that the proposed facility replacement will occur entirely within the existing fenced and graveled meter station site.

Comment date: August 17, 1995, in accordance with Standard Paragraph G at the end of this notice.

9. Northern Natural Gas Company And Transcontinental Gas Pipe Line Corporation

[Docket No. CP95–592–000]

Take notice that on June 29, 1995, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000 and Transcontinental Gas Pipe Line Corporation (TGPL), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP95–592–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon service under an individually certificated exchange agreement, which was authorized in Docket No. CP81–75, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Northern and TGPL propose to abandon Rate Schedules X–87 and X–237 contained in their respective FERC Gas Tariffs, Original Volumes No. 2. It is stated that the parties mutually agree to the termination of the service under these rate schedules.

Comment date: July 24, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16912 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–P

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

[Docket No. GT95–45–000]

July 5, 1995.

Take notice that on June 30, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1995:

Seventh Revised Sheet No. 1100
Seventh Revised Sheet No. 1101
Seventh Revised Sheet No. 1102
Seventh Revised Sheet No. 1103
Seventh Revised Sheet No. 1104
Seventh Revised Sheet No. 1105
Seventh Revised Sheet No. 1106
Seventh Revised Sheet No. 1107
Seventh Revised Sheet No. 1108
Sixth Revised Sheet No. 1109

Algonquin states that the purpose of this filing is to reflect changes in Algonquin's index of purchasers.

Algonquin states that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16875 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–365–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

July 5, 1995.

Take notice that on June 30, 1995, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, with a proposed effective date of August 1, 1995:

First Revised Sheet No. 7

CIPCO states that this is its quarterly filing pursuant to revised Section 32.2 of the General Terms and Conditions of its FERC Gas tariff to reflect prospective changes in transportation costs associated with unassigned upstream capacity held by CIPCO on Texas Eastern Transmission Corporation (Texas Eastern) for the 3-month period commencing August 1, 1995 and ending October 31, 1995. The filing reflects a decrease in the Transportation Cost Rate (''TCR'') from $1.1519 to $1.1216. The new TCR includes a TCR Adjustment of $1.0547 and TCR Surcharge of $0.0669.

CIPCO states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 18 CFR 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16862 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–366–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 30, 1995, CNG Transmission Corporation (CNG), filed for inclusion in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Ninth Revised Sheet No. 32
NInth Revised Sheet No. 33

CNG requests an effective date for these tariff sheets of August 1, 1995.

CNG states that the purpose of this filing is to collect $376,573.75 in additional Account No. 858 stranded upstream transportation costs. This total cost results in a revised Section 18.2B. Stranded Cost Surcharge of $0.069 per Dt, applicable to service during the quarterly period commencing August 1, 1995. CNG further states that it has provided workpapers that detail the reservation charges reflected in CNG's proposed tariff sheets, which are attributable to certain transportation agreements with Texas Eastern Transmission Corporation and Tennessee Gas Pipeline Company.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC, 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR Sections 385.214 and 385.211. All motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16863 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–583–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

July 5, 1995.

Take notice that on June 27, 1995, East Tennessee Natural Gas Company (East Tennessee), filed in Docket No. CP95–583–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install, own, operate, and maintain an additional delivery point for continuing

firm service to Knoxville Utility Board (KUB), located in Knox County, Tennessee, under East Tennessee's blanket certificate issued in Docket No. CP82–412–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

East Tennessee states there would be no increase in the delivery quantity to KUB and that sufficient capacity exists to accomplish the deliveries to KUB without detriment to East Tennessee's other customers.

East Tennessee states further that KUB would reimburse East Tennessee for the cost of the installation, which is estimated to be $12,398.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16872 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–363–000]

El Paso Natural Gas Company; Notice of Change in Rates

July 5, 1995.

Take notice that on June 30, 1995, El Paso Natural Gas Company (El Paso) tendered for filing a notice of a change in rates for natural gas transportation service which affect certain rate schedules contained in El Paso's FERC Gas Tariff, Second Revised Volume No. 1–A and Third Revised Volume 2. El Paso tendered the tariff sheets for filing and acceptance to become effective on August 1, 1995.

El Paso states that on April 30, 1993, at Docket No. RS92–60–000, et al., as amended, the Commission approved El Paso's Settlement in Restructuring, Rate and Related Proceedings (Settlement) which became effective October 1, 1993. El Paso states that Article II of the Settlement, among other things, provides that El Paso will file a new general system-wide rate change re-establishing its base tariff rates to be effective not later than January 1, 1996. In addition, Article III of the Settlement states that El Paso will refunctionalize certain facilities from Transmission to Production effective January 1, 1996. Further, Article III provides that El Paso will remove all field transmission costs from its mainline transmission rates by January 1, 1996.

El Paso states that it is tendering the subject filing to comply with these requirements and to eliminate a projected revenue deficiency.

El Paso states that based upon the test period cost of service and billing determinants, El Paso projects a deficiency in annual revenues of approximately $136.7 million under its currently effective rates. El Paso states that the revenue deficiency arises primarily from an increase in cost of service of approximately $74 million and a decline in firm transportation billing determinants. El Paso is proposing to increase its rates for jurisdictional transportation service by an amount sufficient to eliminate the revenue deficiency and enable El Paso to recover the full cost of service reflected in this notice.

El Paso states that notification of the filing or copies of the filing were served upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16860 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–369–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 30, 1995, Iroquois Gas Transmission, System, L.P. (Iroquois) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, to become effective July 10, 1995:

Second Revised Sheet No. 93
Original Sheet No. 93A

Iroquois states that the purpose of the proposed changes is to bring its tariff into conformity with recent regulatory changes promulgated by the Commission in Order No. 577–A, revising 18 CFR 284.243(h), which provides for limited exemptions to the advance posting and bidding requirements of the Commission's capacity release regulations. Specifically, these revised tariff sheets permit shippers to enter into pre-arranged releases of thirty-one days or less without complying with the advance posting and bidding requirements.

Iroquois states that copies of this filing were served upon all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 18 CFR 385.211 of the Commission's Rules and Regulations. All such petitions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16866 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–362–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 30, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing revised tariff sheets, proposing limited changes to its FERC Gas Tariff, Fifth Revised Volume No. 1, to establish market-based transportation rates for its firm and interruptible transportation services.

Koch Gateway states this filing will affect Koch Gateway's firm and interruptible transportation services and will not affect the rates which Koch Gateway charges for its no-notice service, no-notice—small customer option service or firm transportation—small customer option service. Koch Gateway further states that the filing will also not affect the market-based storage rates Koch Gateway is currently charging. Koch Gateway is not proposing that all terms and conditions of each contract be individually negotiated. Gathering rates will be affected depending on the availability of alternatives and the type of contract being supplied.

Koch Gateway proposes limited changes to its tariff listed on Appendix A to the filing. Koch Gateway states that the tariff changes included in this filing are only those changes necessary to implement market-based rates.

Koch Gateway states that it does not propose to change the cost of service or cost allocation and rate design approved in Docket No. RS92–26, or in Docket No. RP94–120 when that case is resolved, for any service in this filing.

Koch Gateway states that it is not proposing a specific effective date for these tariff sheets at this time, but is proposing an indefinite suspension period. A proposed procedural schedule for the Commission's consideration is included with the filing, and Koch Gateway requests that any hearing will commence no later than October 1, 1996.

Koch Gateway requests the Commission to issue an initial hearing order on or before October 1, 1995. If the proposed procedural schedule is utilized, Koch Gateway states it does not intend seeking to move the proposed rates into effect until after the conclusion of any hearing.

Koch Gateway submits its filing as a limited Section 4(e) filing and requests all necessary waivers including, but not limited to, a waiver of 18 CFR 154.51 to allow acceptance for filing more than 60 days before the proposed effective date; a waiver of 18 CFR 154.63(b)(iv), as to submission on electronic media, and 18 CFR 154.63(c)(2), submission of Form 2. Koch Gateway is specifically not making any motion, at this time, pursuant to 18 CFR 154.67(a). Koch Gateway recognizes that at least 30 days prior to the effective date of these tariff sheets, Koch Gateway must file a motion to move them into effect as of a specific date.

Koch Gateway states that copies of the filing have been mailed to all of its jurisdictional customers, other parties, inter alia, state regulatory commissions and other government agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16885 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–275–001]

Midwestern Gas Transmission Company; Notice of Compliance Filing

July 5, 1995.

Take notice that on June 30, 1995, Midwestern Gas Transmission Company (Midwestern), tendered for filing Substitute First Revised Sheet No. 89 and Substitute First Revised Sheet No. 97 in compliance with the Letter Order pursuant to 375.307 (b)(1) and (b)(3), DPRE-Rate Analysis Branch I, issued on June 2, 1995, in the above-referenced docket. Midwestern states that Substitute First Revised Sheet Nos. 89 and 97 incorporate the changes to Midwestern's capacity release provisions necessitated by Order No. 577–A. Midwestern further states that these changes allow short term releases to bridge calender months.

Any person desiring to protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16881 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–361–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 29, 1995, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective August 1, 1995:

First Revised Sheet No. 11
Second Revised Sheet No. 24
First Revised Sheet No. 68
First Revised Sheet No. 78
First Revised Sheet No. 89
First Revised Sheet No. 102
First Revised Sheet No. 119

National states that the purpose of this filing is to allow National's shippers to submit a request for service to National earlier than ninety (90) days prior to the proposed commencement date when the capacity will not be available until the proposed commencement date. Under National's current tariff, shippers seeking service under the FT, EFT, IT, IAS, FSS, ESS, or ISS Rate Schedule may not submit a request for service earlier than ninety (90) days prior to the proposed commencement date, unless the construction of new facilities is required. National states that this ''ninety day'' rule for service requests appropriately prevents a shipper from reserving capacity well in advance of its proposed commencement date, at no cost to the shipper.

However, where an increment of pipeline capacity will become available as of a certain date, as a result, for example, of the termination of another shipper's contract, National submits that there is no reason to require a shipper to wait until ninety (90) days prior to availability to submit its service request. The proposed changes would allow National to accept requests for such

capacity as soon as its future capacity is identified by National and posted on its Electronic Bulletin Board.

National states that it is serving copies of the filing to its firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16884 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–370–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 30, 1995, Northern Natural Gas Company (Northern), tendered for filing, under Section 4 of the Natural Gas Act (NGA), notice of the termination of gathering and transmission services offered over facilities located in Blaine, Chauteau and Hill Counties, Montana, effective September 30, 1995. Northern states that on June 6, 1995, the Commission authorized it to abandon, by sale to Havre Pipeline Company (Havre), the Montana facilities and declared that these facilities, once acquired by Havre, would be exempt from Commission regulation under Section 1(b) of the NGA (69 FERC 61,354 (1994). Northern states it was directed to make the instant filing by the June 6, 1995 order.

Northern states that it is abandoning the facilities because, as a result of restructuring under Order No. 636, Northern no longer has a merchant function and does not require these facilities to access system supplies to fulfill customer obligations. Regarding eleven customers who received gathering service and the eleven customers who received transmission service over the Montana facilities (listed in the filing), Northern states they will be mailed notification of termination of services, and that notice of the deletion of receipt and delivery points on the Montana facilities will be posted on Northern's Electronic Bulletin Board, at least thirty (30) days prior to the September 30, 1995 termination date. Northern states there were no protests in the abandonment proceeding; thus Northern is not required to file a default contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16867 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–359–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 29, 1995, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective July 29, 1995:

First Revised Sheet No. 275

Northern states that this filing is being made to clarify Northern's general provision in its tariff concerning delivery pressure.

Northern further states that copies of the filing have been mailed to each of its customers, interested State Commissions and other parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16883 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–371–000]

Overthrust Pipeline Company; Notice of Tariff Filing

July 5, 1995.

Take notice that on June 30, 1995, Overthrust Pipeline Company, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Revised Sheet Nos. 48 and 49, to be effective July 8, 1995.

Overthurst explains that these tariff sheets revise Section 8.9 of the General Terms and Conditions of its tariff by changing the phrase ''one calendar month'' to the terms ''31 days'' to comport with Order No. 577–A capacity-release provisions.

Overthrust states that a copy of this filing has been served upon its jurisdictional customers and interested public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16868 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–367–000]

Questar Pipeline Company; Notice of Tariff Filing

July 5, 1995.

Take notice that on June 30, 1995, Questar Pipeline Company, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet Nos. 59, 60 and 60A, to become effective July 8, 1995.

Questar explains that these tariff sheets revise Section 6 of the General Terms and Conditions of Part 1 of its tariff by changing the phrase ''one calendar month'' to the terms ''31 days'', to comport with Order No. 577–A capacity-release provisions.

Questar states further that a copy of this filing has been served upon its jurisdictional customers as well as the Utah and Wyoming public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16864 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–368–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 5, 1995.

Take notice that on June 30, 1995, Tennessee Gas Pipeline Company filed a limited application pursuant to Section 4 of the Natural Gas Act, and the rules and regulations of the Federal Energy Regulatory Commission promulgated thereunder, to recover gas supply realignment costs (''GSR costs'') paid, or known and measurable, at the time of the filing, and to clarify that customers have the option to pre-pay for GSR costs, subject to later true-up.

Tennessee proposes that the filing be made effective August 1, 1995.

Tennessee states that the tariff sheets identified below set forth Tennessee's GSR-related charges:

First Revised Second Revised Sheet No. 21A
First Revised Seventh Revised Sheet No. 22
First Revised Second Revised Sheet No. 22A
First Revised Seventh Revised Sheet No. 24
Twelfth Revised Sheet No. 30

In addition, Tennessee states that its initial two-year period for pricing differential cost recovery will expire on August 31, 1995. Tennessee proposes to extend the operation of its pricing differential mechanism for an additional two years, through August 1997.

Tennessee states that copies of the filing have been mailed to all affected customers of Tennessee and interested state regulatory commissions.

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16865 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–203–056 and RP94–309–008]

Tennessee Gas Pipeline Company; Notice of Filing

July 5, 1995.

Take notice that on June 30, 1995, Tennessee Gas Pipeline Company (Tennessee) tendered for filing to be included in its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets:

Proposed Effective Date: September 1, 1993
Third Sub 29th Revised Sheet No. 5
Proposed Effective Date: November 1, 1992
2nd Sub 13th Revised Sheet No. 9
Second Sub 5th Revised Sheet No. 9A

Tennessee states that the purpose of this filing is to comply with the Commission's June 19, 1995 Order in Docket Nos. RP91–203–050 and RP94–309–005 requiring Tennessee to reflect a rate reduction of $0.0002 per Dth to the daily demand charge calculation for Rate Schedule T–180 which results in a revised rate of $0.5893.

Tennessee states that copies of the filing have been mailed to all affected parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests should be filed before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16876 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–90–001]

Tennessee Gas Pipeline Company; Notice of Filing

July 5, 1995.

Take notice that on June 30, 1995, Tennessee Gas Pipeline Company (Tennessee) tendered for filing revised Schedules 1, 4, and 4.1 of its Annual Interruptible Revenue Reconciliation Report filed in Docket No. RP95–90. Tennessee states that the purpose of this filing is to comply with the Commission's June 16, 1995 Order in Docket No. RP95–90 requiring Tennessee to refile Schedule 4.1 of its reconciliation report to identify and recalculate any revenue amounts that are the result of improper computer system programming.

Tennessee states that copies of the filing have been mailed to all affected parties.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests should be filed before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are

on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16877 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–112–008]

Tennessee Gas Pipeline Company; Notice of Filing

July 5, 1995.

Take notice that on June 30, 1995, Tennessee Gas Pipeline Company (Tennessee) filed and moved into effect the revised tariff sheets listed in Appendix A to the filing, to be effective July 1, 1995.

Tennessee states that the motion rates contained in the revised tariff sheets have been revised to reflect not only changes required by the Commission's orders in these proceedings, but also voluntary reductions by Tennessee.

Tennessee states that the motion rates equate to an approximate 5% reduction to the general system firm transportation rates (and derivative rates) resulting in an approximate $31 million reduction from its filed revenue requirement.

Tennessee further states that the revised tariff sheets also reflect the latest rate adjustments pursuant to the General Terms and Conditions of the FERC Gas Tariff, and that it has filed primary and alternate tariff sheets with respect to the GSR component of its Part 284 transportation rates.

Tennessee states that copies of its filing have been mailed to all parties on the official service list in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to make any protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16878 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–268–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

July 5, 1995.

Take notice that on June 30, 1995, Tennessee Gas Pipeline Company (Tennessee), tendered for filing the following tariff sheets in compliance with the Commission's Order in *Tennessee Gas Pipeline Company,* 71 FERC ¶ 61,265 (1995).

Fifth Revised Volume No. 1

Substitute First Revised Sheet No. 327
Substitute First Revised Sub Original Sheet No. 334
Substitute First Revised Sub Original Sheet No. 335
First Revised Sheet No. 342
Original Sheet No. 342A
First Revised Sub Original Sheet No. 346

Tennessee states that the tendered tariff sheets reflect revisions to its transportation and storage capacity release provisions in light of Order Nos. 577 and 577–A. Tennessee requests an effective date of May 4, 1995.

Any person desiring to make any protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16880 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–595–000]

Texas Eastern Transmission Corporation; Notice of Application

July 5, 1995.

Take notice that on June 30, 1995, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in Docket No. CP95–557–000 pursuant to Sections 7(b) and Section 7(c) of the Natural Gas Act requesting permission and approval to abandon certain pipeline segments by removal and certain pipeline segments in place, and for a certificate of public convenience and necessity authorizing it to construct, install and operate replacement facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Eastern states that its present mainline crossings of the Brazos River in Austin and Waller Counties, Texas consist of one 24-inch diameter pipeline (Line No. 11) [1] and one 16-inch diameter auxiliary pipeline (16-inch line), both of which are situated in trenches in the riverbed. Texas Eastern explains that monitoring of the river bottom in the vicinity of the two lines conducted on November 11, 1994, indicated extensive scouring at the crossing site attributable mostly to record rainfall and flooding conditions in October 1994 which washed out large quantities of dirt in the vicinity of Line No. 11. Texas Eastern states that approximately 166 feet of Line No. 11 and approximately 128 feet of the 16-inch line are exposed to the forces of the river, with a maximum suspension of six feet. As a consequence of the riverbed erosion, Line No. 11 was removed from service on November 11, 1994. The 16-inch has remained in service to date. Texas Eastern notes that in addition to hazard posed by riverbed scouring, the river channel itself is migrating eastward toward the mainline at the rate of 25 feet per year. It is noted that the bank of the river has moved to within 50 feet of the mainline at one location near the crossing and that riverbank stabilization efforts have been unsuccessful. Texas Eastern asserts that these conditions necessitate replacement of the river crossing.

Texas Eastern requests authorization to replace and operate approximately 8,240 feet of 24-inch diameter pipeline and appurtenant facilities at its mainline crossing of the Brazos River between Milepost 52.24 and Milepost 53.81 in Austin and Waller Counties, Texas. The alignment for the proposed replacement pipeline will be approximately 5,150 feet northeast of the existing crossing. Texas Eastern states that approximately 2,170 feet of the replacement pipeline will be installed by horizontal directional drilling under the riverbed while the remaining 6,070 feet will be installed to tie-in the new crossing to the existing mainline system. It is indicated that the existing 16-inch pipeline will remain in service until completion of the new crossing. Texas Eastern also requests authority to abandon by removal the segments of the Line No. 11 and the 16-inch line which are exposed within the Brazos River channel and to abandon

[1] Line No. 11 was authorized by Commission order dated December 15, 1952, in Docket No. G–1947—11 FPC 435 (1952).

the remainder of Line No. 11 and the 16-inch line in place. Texas Eastern estimates that the cost of the project will be $2,808,289, which will be financed initially from corporate funds on hand. Texas Eastern states that the replacement will not affect system design delivery capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 17, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment 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 Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16873 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–13–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

July 5, 1995.

Take notice that on June 30, 1995, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Eleventh Revised Sheet No. 60. The proposed effective date of such tariff sheet is August 1, 1995.

Transco states that the instant filing is submitted pursuant to Section 39 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to adjust its Great Plains Volumetric Surcharge (GPS) 30 days prior to each GPS Annual Period beginning August 1. The GPS Surcharge is designed to recover (i) the cost of gas purchased from Great Plains Gasification Associates (or its successor) which exceeds the Spot Index (as defined in Section 39 of the General Terms) and (ii) the related cost of transporting such gas.

Transco states that the revised GPS Surcharge included therein consists of two components—the Current GPS Surcharge calculated for the period August 1, 1995 through July 31, 1996 plus the Great Plains Deferred Account Surcharge (Deferred Surcharge). The determination of the Deferred Surcharge is based on the balance in the current GPS subaccount plus accumulated interest at April 30, 1995.

Transco states that included in Appendix A attached to the filing are workpapers supporting the calculation of the revised GPS Surcharge of $0.0399 per dt reflected on the tariff sheet included therein.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16870 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–136–002]

Williams Natural Gas Company; Notice of Compliance Filing

July 5, 1995.

Take notice that on June 30, 1995, William Natural Gas Company (WNG), filed to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

Substitute Seventh Revised Sheet Nos. 6 and 6A
Substitute Second Revised Sheet No. 204
Fourth Revised Sheet No. 205

WNG states that such revised sheets reflect the same general rate increase (less the cost of facilities not projected to be in service, and without certain refunctionalization of facilities) originally filed in this docket, and such sheets are submitted pursuant to ordering paragraphs (D) and (E) of the Commission's February 24, 1995 suspension order in this docket, to become effective, subject to refund, on August 1, 1995, in lieu of the tariff sheets originally filed.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16879 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–582–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

July 5, 1995.

Take notice that on June 26, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP95–582–000 a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon the transportation of gas for direct sale to Spess Oil Company, Inc. (Spess) and to

reclaim measuring and appurtenant facilities located in Pawnee County, Oklahoma, under the authorization issued in Docket No. CP82–479–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, WNG seeks authorization to abandon the transportation of gas and to reclaim measuring and appurtenant facilities originally installed in 1965 to make a direct sale of natural gas to Spess in Section 11, Township 20 North, Range 8 East, Pawnee County, Oklahoma. WNG states that the facilities were reported in Docket No. CP65–166. WNG states that the meter setting is not longer in use and that Spess has agreed to reclaim the facilities.

WNG states that the total cost to reclaim the facilities is estimated to be approximately $3,146 with a salvage value of approximately $1,481.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16871 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–364–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariffs

July 5, 1995.

Take notice that on June 30, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2 as listed on Appendix A to the filing.

Williston Basin states that the proposed non-gas base a tariff rates reflected on the tariff sheets contained in Appendix A to the filing, when compared with the rates filed on April 11, 1994 in Docket Nos. RS92–13–000, RS92–13–008, RS92–13–010, RS92–13–011 and RP94–48–000 are designed to produce an annual jurisdictional revenue increase of 3,603,113.

Williston Basin has requested that the Commission accept this filing to become effective August 1, 1995.

Williston Basin further states that the base tariff rates reflected on the tariff sheets listed on Appendix A to the filing are based on its cost of service for the twelve months ended March 31, 1995, as adjusted for changes which are known and measurable with reasonable accuracy during a nine months adjustment period ending December 31, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16861 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–44–000]

Williston Basin Interstate Pipeline Company; Notice of Filing

July 5, 1995.

Take notice that on June 30, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, revised tariff sheets listed on the filing, with a proposed effective date of June 30, 1995.

Williston Basin states that the revised tariff sheets are being filed to update its Master Receipt/Delivery Point List.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16874 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–5–49–000]

Williston Basin Interstate Pipeline Company; Notice of Fuel Reimbursement Charge Filing

July 5, 1995.

Take Notice that on June 30, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing to become part of its FERC Gas Tariff the following revised tariff sheets:

Second Revised Volume No. 1

Thirteenth Revised Sheet No. 15
Fifth Revised Sheet No. 15A
Sixteenth Revised Sheet No. 16
Fifth Revised Sheet No. 16A
Thirteenth Revised Sheet No. 18
Fifth Revised Sheet No. 18A
Fifth Revised Sheet No. 19
Fifth Revised Sheet No. 20
Eleventh Revised Sheet No. 21

Original Volume No. 2

Fifty-eighth Revised Sheet No. 11B

The proposed effective date of the tariff sheets is August 1, 1995.

Williston Basin states that the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant gathering, transportation and storage rates, and the calculation of new fuel reimbursement surcharges to amortize its Unrecovered Fuel Reimbursement Accounts in accordance with Section 38 of its FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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). All such motions or protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to the motion must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16869 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–302–001]

Young Gas Storage Company, Ltd.; Notice of Tariff Compliance Filing

July 5, 1995.

Take notice that on June 30, 1995, Young Gas Storage Company, Ltd. (Young), tendered for filing revised tariff sheets, to its FERC Gas Tariff, Original Volume No. 1. Young states that the new tariff sheets are filed in accordance with the June 15, 1995 letter order in Docket No. RP95–302–000. In the June 15 order, the Commission conditioned acceptance of Young's May 19, 1995 filing on a compliance filing by Young to reflect: (i) The reinstatement of the provisions allowing a releasing customer the option of determining the tie breaking method and (ii) comply with Order No. 577–A. Young has filed revisions to Sheet Nos. 55, 57, 58, 61, 62, 63 and Original Sheet No. 63A.

Accordingly, Young submitted for filing Second Revised Sheet Nos. 55, 57, 58, 61, 62, 63 and Original Sheet No. 63A to become effective July 10, 1995, the effective date of Order No. 577–A.

Young states that a copy of this filing was served upon all parties in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–16882 Filed 7–10–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 95–32–NG]

ProGas U.S.A., Inc.; Order Granting Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ProGas U.S.A., Inc. authorization to import, near Port of Morgan, Montana/Monchy, Saskatchewan, up to 30,000 Mcf per day of Canadian natural gas, beginning on the date of the order, and extending until October 31, 2001. This gas will be resold to Natural Gas Clearinghouse to serve markets in the Midwest United States.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 29, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16941 Filed 7–10–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–33–NG]

ProGas U.S.A., Inc.; Order Granting Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ProGas U.S.A., Inc. authorization to import, near Port of Morgan, Montana/Monchy, Saskatchewan, up to 20,000 Mcf per day of Canadian natural gas, beginning on the date of the order, and extending until October 31, 2001. This gas will be resold to Tenaska Gas Co. to serve markets in the Midwest United States.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 29, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16942 Filed 7–10–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No 95–48–NG]

Redwood Resources Inc.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Redwood Resources Inc. authorization to import up to 50 Bcf of natural gas from Canada over a two-year term beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 28, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16944 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–P

[FE Docket No. 95–47–NG]

Tanglewood Storage & Transportation Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada and Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Tanglewood Storage & Transportation Corp. (TSTC) authorization to import up to 200 Bcf and to export up to 200 Bcf of natural gas from and to Canada, and to import up to 200 Bcf and to export up to 200 Bcf of natural gas from and to Mexico. This import/export authorization shall extend for a period of two years beginning on the date of the initial import or export delivery, whichever occurs first.

TSTC's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056,

Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 30, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–16943 Filed 7–10–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5256–9]

Common Sense Initiative Council (CSIC); Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory CSIC Automobile Manufacturing Sector Subcommittee and Computers and Electronics Sector Subcommittee Meetings; Open Meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Automobile Manufacturing Sector Subcommittee and the Computers and Electronics Sector Subcommittee of the Common Sense Initiative Council (CSIC) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed with the Sector Subcommittee announcements below.

(1) Automobile Manufacturing Sector Subcommittee—August 1, 1995

The Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee (CSIC-AMS) will hold an open meeting on Tuesday, August 1, 1995. The meeting will begin at 8:30 a.m. EST and run until 3:45 p.m. EST. The meeting will be held at the Detroit Metro Airport Hilton Suites, 8600 Wickham, Detroit, MI, (313) 728–9200.

The purpose of the meeting is to update the Subcommittee on project work plans and project team activities and to discuss the coordination of the Automobile Manufacturing Sector Subcommittee activities.

Limited time will be provided for members of the public wishing to make oral comments at the meeting. In general, each individual or group making any oral presentations will be limited to a total of three minutes. Agendas will be available July 25, 1995. Any person or organization interested in attending the meeting should contact Carol Kemker, Designated Federal Official, no later than July 27, 1995, at (404) 347–3555 extension 4222. For further meeting information contact Carol Kemker, DFO on (404) 347–3555 extension 4222, or Keith Mason, Alternate DFO, on (202) 260–1360, or Leila Yim Surratt, Alternate DFO, on (202) 260–0628.

(2) Computers and Electronics Sector Subcommittee—July 31–August 1, 1995

The Common Sense Initiative Council, Computers and Electronics Sector Subcommittee (CSIC-CES) will hold an open meeting on Monday, July 31, from 8:30 a.m. to 5 p.m., and Tuesday, August 1, from 8:30 a.m. to 3 p.m., at the New England Center at the University of New Hampshire, Durham, New Hampshire 03824.

The meeting will include breakout sessions for subcommittee workgroups (Reporting and Information Access; Promoting Pollution Prevention, Recycling and Product Stewardship; and Integrated and Sustainable Alternative Strategies for Electronics), reports to the full subcommittee from those workgroups, and discussion of administrative and procedural issues of interest to the full subcommittee. Opportunity for public comment on major issues under discussion will be provided at intervals throughout the meeting.

For further information about this meeting of the CSIC-CES, please contact Mark Mahoney, Region 1, US EPA, (617) 565–1155, FAX (617) 565–3346, or by mail at Region 1, US EPA, John F. Kennedy Federal Building, One Congress Street, Boston, MA 02203; Gina Bushong, US EPA, (202) 260–3797; or David Jones, Region 9, US EPA, (415) 744–2266.

FURTHER INFORMATION AND INSPECTION OF CSIC DOCUMENTS: Documents relating to the above Sector Subcommittee announcements will be publicly available at the meetings. Thereafter, these documents, together with official minutes for the meetings, will be available for public inspection in room 2417 Mall of EPA Headquarters, Common Sense Initiative Program Staff, 401 M Street, S.W., Washington, D.C. 20460, phone (202) 260–7417. CSIC information can be accessed electronically through contacting Katherine Brown at: brown.katherine@epamail.epa.gov.

Dated: July 3, 1995.

Prudence Goforth,

Designated Federal Officer.

[FR Doc. 95–16952 Filed 7–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

June 30, 1995.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0149.

Expiration Date: 06/30/98.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, Sections 63.01–63.601.

Estimated Annual Burden: 6,820 total annual hours; 13.37 hours per response.

Description: Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214, requires that the FCC review the establishment, lease, operations and extension of channels of communications by interstate common carriers. These carriers earn a rate of return based on their plant and facilities investment. The more they invest in plant and facilities the greater their revenue requirement. Thus, one of the major reasons Section 214 was enacted was to ensure against unnecessary duplication of plant and facilities. The other reason for Section 214 was to regulate which entities should be allowed to provide common carrier services and which services should be allowed to be terminated. Part 63 implements Section 214 of the Communications Act of 1934, as amended. Part 63 also implements the provision of the Cable Communications Policy Act of 1984 pertaining to video programming by telephone carriers. In CC Docket No. 87–266, the Commission modified its rules to enable local telephone companies to participate in the video marketplace through video dialtone. The information is used by the Commission to determine whether the respondent is in compliance with Section 214.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–16905 Filed 7–10–95; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 30, 1995.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

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 this submission contact Dorothy Conway, Federal Communications Commission, (202) 418–0217 or via internet at DConway@FCC.GOV. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: N/A.

Title: Proposed Part 17—Antenna Registration.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other-for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 307,200 responses; .12 hours burden per response; 35,840 hours total annual burden.

Needs and Uses: The requirement contained in the Notice of Proposed Rule Making in WT 95–5 is necessary to implement uniform registration procedures for owners of antenna structures. The antenna structure owners will be required to provide tenants licensees with a copy of the antenna registration and display the registration number on or around the antenna structure.

OMB Number: N/A.

Title: Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers (CC Docket 94–129)

Form No.: N/A.

Action: New Collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 500 responses; 2 hours burden per response; 1,000 hours total annual burden.

Needs and Uses: Interexchange carriers (IXCs) are required to provide consumers with letters of agency (LOAs) that are physically separate or severable from any inducements or promotional materials. The LOA must be written in clear and unambiguous language and printed in a font size and style comparable to the inducements. The new rules prohibit the potentially deceptive or confusing practice of combining the LOA with promotional materials in the same document.

OMB Number: N/A.

Title: FCC Annual Survey of Cable Industry Prices.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 816 responses; 3 hours burden per response; 2,446 hours total annual burden.

Needs and Uses: Section 623(k) of the Cable Television Consumer Protection and Competition Act of 1992 (''Cable Act'') requires the Commission to publish an annual statistical report on average rates for basic cable service, cable programming service and equipment. The report must compare prices charged by cable systems subject to effective competition and those not subject to effective competition. The survey is to collect the data needed to prepare this report.

OMB Number: 3060–0548.

Title: Section 76.302 Required recordkeeping for must-carry purposes and Section 76.56 Signal Carriage obligations.

Form No.: N/A.

Action: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 48,000 responses; 22.25 hours burden per response; 267,000 hours total annual burden.

Needs and Uses: Section 76.302 requires the operator of every cable television system to maintain a public inspection file containing must-carry records. Section 76.56 requires that if a cable operator authorizes subscribers to install additional receiver connections, but does not provide the connections or equipment for such connections, the operator must notify the subscriber of all broadcast stations that are carried on the system which cannot be viewed without a converter box. Operators must also respond to written requests for the identification of signals carried on the system.

OMB Number: 3060–0547.

Title: Sections 76.61 Disputes concerning carriage and Sections 76.7 Special relief and must-carry procedures.

Form No.: N/A.

Action: Revision to a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 2,100 responses; 5 hours burden per response; 10,500 hours total annual burden.

Needs and Uses: Section 76.61 requires local commercial televisions or qualified low power television stations to notify a cable operator, in writing, when that station believes that a cable operator has failed to meet its carriage or channel positioning obligations. Section 76.7 states that on petition by an interested party, the Commission may waive provisions of its cable television rules, impose additional or different requirements, or issue a ruling on a complaint or disputed question.

OMB Number: 3060–0519.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CC Docket No. 92–90).

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: Recordkeeping Requirement.

Estimated Annual Burden: 30,000 recordkeepers; 31.2 hours burden per recordkeeper; 936,000 hours total annual burden.

Needs and Uses: Parts 64 and 68 of the rules contain procedures for avoiding unwanted telephone solicitations to residences, and to regulate the use of automatic telephone dialling system, artificial or prerecorded voice messages, and telephone facsimile machines. The rule imposes a recordkeeping requirement on telemarketers to maintain lists of telephone subscribers who do not wish to be contacted by telephone. Maintenance of company-specific do not call lists serves as a mechanism for prevent unwanted telephone solicitation.

OMB Number: N/A.

Title: Section 76.58 Notifications.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 4,560 responses; 45 minutes burden per response; 3,280 hours total annual burden.

Needs and Uses: Section 76.58 states that a cable operator must: a) notify broadcast stations and subscribers before deleting the station from carriage; b) notify qualified noncommercial educational television stations of its designated principal headend; c) notify must-carry stations of any change in the designation of the principal headend; d) notify local educational stations that may not be entitled to carriage, and e) mail a list of all broadcast stations carried on its system to all local television stations.

OMB Number: N/A.

Title: Section 76.9 Order to show cause; forfeiture proceedings.

Form No.: N/A.

Action: New Collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 50 responses; 7 hours burden per response; 350 hours total annual burden.

Needs and Uses: Section 76.9 states that upon petition by any interested person, the Commission may issue an order requiring a cable television operator to show cause why it should not be directed to cease and desist from violating Commission rules. The petition may be submitted informally, by letter, but shall be accompanied by a certificate of service on any interested person who may be directly affected if an order to show cause is issued or a forfeiture proceeding initiated. The petitions are used by the Commission to determine whether or not the Commission's cable rules have been violated.

OMB Number: N/A.

Title: Section 76.502 Three year holding requirement.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other-for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 1,000 responses; 15 minutes burden per response; 250 hours total annual burden.

Needs and Uses: Section 76.502 states that a cable operator seeking to assign or transfer control of a cable system must certify to the local franchise authority that the proposed assignment or transfer of control will not violate the three-year holding requirement. The certification must be submitted to the franchise authority at the time the cable operator submits the request for transfer approval, unless local transfer approval is not required by the terms of the agreement.

OMB Number: N/A.

Title: Section 76.309 Customer Service Obligations and Section 76.964 Notice to subscribers.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other-for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 125,000 responses; 20 minutes burden per response; 40,917 hours total annual burden.

Needs and Uses: Sections 76.309 and 76.964 set forth customer service obligations and notification requirements for changes in rates, programming services and channel position. Section 76.309(c)(3)(i)(A) states cable operators shall provide written information on each of the following areas at the time of installation of service, at least annually, and upon request to all subscribers: products and services offered; prices and options for programming services and conditions of subscription to programming and other services; installation and service maintenance policies; instructions on using the cable service; channel positions programming carried on the system; and billing and complaint procedures, including the address and telephone number of the local franchise authority cable office. Section 76.964(a) states that customers will be notified of any changes in rates, programming service or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given at least 30 days in advance of such changes if the changes is within the cable operators control. Section 76.964(a) requires that cable operators give the relevant franchising authority a minimum of 30 days written notice of any changes in rates for cable programming service or associated equipment. Section 76.964(b) states that cable systems shall give 30 days written notice to both subscribers and the local franchise authority before implementing any rate change or change in service. Section 76.964(c) states that cable systems shall provide written notice to subscribers of their rights to file Commission complaints concerning rate changes for cable programming services or associated equipment.

OMB Number: 3060–0419.

Title: Syndicated Exclusivity/Network non-duplication Rights Sections 76.94, 76.95, 76.155, 76.156, 76.157, 76.159.

Form No.: N/A.

Action: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 170,568 responses; 1.01 hour burden per response; 170,768 hours total annual burden.

Needs and Uses: Notifications by TV stations and program suppliers will provide cable systems with the information on programs for which they can have syndicated exclusivity/network non-duplication rights. The data provided to cable systems by TV stations will be used to determine when programs subject to deletion will be aired, so that the cable system can delete carriage of signals at the appropriate time.

OMB Number: N/A.

Title: Section 64.703(b) Consumer Information - Posting by aggregators.

Form No.: N/A.

Action: New Collection.

Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 56,200 responses; 3.7 hours burden per response; 206,566 hours total annual burden per response.

Needs and Uses: Section 64.703(b), requires that aggregators (providers of telephones to the public or transient users) must post in writing, on or near their phones, information about presubscribed operator services, rates, carrier access, and the FCC address to which consumers may direct complaints. Aggregators will disclose the information via printed notice that is posted on or near the phones.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–16906 Filed 7–10–95; 8:45 am]

BILLING CODE 6712–0I–F

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 29, 1995.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription

Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 418–0214. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: None.

Title: Section 21.902, Frequency Interference.

Action: New collection.

Respondents: Individuals or households, businesses or other-for profit.

Frequency of Response: On occasion reporting requirements.

Estimated Annual Burden: 1,075 responses; 3.12 hours average burden per recordkeeper, 3,355 hours total annual burden.

Needs and Uses: (A) Section 21.902(d), Expansion of Protected Service Areas of MDS Stations. Petitioners complained that current regulations failed to sufficiently protect MDS station licensees from harmful interference caused by subsequently-filing applicants. Since 1974, subsequently-filing applicants have had to file an interference study for each authorized or previously-proposed MDS station. MDS stations have had protected service areas since 1984. After that time subsequently-filing applicants have based the required interference study on a protected service area of 710 square miles. (When the authorized or previously-proposed MDS station uses an omnidirectional transmitting antenna, the 710 square miles is a circle with a radius of 15 miles.) In the *Second Reconsideration Order*, the protected service area was expanded to a circle with a radius of 35 miles. This modification of an existing requirement simplifies the MDS rules, promotes the development of MDS stations as effective competitors to cable television systems, and facilitates the transition from analog to digital compression technology. *See* paragraphs 7–19 in the *Second Reconsideration Order.* (B) Section 21.902(d), Maps for Waiver Requests of Protected Service Area. Based on our experience with reviewing interference analyses since 1984, it will be faster and cheaper for a MDS applicant to submit an interference study based on the previously-proposed or authorized station's 35–mile protected service area. However, when a new applicant asserts that it should be exempted form the requirement to study the potential for harmful interference to a previously-proposed or authorized stations protected service area, the *Second Reconsideration Order* states that the applicant should submit a map showing the intrusion of the waiver applicant's signal into the area around the authorized or previously-proposed station. *See* paragraph 26 in *Second Reconsideration Order.* (C) Section 21.902(d). Expansion of Effect on Cable-MDS Prohibitions. Since 1990, cable television companies have been prohibited from owning or leasing MDS stations, directly or indirectly, if there is an overlap between the MDS station's protected service area and the cable company's service area. Thus, the prohibitions of 47 CFR Section 21.912 and 47 U.S.C. 553(a)(2) usually did not apply in situations in which the cable service area was more than 15 miles from the MDS station's transmitter site. With the expansion of the protected service area, it is possible that some cable television companies with MDS ownership or leasing interests, which formally complied with Section 21.912, might be barred after the change. A blanket waiver was granted until June 1, 1996 to cable companies with interests newly-prohibited. *See* paragraphs 30–31 in *Second Reconsideration Order.* (D) Section 21.902(i). ITFS Station Interference Protection Through Service. On October 10, 1990, the *Wireless Cable Order* established a deadline for MDS applicants to serve specified authorized cochannel or adjacent-channel ITFS stations on or before the day the MDS application was filed. The *First Reconsideration Order* postponed this service deadline until the 60th day after public notice. Pursuant to petitioners' requests, the Commission has returned to the earlier service deadline, on or before the date of filing, which reduces processing delay. *See* paragraphs 39–41 in *Second Reconsideration Order.* (E) Section 21.912(i). ITFS Station Interference Protection Through Petitions to Deny. Petitioners also requested that authorized ITFS stations be required to file petitions to deny of MDS applications by the 30th day after public notice. The earlier deadline was adopted so that MDS applications can become ripe for grant more quickly and MDS stations can begin operations as soon as possible in order to provide competition for cable television systems. Together with the earlier deadline for ITFS service, a 120-day delay has been reduced to 30 days for processing MDS applications that propose stations within 50 miles of cochineal or adjacent-channel ITFS stations. *See* paragraphs 42–44 of *Second Reconsideration Order.*

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–16907 Filed 7–10–95; 8:45 am]

BILLING CODE 6712–0l–F

[Report No. 2082]

Application for Review of Action in Rulemaking Proceeding

July 6, 1995.

Application for review have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed by July 26, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bolingbroke and Yatesville, Georgia) (RM–8622)

Number of Petition Field: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–16904 Filed 7–10–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

BancTenn Corp.; 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 July 25, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. BancTenn Corp., Kingsport, Tennessee; to acquire Tennessee General Corp., Johnson City, Tennessee, and thereby engage in data processing, payroll, and related services, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 5, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–16898 Filed 7–10–95; 8:45 am]

BILLING CODE 6210–01–F

Marblehead Bancorp, 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 August 4, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Marblehead Bancorp, Marblehead, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Marblehead Bank, Marblehead, Ohio.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. United Bankshares, Inc., Charleston, West Virginia; to acquire 100 percent of voting shares of First Commercial Bank, Arlington, Virginia.

C. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Barnett Banks, Inc., Jacksonville, Florida; to acquire 100 percent of voting shares of Community Bank of the Islands, Sanibel, Florida.

D. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Colfax Bancshares, Inc., Colfax, Iowa; to acquire 100 percent of voting shares of Maxwell Bancorporation, Maxwell, Iowa, and thereby indirectly acquire Maxwell State Bank, Maxwell, Iowa.

2. Shorebank Corporation, Chicago, Illinois; to acquire 100 percent of voting shares of U.S. Bank of Southwest Washington, Vancouver, Washington.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Commercial Corporation, Little Rock, Arkansas; to acquire 100 percent of voting shares of West-Ark Bancshares, Inc., Clarksville, Arkansas, and thereby indirectly acquire Arkansas State Bank, Clarksville, Arkansas.

F. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis Minnesota; to acquire 100 percent of voting shares of State National Bank, El Paso, Texas.

Board of Governors of the Federal Reserve System, July 5, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–16899 Filed 7–10–95; 8:45 am]

BILLING CODE 6210–01–F

Princeton/LeClaire Agency, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 25, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Princeton/LeClaire Agency, Inc., Princeton, Iowa; to engage *de novo* in leasing activities, pursuant to § 225.25(b)(5)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. First Hawaiian, Inc., Honolulu, Hawaii; to engage *de novo* through its subsidiaries, Pioneer Federal Savings Bank, and First Hawaiian Creditcorp, Inc., both of Honolulu, Hawaii, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y. The geographic scope for these acitivities is limited to the state of Hawaii.

Board of Governors of the Federal Reserve System, July 5, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–16900 Filed 7–10–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity has made final findings of scientific misconduct in the following case:

James Urban, M.D., Ph.D., California Institute of Technology: The Office of Research Integrity (ORI) has found that James L. Urban, M.D., Ph.D., engaged in scientific misconduct. This finding is based on an investigation by the California Institute of Technology (CIT) which concluded that Dr. Urban committed serious errors in judgment and serious scientific misconduct in connection with fabricating certain research data in two scientific papers that were published in the journal *Cell.* The first paper is J. Urban, V. Kumar, D. Kono, C. Gomez, S. Horvath, J. Clayton, D. Ando, E. Sercarz, and L. Hood, ''Restricted Use of T Cell Receptor V Genes on Murine Autoimmune Encephalomyelitis Raises Possibilities for Antibody Therapy,'' *Cell.* 54: 577–592 (1988). The second paper at issue is J.L. Urban, S.J. Horvath and L. Hood, ''Autoimmune T Cells: Immune Recognition of Normal and Variant Peptide Epitopes and Peptide-based Therapy,'' *Cell.* 59: 257–271 (1989). Specifically, the CIT Report states that Dr. Urban admitted that he fabricated two control lanes reported in Figure 5 of the *Cell.* 54 paper. With respect to the *Cell.* 59 paper, the CIT Report states that Dr. Urban admitted that he circulated draft copies of the manuscript that contained fabricated data in order to circumvent both the internal and external review processes.

Dr. Urban has accepted the ORI findings and agreed to exclude himself voluntarily, for a period of three years beginning June 2, 1995, from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 and 48 CFR subparts 9.4 and 309.4 (Debarment Regulations). This voluntary exclusion does not apply to Dr. Urban's current or future practice of clinical medicine or training, whether as a resident, fellow, or licensed practitioner, unless that practice involves the proposing, conducting, or reporting of biomedical or behavioral research or research training. Dr. Urban also agreed to exclude himself voluntarily from serving on any Public Health Service Advisory Committees, Boards, and/or peer review committees for the same three-year period.

ORI acknowledges that Dr. Urban cooperated with the CIT Investigation Committee during its investigation of allegations of scientific misconduct and with ORI in its resolution of this matter.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 95–16961 Filed 7–10–95; 8:45 am]

BILLING CODE 4160–17–P

Agency for Toxic Substances and Disease Registry

Public Meeting of the Inter Tribal Council, in Association With the Meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Public Meeting of the Inter Tribal Council (ITC), in association with the meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee.

Time and Dates: 9 a.m.–4:30 p.m., July 26, 1995.

Location: The Red Lion Inn, 2525 North 20th, Pasco, Washington 99301, telephone (509) 547–0701, FAX (509) 547–4278.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background

A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ITC is part of these efforts. The ITC will work with the Hanford Health Effects Subcommittee (HHES) to provide input on Native American health effects at the Hanford, Washington, site.

Purpose

The purpose of this meeting of the ITC is to discuss issues that are unique to tribal involvement with HHES including considerations regarding a proposed medical monitoring program and explorations of options and alternatives to providing support for tribal involvement in HHES.

Matters To Be Discussed

Agenda items will include options for relationships between the tribes and ATSDR and CDC regarding the study of health effects from past, current, or future releases of radioactive and hazardous materials into the environment at Hanford, and proposed actions based on the findings of ATSDR and CDC health research and public health activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information

Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639–0730, FAX 404/639–0759.

Dated: June 30, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16890 Filed 7–10–95; 8:45 am]

BILLING CODE 4163–70–M

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee.

Times and Dates: 8 a.m.–5:30 p.m., July 27, 1995; 7 p.m.–8 p.m., July 27, 1995; 8 a.m.–3:30 p.m., July 28, 1995.

Place: Red Lion Inn, 2525 North 20th, Pasco, Washington 99301, telephone (509) 547–0701, FAX (509) 547–4278.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background

A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Purpose

The purpose of this meeting is to receive updates on issues related to the Technical Steering Panel and declassification of DOE documents; discuss issues and develop approaches to Public Outreach activities with ATSDR support; develop approaches to ATSDR and CDC health studies and medical monitoring programs, and receive updates on the Hanford Thyroid Disease Project and Lowell Sever's studies.

Matters to be Discussed

Agenda items include ATSDR's medical monitoring options, ATSDR's planning for a medical assistance program, current ATSDR health assessment activities. The subcommittee will solicit concerns which they will ask ATSDR and CDC to address.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information

Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone (404) 639–0730, FAX (404) 639–0759.

Dated: June 30, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–16889 Filed 7–10–95; 8:45 am]

BILLING CODE 4163–70–M

Food and Drug Administration

[Docket No. 95D–0164]

FDA Guidance Document Concerning Use of Pilot Manufacturing Facilities for the Development and Manufacture of Biological Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document concerning the use of pilot facilities for the development and manufacture of biological products. The guidance document, entitled ''Center for Biologics Evaluation and Research; Use of Pilot Manufacturing Facilities for the Development and Manufacture of Biological Products; Guidance,'' provides guidance by the Center for Biologics Evaluation and Research (CBER) to manufacturers of biological products to clarify the licensing requirements for the use of small scale and pilot facilities for the development and manufacture of biological products. These facilities are sometimes collectively referred to by industry as pilot facilities. This guidance document is intended to provide increased flexibility for industry without diminishing public health protection.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of the document. Two copies of all comments are to be submitted, except that individuals may submit one copy. The comments received are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jean M. Olson, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, suite 400 South, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: CBER recognizes that development of important new biological products is expensive and time consuming, and that companies must be able to forecast and evaluate their expenditures for this process. Constructing a new facility to manufacture a product that has not been fully tested in clinical trials could result in a company being unable to recover a major capital expenditure if the product is not ultimately brought to market. CBER also recognizes that for some companies the best financial option may be the use of a pilot facility where a product may be manufactured at a smaller scale than would be ultimately desired for an approved product.

While CBER does not object to the use of pilot production facilities for the manufacture of clinical material, many companies are concerned that these facilities would not be eligible for establishment licensure. This guidance document is intended to clearly articulate that pilot facilities are eligible for licensure. The guiding principle is that an application for establishment licensure can be made for any facility

(regardless of the scale of manufacture) which is fully qualified, validated, operates in accordance with current good manufacturing practices (CGMP's), and otherwise complies with applicable law and regulations. In order to further streamline the approval process, the agency is currently considering changing its procedures to eliminate the requirement for a separate establishment license for certain well defined classes of biologic products. Because of recent scientific advances, both in methods of manufacture and in methods of analysis, some products developed through biotechnology can be characterized in ways not historically considered possible. Thus, the agency is considering allowing ''biotech'' products that are well characterized to be regulated under a single application. The agency plans to hold a scientific conference in the fall of 1995, to develop a definition of well characterized products that may be amenable to regulation under new procedures.

This guidance document describes the conditions and procedures for submitting establishment license applications (ELA's) for pilot facilities and for subsequent transfer of product manufacturing to a different facility. The guidance document provides information concerning: (1) Use of a product manufactured in a pilot facility in clinical trials conducted to demonstrate safety and effectiveness and optional transition to a different facility; (2) submissions for approval to use a pilot facility for manufacture of a product; (3) submissions for approval to use a different manufacturing facility while a product license application (PLA) for a product manufactured in a pilot facility and an ELA for a pilot facility are pending; (4) submissions for approval to use a different manufacturing facility when a product and pilot facility are currently licensed; and (5) submission of a PLA based on data obtained from a product made in a pilot facility when licensure of the product manufactured in the pilot facility and of the pilot facility is not sought.

The guidance also addresses review timeframes and submission times, product consistency, data comparing products made in different facilities, and product availability at the time of product licensure.

In addition, FDA intends to revise the policy statement entitled ''Manufacturing Arrangements for Licensed Biologics'' published in the **Federal Register** of November 25, 1992 (57 FR 55544) to accommodate these procedures.

This guidance document is not binding on either FDA or manufacturers of biological products and does not create or confer any rights, privileges, or benefits for or on any person.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance document. Received comments will be considered to determine if further revision to the guidance document is necessary.

The title and text of the guidance document follows:

Center for Biologics Evaluation and Research; Use of Pilot Manufacturing Facilities for the Development and Manufacture of Biological Products; Guidance

I. Introduction

Biological products, which generally include vaccines, blood and blood products, allergenic extracts, and biological therapeutics, are regulated under section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262), as well as the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). The PHS Act requires that biological products be propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license. Lack of clarity about licensing requirements has led some applicants to make major investments in large scale manufacturing facilities before initiating the clinical trial(s) necessary to demonstrate the safety and effectiveness of their products. Such investments can result in significant financial loss if the product is not ultimately brought to market. In this document, the Center for Biologics Evaluation and Research (CBER) is providing guidance to manufacturers and developers of biological products to clarify licensing procedures for the use of pilot facilities for the manufacture of biological products. CBER considers a pilot production to be a procedure and facility fully representative of and simulating that to be applied on a full commercial scale. For example, the methods of cell expansion, harvest, and product purification should be identical except for scale of production. These facilities are sometimes collectively referred to by industry as ''pilot facilities'' and will be referred to as ''pilot'' in this document. These facilities are to be distinguished from facilities used in research and development that may not operate under appropriate current good manufacturing practices (CGMP's).

II. Background

CBER recognizes that development of important new biological products may be expensive and time consuming and that companies must be able to forecast and evaluate their expenditures for this process. Constructing a large scale facility to manufacture a product that has not been fully tested in clinical trials could result in a major capital loss if delays occur or the product is not ultimately brought to market. CBER also recognizes that for some companies, the best financial option may be the use of a pilot facility where a product may be manufactured at a smaller scale than might be eventually desired for an approved product. While CBER has not objected to the use of pilot facilities for the manufacture of clinical material (provided such manufacture is in compliance with requirements applicable to investigational drugs), many companies are concerned that these facilities and the product manufactured in them would not be eligible for licensure. An application for establishment licensure can be made for any facility (regardless of the scale of manufacture) that has been fully qualified and validated, that operates under CGMP's, and that otherwise complies with applicable laws and regulations. This guidance document describes the conditions and procedures for submitting such application(s) and for subsequent, optional transfer of product manufacturing to a different manufacturing facility.

III. Guidance

The following provides information on the submission of product license applications (PLA's) and establishment license applications (ELA's) and investigational new drug applications (IND's) for products manufactured in a pilot facility.

1. Use of a product manufactured in a pilot facility in clinical trials conducted to demonstrate safety and effectiveness and optional transition to a different facility.

IND's for all products should include information that describes where the material for the clinical trial(s) used to demonstrate safety and effectiveness is or was manufactured. Data submitted in support of licensure of a biological product can be obtained using a product manufactured in a pilot facility. In the event that a product manufactured in new facilities and/or scaled-up processes or facilities is intended to be used at a later date for either completion of the clinical trial(s) demonstrating safety or effectiveness or for licensable product, the time tables, new locations, and processes should be identified in the IND. A protocol for comparing products should also be submitted. Data which compares a product made in a new facility or with new processes to a product used in earlier clinical studies should be submitted to the IND before including the new product in the clinical trial(s). If the product made in the new facility or by the new process will not be used in the clinical trials used to demonstrate safety or effectiveness, the data comparing the two products should be submitted in the IND, PLA, or PLA supplement. A description of any manufacturing changes that were made as a result of using a new facility or new processes and stability data should also be submitted to the IND or PLA as appropriate.

2. Submissions for approval to use a pilot facility for manufacture of a product.

Information and data submitted in the PLA should be obtained using a product manufactured in the pilot facility. The ELA should include a completed Form FDA 3210; Application for Establishment License for Manufacture of Biological Products (FDA

Form 3210), which describes the pilot facility. If the facility is already licensed, an ELA supplement that contains information specific to the new product should be submitted. The facility and equipment, regardless of scale, should have undergone appropriate qualification and validation and should be in compliance with applicable regulations, including, but not limited to, 21 CFR parts 210, 211, 600 and 820. A pre-license inspection will be conducted prior to the approval of the PLA and ELA or ELA supplement. The PLA and ELA may be submitted at different times, provided a statement is included in any PLA or ELA submission confirming that the facility is ready for inspection and indicating the approximate date for the companion application submission. CBER intends to review PLA's and ELA's submitted at different times under the normal timeframe targets of the managed review process (from the date of receipt at CBER, 12 months for standard applications, 6 months for priority applications, and 6 months for supplements). Because CBER issues the ELA and PLA concurrently, timing of submission of the companion applications should be carefully considered. CBER intends to consider failure to submit a companion application within 6 months of receipt of a standard application or 3 months of receipt of a priority application to be grounds for issuing a not approvable letter to the applicant.

3. Submissions for approval to use a different manufacturing facility while a PLA for a product manufactured in a pilot facility and an ELA for a pilot facility are pending.

In this case, a PLA for a product made in a pilot facility and ELA for the pilot facility are under review as outlined in section III. 2 of this guidance. FDA's inspection of the pilot facility may or may not have occurred. The applicant is now requesting licensure of a different facility in addition to, or in lieu of, licensure of the pilot facility. The following information should be submitted to the pending PLA: a description of manufacturing changes which have occurred, data comparing products made in the new and old facilities, and documentation of process validation and stability data for a product manufactured in the new facility. CBER intends to consider the submission to be a separate PLA filing that will be assigned a new reference number and a 6-month review timeframe. A new ELA that contains a completed ELA Form 3210 describing the new facility should also be submitted. If the new facility is already licensed, the applicant should submit a supplement to the approved ELA with the information specific to the new product. A statement confirming that the new facility is ready for inspection should be included in the new PLA filing and the ELA or ELA supplement at the time of submission. Concurrent review of the pilot facility will continue unless the applicant is no longer requesting approval to market lots manufactured in the pilot facility. If the applicant does not wish to pursue licensure of lots made in a pilot facility, a request may be made in writing that the pending ELA for the pilot facility be withdrawn; however, FDA may still conduct an inspection. In this case, lots manufactured in the pilot facility could be used in other clinical trials but could not be marketed. CBER intends to review the ELA for the new facility within new application timeframes under the managed review process. As such, CBER intends to issue a new reference number and review priority applications within 6 months, standard applications within 12 months, and supplements within 6 months. CBER intends to review the new PLA filing within 6 months. An inspection of both facilities will be performed if the applicant requests licensure of both. Applicants should specify which establishment is a higher priority for licensure and CBER may choose to concentrate its resources on reviewing the application for that facility first. Either combination of product and establishment may be licensed when all information has been reviewed and found to be acceptable. The pilot facility and product may be eligible for licensure before the new facility and product are ready for approval. In regard to the timing of submissions, it should be noted that CBER's timeframe for review of a new ELA may be longer (12 months for standard application and 6 months for priority application under the managed review process) than that for review of the new PLA filing. CBER intends to consider failure to submit a companion application within 6 months of receipt of a standard application or 3 months of receipt of a priority application to be grounds for issuing a not approvable letter to the applicant.

4. Submissions for approval to use a different manufacturing facility when a product and pilot facility are currently licensed.

A supplement to the approved PLA for a product made in a pilot facility and an ELA or ELA supplement for the new facility should be submitted when the applicant wishes to obtain licensure for a different facility and product manufactured in it. The PLA supplement should contain information on a product manufactured in the new facility, including a description of manufacturing changes that have occurred. (See ''Changes to be Reported for Product and Establishment License Applications; Guidance'' (60 FR 17535, April 6, 1995)). Data comparing products made in each facility, and process validation and stability data for a product manufactured in the new facility should also be provided. If a new ELA is submitted, it should contain a completed ELA Form 3210 that describes the new facility. If the proposed facility is already a licensed facility, an ELA supplement should be submitted that contains information specific to the new product. A statement confirming that the facility is ready for inspection should be included with each submission. CBER intends to review PLA's, ELA's, and supplements according to the timeframe targets of the managed review process (6 months for manufacturing and facility changes) and intends to approve ELA's and PLA's or supplements concurrently, when all information has been reviewed and found acceptable. CBER intends to consider failure to submit a companion application within 6 months of receipt of a standard application or 3 months of receipt of a priority application to be grounds for issuing a not approvable letter to the applicant.

5. Submission of a PLA based on data obtained from a product made in a pilot facility when licensure of the product manufactured in the pilot facility and pilot facility is not sought.

CBER will allow submission of a PLA based on data obtained from clinical trials using a product made in a pilot facility when the pilot facility is not intended to be licensed. In order to verify data comparing a product made in a pilot facility and used in the clinical trials to a product made in the facility to be licensed, the pilot facility should be available for inspection up to the time the applicant obtains licensure of the product in the new facility. A product used in clinical trials to support licensure can be made in a facility for which the applicant does not intend to seek licensure, but only a licensed product made in a licensed facility may be marketed. The PLA should contain information and data on a product manufactured in the pilot facility and a statement that the pilot facility is ready for inspection at the time of submission. An inspection of the pilot facility may be performed in some cases. Stability data from a product made in the pilot facility, if representative of a product manufactured in the facility intended to be licensed, can be used in support of a proposed dating period. A separate, original ELA for the facility intended for licensure may be submitted concurrently with the PLA or after review of the PLA has begun. The ELA for the facility intended for licensure should be submitted when a product in support of approval has been manufactured, a product is available for review, and the facility is ready for inspection. If submission of the ELA occurs after PLA review has begun, an accompanying PLA supplement containing data comparing products made in both facilities should include stability data, process validation, and a description of any manufacturing changes (see Guidance (60 FR 17535)). CBER intends to review each ELA and PLA under the current timeframe targets of the managed review process (from the date of receipt at CBER, 12 months for standard and 6 months for priority applications; 6 months for manufacturing supplements). While an ELA and PLA need not be submitted concurrently, applicants are reminded that CBER intends to approve ELA's and PLA's concurrently. CBER intends to consider failure to submit a companion application within 6 months of receipt of a standard application or 3 months of receipt of a priority application to be grounds for issuing a not approvable letter to the applicant.

6. Demonstration of product consistency and data comparing products made in different facilities.

When manufacture of a product is transferred from a pilot facility to a different facility, a demonstration of product consistency, data comparing the two products, and process validation should be submitted in the PLA supplement or amendment to the IND. Retention samples from the pilot facility should be stored under

controlled conditions in sufficient quantity to conduct the side-by-side testing of products. Applicants are encouraged to discuss with CBER what data are necessary to compare products, as such data may range from analytical testing to full clinical trial(s).

7. Review timeframes and submission times

There may be cases where applicants wish to submit an ELA for a pilot facility prior to submitting a companion PLA. A statement that the facility is ready for inspection at the time of submission should be included. FDA ordinarily intends to inspect at the time the facility is manufacturing the product for which licensure is sought. It is possible that, in some cases, inspection of the establishment could take place before the submission of the PLA. It is also possible for the ELA to be submitted after the PLA as discussed above.

CBER intends to review PLA's and ELA's submitted at different times under the normal timeframe targets of the managed review process (from the date of receipt at CBER, 12 months for standard and 6 months for priority applications; 6 months for supplements). CBER intends to issue the appropriate action letter (approved, approvable, or not approvable) to complete its action on any application.

Applicants should be aware that submitting the ELA and PLA at separate times will not necessarily reduce the approval time when compared to concurrent submission. Early submission of applications may, however, allow earlier feedback from CBER on deficiencies in an application that can be addressed by the applicant sooner than would otherwise be possible. In all cases described above, CBER intends to approve PLA's, ELA's, or supplements concurrently.

In cases of shared manufacturing arrangements (see 57 FR 55544 at 55545), the PLA's for the intermediate product(s) and end product should be submitted concurrently in order for a complete review of the product to occur, since determining the approvability of the end product will depend upon information in the intermediate product PLA's. The ELA's may be submitted at different times from the PLA's.

Applicants should consider carefully the consequences of the timing of any submission on the use of CBER resources. It is expected that applicants will use the flexible submission times in cases of need. Applicants should recognize that the filing of submissions which are premature or incomplete will result in unnecessary resource commitments by CBER and the applicant. It is therefore recommended that applicants do not submit an ELA before favorable preliminary data or information from clinical trials of the product is available. For products intended for use in serious and life-threatening diseases, applicants should consider submitting the ELA and PLA concurrently to prevent a situation from occurring where otherwise approvable product cannot be approved because the facility is not yet ready to be licensed.

If a scenario exists that is not covered in this guidance document, the applicant should seek guidance by contacting the appropriate applications division in the Offices of Therapeutics Research and Review, Blood Research and Review, or Vaccines Research and Review, or the Division of Establishment Licensing.

8. Availability of product at the time of licensure

If an applicant requests licensure for a pilot facility, this choice may affect the amount of product available at the time of approval. For important new products for use in treating serious and life-threatening illnesses, the ramifications of limited availability of the product at the time of approval should be assessed by the applicant.

Dated: June 26, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–17022 Filed 7–7–95; 10:53 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

National Biological Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). An expedited review has been requested in accordance with the Act so that approval can be received by August 18, 1995, permitting the National Biological Service to comply with Executive Order 12862 reporting requirements for 1995. Copies of the proposed collection of information and related forms may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, telephone (202) 395–7340.

Title: Generic Clearance for Measurement of Client Satisfaction with National Biological Service Products and Services

Abstract: The National Biological Service (NBS) is initiating a process with standard form to gather information about its customers' level of satisfaction with its products and services. When certain NBS products and services are delivered to a client, the client will also be given a Client Response sheet on which the client is invited to rate his/her satisfaction with the product or service and offer any additional comments he/she wishes to make. The information from the responses will be summarized annually and the results used to improve NBS products and services. Copies of the final report of the summarized information will be provided to NBS' clients. This process and report will allow NBS to comply with Executive Order 12862 and the Government Performance and Results Act (44 U.S.C. Chapter 35)

Bureau Form Number: None

Frequency: Annually

Description of Respondents: Federal government officials and secondarily state and local government officials engaged in policy making, regulation, or management of public trust lands and resources

Estimated Completion time per Respondent: 0.17 Hour

Individuals invited to Respond annually: 2000

Estimate annual Responses: 300

Annual Burden Hours: 50

Bureau Clearance Officer: Don Minnich, (202) 482–4838

Dated: June 23, 1995.

F. Eugene Hester,

Deputy Director.

[FR Doc. 95–16901 Filed 7–10–95; 8:45 am]

BILLING CODE 4310–DP–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32681]

H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Georgia & Florida Railroad Co., Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission under 49 U.S.C. 10505 exempts from the prior approval requirements of 49 U.S.C. 11343, et seq., the continuance in control by H. Peter Claussen and Linda C. Claussen (the Claussens) of the Georgia & Florida Railroad Co., Inc. (G&F), upon G&F becoming a rail carrier, subject to standard labor protective conditions. The Claussens presently control Albany Bridge Company, Inc.; Gulf and Ohio Railways, Inc., which operates the Mississippi Delta Railroad and the Atlantic & Gulf Railroad; Wiregrass Central Railroad Company, Inc.; H&S Railroad Company, Inc.; Piedmont & Atlantic Railroad Co., Inc.; and Rocky Mount & Western Railroad Co., Inc. G&F filed a notice of exemption in Finance Docket No. 32680 to exempt its acquisition, lease, and

operation of certain rail lines and incidental trackage rights from the Norfolk Southern Railway Company and its subsidiaries, Georgia Southern and Florida Railway Company and Central of Georgia Railroad Company.

DATES: This exemption will be effective on August 10, 1995. Petitions to stay must be filed July 21, 1995. Petitions to reopen must be filed by July 31, 1995.

ADDRESSES: Send pleadings, referring to Finance Docket No. 32681 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) Mark H. Sidman, 1350 New York Avenue, NW., Suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. (TDD for the hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services at (202) 927–5721).

Decided: June 23, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–16946 Filed 7–10–95; 8:45 am]

BILLING CODE 7035–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting

June 28, 1995.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on July 20–21, 1995.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue NW., Washington, DC. A portion of the morning and afternoon sessions on July 20–21, 1995, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on July 20, 1995, will be as follows:

8:30–9 a.m.—Coffee for Council Members—Room 527

Committee Meetings

(Open to the Public)—Policy Discussion

9–10 a.m.

Education Programs—Room M–14
Public Programs—Room 415
Research Programs—Room M–07
Preservation and Access & Challenge Grants—Room 315
Federal-State Partnership—Room 507

10 a.m. until Adjourned—(Closed to the Public)—Discussion of specific grant applications before the Council

The morning session on July 21, 1995, will convene at 10 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

(Coffee for Staff and Council members will be served from 9:30–10 a.m.)

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Budget Reports
E. Legislative Report/Reauthorization
F. Committee Reports on Policy and General Matters
G. 1. Overview
2. Education Programs
3. Research Programs
4. Preservation and Access & Challenge Grants
5. Public Programs
6. Federal-State Partnership

(The meeting will be closed to the public at this point.)

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. David C. Fisher, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 95–16853 Filed 7–10–95; 8:45 am]

BILLING CODE 7536–01–M

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* July 31–August 1, 1995.
Time: 8:30 a.m. to 5 p.m.
Room: M–14.
Program: This meeting will review applications submitted to the Humanities

Projects in Museums and Historical Organizations program received for the June 2, 1995 deadline, submitted to the Division of Public Programs, for projects beginning after January 1, 1996.

2. *Date:* August 1, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Philosophy, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

3. *Date:* August 1, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in American History II, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

4. *Date:* August 2–3, 1995.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications submitted to the Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs, for projects beginning after January 1, 1996.

5. *Date:* August 3, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in American History and Studies II; Communication and Media; and Education, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

6. *Date:* August 3, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for College Teachers applications in British Literature; submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

7. *Date:* August 4, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 430.
Program: This combined Fellowships for University Teachers and Fellowships for College Teachers meeting will review applications in Religious Studies, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

8. *Date:* August 4, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Rhetoric, Communications, Media Folklore, and American Studies, submitted to the Division of Research Program, for projects beginning after January 1, 1996.

9. *Date:* August 7, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in European History, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

10. *Date:* August 7, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in Philosophy, submitted to the Humanities Projects in Museums and Historical Organizations programs, for projects beginning after January 1, 1996.

11. *Date:* August 8, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in African, Asian, and Latin American History and Studies, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

12. *Date:* August 8, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in African, Asian, and Latin American History and Studies, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

13. *Date:* August 10, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Anthropology, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

14. *Date:* August 11, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers applications in Languages and Literatures I, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

15. *Date:* August 11, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for College Teachers applications in Languages and Literatures II, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

16. *Date:* August 14, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Romance Languages and Literatures, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

17. *Date:* August 14, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 430.
Program: This combined Fellowships for University Teachers and Fellowships for College Teachers meeting will review applications in Art History II, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

18. *Date*: August 15, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This combined Fellowships for University Teachers and Fellowships for College Teachers meeting will review applications in Political Science and Jurisprudence, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

19. *Date*: August 15, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in American Literature, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

20. *Date*: August 17, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Classical, Medieval, and Renaissance Studies, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

21. *Date*: August 17, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers applications in Classical and Medieval Studies, submitted to the Division of Research Program, for projects beginning after January 1, 1996.

22. *Date*: August 18, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in American Literature and Studies, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

23. *Date*: August 18, 1995.
Time: 8 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review Fellowships for College Teachers applications in Anthropology, submitted to the Division of Research Programs, for projects beginning after January 1, 1996.

David C. Fisher,
Advisory Committee Management Officer.

[FR Doc. 95–16854 Filed 7–10–95; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Wisconsin Electric Power Co.; Point Beach Nuclear Plant Environmental Assessment and Finding of No Significant Impact

[Docket Nos. 50–266 and 50–301]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain technical requirements of Appendix R to 10 CFR part 50 for

operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2, located in Manitowoc County, Wisconsin (Facility Operating License Nos. DPR–24 and DPR–27, respectively, issued to Wisconsin Electric Power Company, the licensee).

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from Section III.G.2.b of Appendix R to 10 CFR part 50, to the extent that it requires the separation of redundant trains of safe shutdown cables and equipment by a horizontal distance of more than 20 feet, with no intervening combustibles, in the auxiliary feedwater pump fire area.

The proposed action is in accordance with the licensee's application for exemption dated August 5, 1994, as supplemented by letters dated September 9, 1994, October 31, 1994, and February 28, 1995.

The Need for the Proposed Action

The proposed action is needed to allow three new cable trays, which were installed as part of the diesel generator addition project, to remain in place in the auxiliary feedwater pump fire area. Intervening combustibles in the form of cable fill in these cable trays are located within the separation space between redundant trains of cables and equipment required to achieve and maintain safe shutdown after a fire.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the action is acceptable because the plant configuration, administrative controls, and the fire protection provided for the auxiliary feedwater pump area gives reasonable assurance that equipment and cabling required to achieve and maintain safe shutdown will remain operable following a fire in the area, as required by Appendix R.

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.

Alternatives 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 and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Point Beach.

Agencies and Persons Consulted

In accordance with its stated policy, on May 31, 1995, the staff consulted with the Wisconsin State official, Ms. Sarah Jenkins, of the Public Service Commission of Wisconsin, 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 the proposed action, see the licensee's letter dated August 5, 1994, as supplemented by letters dated September 9, 1994, October 31, 1994, and February 28, 1995, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, WI 54241.

Dated at Rockville, Maryland, this 3rd day of July 1995.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Acting Director, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–16903 Filed 7–10–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Thermal Hydraulic Phenomena Postponed

A meeting of the ACRS Subcommittee on Thermal Hydraulic Phenomena scheduled to be held on July 11, 1995, Room T–2B3 at 11545 Rockville Pike, Rockville, Maryland, to discuss the revised emergency procedure guidelines to cope with an ATWS event compounded by core power instability has been postponed due to the need for additional dialogue between the NRC staff and appropriate nuclear industry representatives. Notice of this meeting was published in the **Federal Register** on Friday, June 23, 1995 (60 FR 32715). Rescheduling of this meeting will be announced in a future **Federal Register** notice.

Also, the full Committee discussion of this matter scheduled for Thursday, July 13, 1995 has been postponed to a future ACRS meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Boehnert, the cognizant ACRS staff engineer (telephone 301/415–8065), between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: July 5, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–16902 Filed 7–10–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35923; File No. SR–CHX–95–14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Chicago Match

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 19, 1995, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and

III below, which Items have been prepared by the self-regulatory organization. On June 28, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 2 and Rule 8(b) of Article XXXVII of the Exchange's Rules. The proposed rule change will become operative 30 days after the date the proposed rule change is filed with the Commission. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

ARTICLE XXXVII CHICAGO MATCH

DEFINITIONS

Rule 2. (ad) The term ''Display Eligible Size'' shall mean 500 shares.

Rule 8(b) Display-Eligible Orders will be converted into Displayed Orders in the following manner. A Display-Eligible Order with the highest priority Liquidity Fee or Credit shall have first priority to become a Displayed Order. After the entry of any Displayed-Eligible Order or Chicago Match Market Maker Order, such Displayed-Eligible Order or Chicago Match Market Maker Order shall be aggregated with other Display-Eligible Orders (starting with orders that have the next highest priority Liquidity Fee or Credit) until such aggregation equals or exceeds the [Default Size] *Display-Eligible Size,* at which time, all such orders comprising the aggregation, plus any other Display-Eligible Order or Chicago Match Market Maker Order that has a Liquidity Fee or Liquidity Credit equal to the Displayed Liquidity Fee or Credit, shall become Displayed Orders. The Displayed Liquidity Fee or Credit shall be the lowest priority Liquidity Fee or Credit of all the Displayed Orders. The Displayed Size shall be the sum of the sizes associated with all Displayed Orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Rule 8 of Article XXXVII of the Exchange's Rules requires the aggregate size of orders that are eligible to be displayed in the Chicago Match to be greater than or equal to 10,000, 5,000 or 2,000 shares (depending on the security involved), before the Chicago Match will display those orders. One purpose of the proposed rule change is to lower this disclosure threshold to 500 shares on all issues so that more orders in the Chicago Match will be displayed. Although this filing lowers the disclosure threshold, it does not alter the Chicago Match Market Maker's existing obligations with respect to the number of shares the Chicago Match Market Maker is obligated to enter into the Chicago Match.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition, and (3) does not become operative for 30 days from June 19, 1995, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–95–14 and should be submitted by August 1, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16925 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* letter from David Rusoff, Foley & Lardner, to Glen Barrentine, Senior Counsel, SEC, dated June 28, 1995. Amendment No. 1 withdraws the proposed changes to CHX Rule 6, Article XXXVII.

[Release No. 34–35924; File No. SR–NASD–95–22]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval to Proposed Rule Change Relating to Extending the Continuing Education Requirement for Registered Persons to Government Securities Principals and Representatives

June 30, 1995.

I. Introduction

On May 11, 1995, the National Association of Securities Dealers, Inc.

(''NASD'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to amend Schedule C of the NASD By-Laws to include government securities principals and representatives in the continuing education requirement for registered persons.

The proposed rule change was published for comment in the **Federal Register** on June 9, 1995.[3] One comment letter was received on the proposed rule change,[4] to which the NASD responded.[5] This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

The purpose of the NASD's proposal is to make an amendment to the definition of ''registered person'' contained in Section (1)(e) of Part XII of Schedule C of the NASD By-Laws, *Continuing Education Requirements.*[6] The effect of the proposed change will be to require government securities principals and representatives who are designated in Part XI of Schedule C of the NASD By-Laws to participate in the continuing education program.[7] Such persons, however, were inadvertently excluded from the definition of ''registered person'' contained in Section (1)(e) of Part XII of Schedule C of the NASD By-Laws and approved by the Commission on February 8, 1995.[8]

III. Comment Letter

The Comment Letter on the proposed rule change raises two concerns. First, the commenter states that given that government securities principals and representatives are not required currently to undergo professional qualification by examination or experience, such individuals should not be required to participate in the continuing education program. Second, the commenter believes that the aggregate training results reported to firms will be skewed by the performance of such individuals because they will not have prepared for a professional qualification examination, and thus may lack industry knowledge.

The NASD Response addresses both of the commenter's concerns. The NASD notes that the Government Securities Act Amendments of 1993 (''GSA Amendments'') removed from Section 15A of the Act the restrictions on the NASD's authority to regulate its members' transactions in government securities.[9] Consequently, requiring government securities principals and representatives to participate in the continuing education program is a first step in such persons being subject to regulation comparable to that applicable to other securities industry professionals. Moreover, the NASD states that it is desirable for all registered persons to be subject to the continuing education requirements now, rather than waiting for approval of other rules affecting government securities registered persons. In response to the commenter's second concern, the NASD states that the aggregate training results that it will provide to its members will be broken-down by registration categories.[10]

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of Section 15A and the rules and regulations thereunder. The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act because the proposed change to Schedule C of the By-Laws will improve the standards of training, experience, and competence for persons associated with NASD members.

As noted in the NASD Response, the GSA Amendments removed from Section 15A of the Act the limitations on the ability of the NASD to regulate its members' transactions in government securities. The Commission believes that requiring government securities principals and representatives to participate in the continuing education program is appropriate in view of the role these persons play in the market for government securities. The continuing education program has been designed to impart knowledge regarding existing standards and should ensure that government securities principals and representatives become aware of new regulatory developments and concerns.

The Commission also believes that the commenter's concerns have been adequately addressed. While the Commission recognizes that government securities principals and representatives have not yet been required to undergo qualification examinations, the Commission believes that any concerns that thereby may arise are outweighed by the benefits to be derived from the participation of such persons in the continuing education program. It should be emphasized that the Regulatory Element, which addresses a variety of compliance, ethics, and sales practice issues, is not a test. Rather, the Regulatory Element requires that a person complete a prescribed training program, which is administered using computer-based interactive training techniques that provide immediate feedback as a person works through a set of scenarios and problems.

The aggregated information obtained from the Regulatory Element is one of several factors that a firm should consider in evaluating its training needs when complying with the Firm Element. Moreover, as stated in the NASD Response, firms will be provided with a registration category break-down of the aggregated information.

Pursuant to Section 19(b)(5) of the Act,[11] the Commission has consulted with and considered the views of the Department of the Treasury (''Treasury'').[12] The Treasury supports the NASD's proposal that the continuing education program apply to government

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 35820 (June 7, 1995), 60 FR 30624.

[4] Letter from William S. Crews, Senior Vice President/Securities Compliance Manager, Wachovia Investments, Inc., to Secretary, Commission, dated June 20, 1995 (''Comment Letter'').

[5] Letter from Craig L. Landauer, Associate General Counsel, NASD, to Francois Mazur, Attorney, Division of Market Regulation, Commission, dated June 28, 1995 (''NASD Response'').

[6] On February 8, 1995, the Commission approved proposals by the self-regulatory organizations establishing a two-part continuing education program that requires uniform periodic training for registered persons in regulatory matters (''Regulatory Element'') and job and product-related subjects (''Firm Element''). Securities Exchange Act Release No. 35341 (February 8, 1995), 60 FR 8426.

[7] Part XI of Schedule C of the NASD By-Laws currently requires all persons associated with a member not previously registered as a principal who are to function as government securities principals to be registered as government securities principals; and all persons associated with a member who are to function as government securities representatives who have not previously been registered to register as government securities representatives. NASD By-Laws, Schedule C, Part XI, §§ 1 & 2.

[8] Securities Exchange Act Release No. 35341, *supra* note 6.

[9] *Compare* Sections 15A (f) & (g) of the Act, 15 U.S.C. 780–3 (f) & (g), with text prior to enactment of the GSA Amendments.

[10] The categories that will be provided will be Series 6, Series 7, all principal registration categories, and ''other.'' Government securities principals and representatives would fall within the ''other'' category.

[11] 15 U.S.C. 78s(b)(5).

[12] Section 19(b)(5) of the Act states generally that the Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities.

securities principals and representatives.[13]

Finally, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to allow the uniform implementation of the continuing education program on July 1, 1995. The Commission notes that the 15 day notice period provided for in the notice has expired. The Commission notes further that the rule change establishing the continuing education program was noticed in the **Federal Register** for the full statutory period [14] and that on August 15, 1994, the NASD published Special Notice to Members 94–59 to request comment regarding the NASD's then draft rules to create a mandated continuing education program for the securities industry. As a result, commentators have had an extensive opportunity to comment on the requirements of the continuing education program.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NASD–95–22) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16924 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35929; File No. SR–NYSE–95–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Rule 460.20

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on May 26, 1995, the New York Stock Exchange, Inc. (''NYSE'' of ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an amendment to NYSE Rule 460.20 that would delete the requirement for an associated specialist of an approved person acting as an underwriter in a distribution of a security in which the associated specialist is registered to ''give up the book'' commencing with the ''cooling-off'' period specified in Rule 10b–6 under the Act [1] until the approved person has completed its participation in the distribution.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, when an affiliated entity is participating in a distribution of a security in which the specialist organization is registered, the specialist organization is required to withdraw from the market commencing with the applicable cooling off period specified in Rule 10b–6 under the Act until the affiliate has completed its participation in the distribution.[2] NYSE Rule 460.20 provides that the specialist organization must ''give up the book'' (*i.e.*, cease to function as a market maker) to an unaffiliated specialist organization, which then assumes all market making responsibilities under NYSE rules, until the approved person (affiliate) has completed its participation in the distribution, at which time the regular specialist organization regains the ''book'' and resumes its market making activities.

In May 1993, the Commission approved amendments to Rule 10b–6, and the adoption of new Rule 10b–6A, to permit NASD market makers to continue to make markets in a stock while participating in an underwriting of that stock, subject to several restrictions on their level of market making activity. (These restrictions are popularly referred to as ''passive market making.'')[3] The Commission's passive market making restrictions cannot be appropriately extended to Exchange specialists, who are subject to an affirmative obligation to deal when necessary to contribute to the maintenance of a fair and orderly market. The Exchange is concerned, however, that failure to provide exemptive relief from Rule 10b–6 for NYSE specialist units affiliated with underwriting firms may have a detrimental effect on the Exchange's ability to compete for issuer listings and on the willingness of large firms to invest capital in the specialist business.

The Exchange has filed a request with the Commission [4] for exemptive relief

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[13] Telephone conversation between Donald Hammond, Assistant Director, Government Securities Regulation Staff, Treasury, and Glen Barrentine, Senior Counsel, Division of Market Regulation, Commission, on June 29, 1995.

[14] *See* Securities Exchange Act Release No. 35102 (December 15, 1994), 59 FR 65563.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] Rule 10b–6 is an anti-manipulation rule that, subject to certain exceptions, prohibits persons engaged in a distribution of securities from bidding for or purchasing, or inducing others to purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security (''related securities'') until they have completed their participation in a distribution. The provisions of Rule 10b–6 apply to issuers, selling shareholders, underwriters, prospective underwriters, dealers, brokers, and other persons who have agreed to participate or are participating in the distribution, as defined in Rule 10b–6(c)(5), and their ''affiliated purchasers,'' as defined in Rule 10b–6(c)(6), including broker-dealer affiliates. The applicable cooling off period is described in (xi) and (xii) of Rule 10b–6(a)(4). *See* 17 CFR 240.10b–6.

[2] *See* Rule 10b–6(a)(4)(xi), 17 CFR 240.10b–6(a)(4)(xi).

[3] *See* Securities Exchange Act Release No. 32117 (Apr. 8, 1993), 58 FR 19528. In general, Rule 10b–6A permits ''passive market making'' in connection with the distributions of certain securities quoted on the Nasdaq Stock Market during the Rule 10b–6 cooling-off period, the period when the rule's provisions otherwise would prohibit such transactions. A passive market maker's bids and purchases, however, are limited to the highest current independent bid *i.e.*, a bid of a market maker who is not participating in the distribution and is not an affiliated purchaser of a participating market maker. Furthermore, Rule 10b–6A contains certain eligibility criteria, volume limitations on purchases, and notification and disclosure requirements. *See* Rule 10b–6A(c)(2) (Level of Bid), (c)(3) (Requirements to Lower the Bid), (c)(4) (Purchase Limitation), (c)(5) (Limitation on Displayed Size), (c)(6) (Identification of a Passive Market Making Bid), (c)(7) (Notification and Reporting to the NASD). *See* 17 CFR 240.10b–6A(c)(2) through (c)(6).

[4] The Division of Market Regulation (''Division'') is currently reviewing the Exchange's petition requesting regulatory relief. At the conclusion of the Division's review, the Division will make publicly

Continued

from certain provisions of Rules 10b–6 and 10b–13 (''Petition for Exemptive Relief'').[5] The proposed rule change contained in this 19b–4 filing would delete the requirement to ''give up the book'' in order to make Rule 460.20 compatible with the Exchange's Petition for Exemptive Relief.[6] Rule 10b–6 currently requires an ''affiliated purchaser'' (*i.e.*, the specialist organization that is associated with a broker-dealer participant in a distribution of a security in which the specialist organization is registered) to withdraw from the market during a certain period before and during the distribution.[7] The proposed relief would allow such a specialist organization to continue to make a market in such stocks during such period, provided that it has obtained an exemption from certain Exchange rules pursuant to Exchange Rule 98 and agrees to certain monitoring requirements.

Rule 98 affords exemptive relief for entities in a control relationship with a specialist organization from restrictions in NYSE Rules 104, 104.13, 105, 113.20, and 460.10 that would otherwise be applicable to such entities' transactions in securities in which the specialist organization is registered, or to business transactions with the issuers of such securities.[8] Pursuant to Rule 98 and the implementing guidelines promulgated thereunder, the specialist organization and the affiliated entity must be operated as separate and distinct organizations, and ''Chinese Wall'' procedures must be established that place substantial limits on access to, and communication of, trading information, including positions and strategies, between the two organizations. Rule 98 exemptive relief is conditioned on the organizations' receiving prior written approval from the Exchange, which conducts an annual review to ensure that all conditions for the exemption are being met.

The Exchange believes that the restrictions on the flow of information between the affiliated specialist and its approved person contained in Exchange Rule 98, along with the additional safeguards (such as transaction monitoring by the Exchange, the specialist and the approved person) contained in its Petition for Exemptive Relief, make it appropriate to amend Rule 460.20 to delete its requirement for such specialist to ''give up the book'' to an unaffiliated specialist during a distribution in which the approved person participates.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–95–21 and should be submitted by July 26, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16932 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35926; File No. SR–NYSE–95–24]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to an Extension of the Pilot for the Capital Utilization Measure of Specialist Performance

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, (''Act'')[1] and Rule 19b–4 thereunder,[2]

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available both the Exchange's petition and the Division's response to the petition. Any exemptive relief granted would supersede the relief previously granted by the Commission in *Letter regarding Application of Rules 10b–6 and 10b–13 to Specialists Affiliated with NYSE Member Firms*, (TP File No. 92–284) (Sept. 15, 1992).

[5] Rule 10b–13 under the Act, among other things, prohibits a person making a tender offer or exchange offer for any equity security from, directly or indirectly, purchasing or making any arrangement to purchase any such security (or any security that is immediately convertible or exchangeable for such security), otherwise than pursuant to the offer, from the time the offer is publicly announced until its expiration, including any extension thereof. Rule 10b–13 also applies to the dealer-manager of a tender offer because the dealer-manager acts as the agent of the bidder to facilitate the bidder's objectives. *See* 17 CFR 240.10b–13.

The Exchange is seeking relief from Rule 10b–13 to allow affiliated specialists to continue their market making functions in their respective specialty securities in connection with certain mergers or tender or exchange offers in which an affiliated broker-dealer is participating.

[6] The Exchange's proposal is to conform NYSE rules with the exemption to be granted separately by the Division in response to the Exchange's Petition for Exemptive Relief. Therefore, the approval of the proposed rule change is contingent upon the Division granting the requested exemptive relief.

[7] Absent an exemption from or exception to Rule 10b–6, Exchange specialists that are affiliated with a person participating in a distribution of securities would be precluded from bidding for or purchasing such securities, any security of the same class and series as those securities, or any related securities.

[8] See NYSE Rule 104 (limiting a specialist's ability to effect purchases and sales regarding affiliated entities); NYSE Rule 104.13 (requiring that certain transactions be effected only for investment purposes); NYSE Rule 105 (limiting a specialist's interests in pools and options); NYSE Rule 113.20 (prohibiting a specialist from ''popularizing'' any security in which it is registered); NYSE Rule 460.10 (prohibiting control relationships, business transactions, and finder's fees between the issuer and the specialist).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

notice is hereby given that on June 22, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of extending the capital utilization pilot through September 10, 1996. The capital utilization measure focuses on a specialist unit's use of its own capital in relation to the total dollar volume of trading activity in the unit's stocks. This capital utilization measure would continue to be used by the Allocation Committee (''Committee'') in allocating newly-listed stocks.[3]

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In recognition of the importance of dealer participation, particularly in volatile markets when such participation is viewed as providing ''value added'' in maintaining fair and orderly markets, the Exchange has developed a measure of specialist performance dealing with utilization of capital for marketmaking. This measure of performance focuses on a specialist unit's use of its own capital in relation to the total dollar value of trading activity in the unit's stocks.

Under the pilot, a capital utilization percentage is derived for each eligible stock[4] and the specialist unit overall by dividing the average daily dollar value of the unit's stabilizing purchases and sales by the average daily total dollar value of shares traded in the unit's stocks. This percentage is calculated both for stabilizing trades only and stabilizing plus reliquefying trades. (A reliquefying transaction is one in which the specialist reduces a position in a specialty stock by selling part of a long position on a zero-minus tick, or purchasing to cover part of a short position on a zero-plus tick.) These percentages are provided for base periods (*i.e.*, non-volatile periods) and volatile periods (days when there is a change of one percent or more in the S&P 500 Stock Price Index),[5] and each stock's ten percent most volatile days,[6] so that performance of a unit relative to other units can be compared as to volatile and non-volatile market conditions.

The capital utilization measure separates stocks into three broad groupings including:

- Stocks included in the top 200 stocks in the S&P 500 Stock Price Index and other stocks that are at least as active (based on average daily dollar value of shares traded)
- The remainder of the S&P 500 and any stocks among the 500 most active on the Exchange
- All other stocks

Specialist units are placed alphabetically into three tiers based on their base day and volatile day capital utilization percentages for each of the three groupings of stocks. Within each grouping, a Floor-wide mean capital utilization percentage is calculated. A unit will be in Tier 1 if its capital utilization percentage is more than 1.1 standard deviations above the mean. (A standard deviation is a statistical measure of the distance from the mean.) A unit will be in Tier 2 if its capital utilization percentage is within 1.1 standard deviations above or below the mean. A unit will be in Tier 3 if its capital utilization percentage is more than 1.1 standard deviations below the mean.

During the past year, the Allocation Committee has received specialist capital utilization information on a ''rolling'' 12-month basis.[7] The Allocation Committee has been given information as to a unit's tier in each stock grouping, with the tier data being included with other objective data, such as DOT turnaround performance, stabilization rates and TTV percentages. The specialist units themselves have been given, on a monthly basis for the prior 12 months, their actual capital utilization percentages for each stock.[8]

The Commission previously approved the Exchange's proposed rule change to adopt capital utilization as an additional measure of specialist performance to be considered by the Allocation Committee, first on a one-year pilot

[3] The Exchange's Allocation Policy and Procedures governs the allocation of equity securities to NYSE specialist units. The Allocation Committee has sole responsibility for the allocation of securities to specialist units pursuant to Board-delegated authority, and is overseen by the Quality of Markets Committee of the Board of Directors. The Allocation Committee renders decisions based upon the allocation criteria specified in the Allocation Policy. The Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In this regard, the Allocation Policy states that the Allocation Committee will base its allocation decisions on the Specialist Performance Evaluation Questionnaire (''SPEQ''), objective performance measures, and the Committee's expert professional judgment. *See also* note 17, *infra.*

[4] The following are not included in any grouping of eligible stocks: foreign stocks, preferred stocks, warrants, when-issued stocks, IPOs (for the first 60 days), closed-end funds, stocks selling for $5 and under, and stocks with less than 2000 shares average daily trading volume. In Securities Exchange Act Release No. 35927 (June 30, 1995) the Commission approved an amendment to the capital utilization pilot that also excludes stocks with two classes of shares (*e.g.*, Class A and Class B), merger/acquisition stocks if there was a significant impact on the price or volume, and stocks that have been delisted for more than half of the examination period. In addition, the amendment to the pilot reduced the review period in which capital utilization is measured from a rolling 12 months to a rolling three months.

[5] ''S&P 500 Stock Price Index'' is a service mark of Standard and Poor's Corporation.

The base period calculation includes the total average daily dollar value for the trading days within the three month period excluding those days during which there was a change of 1% or more in the S&P 500 Price Index. The volatile period calculation includes the total average daily dollar value for the trading days within the three month period during which there was a change of 1% or more in the S&P 500 Price Index.

[6] The base period calculation includes the total average daily dollar value for the days within the three month trading period that were not among the 10% most volatile. The volatile period calculation includes the average daily dollar value for the days within the three month period that were the 10% most volatile.

[7] This has been changed to a rolling three months. *See supra* note 4.

[8] The specialist capital utilization measure is not being added as a basis for initiating a Performance Improvement Action under NYSE Rule 103A. *See infra* note 11. During the pilot period, the Market Performance Committee will receive quarterly reports on the initiative, with a view toward their recommending such enhancements or modifications as may seem appropriate based on actual experience with this measure. Any modifications or enhancements would be filed with the Commission, and would be implemented only with the Commission's approval.

basis[9] and then for an additional six months through June 30, 1995.[10] In its July 25, 1994, report on the Allocation and Capital Utilization pilots, the Exchange reviewed the Committee's use of the capital utilization measure in allocation decisions. The measure appears to be a useful addition to the other measures of specialist performance referred to by the Committee. The Exchange is now seeking to extend that pilot to run concurrently with the pilot for Rule 103A[11] and the pilot for the ''near neighbor'' technique of measuring specialist performance.[12]

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any other person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC.

Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–95–24, and should be submitted by August 1, 1995.

IV. Commission's Findings and Order Granting Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[13] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act[14] and Rule 11b–1 thereunder,[15] which allow exchanges to promulgate rules relating to specialists to ensure fair and orderly markets. For the reasons set forth below, the Commission continues to believe that the consideration of specialist capital utilization by the Allocation Committee should enhance the Exchange's allocation process and encourage improved specialist performance, consistent with the protection of investors and the public interest.

Specialists play a crucial role in providing stability, liquidity and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and rules thereunder, is the maintenance of fair and orderly markets in designated securities.[16] To ensure that specialists fulfill these obligations, it is important that the Exchange develop objective measures of specialist performance and prescribe stock allocation procedures and policies that encourage specialists to strive for optimal performance. The Commission supports the NYSE's effort to develop an objective measure of specialist capital utilization to encourage improved specialist performance and market quality.[17]

The Commission believes that extending the pilot period for the specialist capital utilization is appropriate because the Exchange indicates that it has found the measure useful in providing the NYSE Allocation Committee with an objective measure of specialist performance. The NYSE's Allocation Policy emphasizes that the most significant allocation criterion is specialist performance.[18] In the Commission's view, performance based stock allocations not only help to ensure that stocks are allocated to specialists who will make the best markets, but will provide an incentive for specialists to improve their performance or maintain superior performance.

For these reasons and for the other reasons discussed in Release No. 33369,[19] the Commission has determined to extend the pilot period for this measure through September 10, 1996. The Commission believes that extending the pilot period is appropriate because it will provide the Exchange and the Commission with an opportunity to further study the effects of the use of the measure on the NYSE's allocation process and will permit the

[9] *See* Securities Exchange Act Release No. 33369 (December 22, 1993), 58 FR 69431 (December 30, 1993).

[10] *See* Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995).

[11] *See* Securities Exchange Act Release No. 35704 (May 10, 1995), 60 FR 26060 (May 16, 1995). Rule 103A grants authority to the Exchange's Market Performance Committee to develop and administer systems and procedures, including the determination of appropriate standards and measurements of performance, designed to measure specialist performance and market quality on a periodic basis to determine whether or not particular specialist units need to take actions to improve their performance. The Commission emphasized in the extension order its belief that objective measures of specialist performance should be incorporated into the evaluation process. The Commission believes that the Exchange should have sufficient experience with the capital utilization and near neighbor measures of specialist performance at the end of the pilot period to judge whether these objective measures should be incorporated into the Rule 103A evaluation criteria.

[12] The near neighbor approach to evaluating specialist performance compares the performance in a stock over rolling three-month periods to the performance of stocks with similar trading characteristics. This objective measure of specialist performance will only be used, at this time, by the Allocation Committee in its decision making process. *See supra* note 3. The Commission approved the near neighbor pilot in Securities Exchange Act Release No. 35927 (June 30, 1995).

[13] 15 U.S.C. 78f(b)(5) (1988).

[14] 15 U.S.C. 78k(b) (1988).

[15] 17 CFR 240.11b–1 (1994).

[16] *See, e.g.,* 17 CFR 240.11b–1 (1994); NYSE Rule 104.

[17] The Commission also has approved an NYSE proposal to reduce the weight given in the allocation decision making process to the Specialist Performance Evaluation Questionnaire from ⅓ to ¼ in recognition of the Exchange's adoption of the near neighbor and capital utilization objective measures of special performance. *See* Securities Exchange Act Release No. 35932 (June 30, 1995).

[18] *See, e.g.,* Commission's order approving revisions to the NYSE's Allocation Policy and Procedures, Securities Exchange Act Release No. 34906 (October 27, 1994), 59 FR 55142.

[19] *See supra* note 9.

measure to run concurrently with the Rule 103A and near neighbor pilots. During the pilot period, the Commission continues to expect the NYSE to monitor carefully the effects of the near neighbor and capital utilization programs and report its findings to the Commission. Specifically, the Commission requests that the NYSE report the near neighbor and capital utilization data as presented to the Allocation Committee. In addition, the Exchange should, for a three month sample period,[20] submit a report that identifies the specialist units, the securities for which they applied, the stocks that were allocated to them, and the specialist units' SPEQ ratings as presented to the Allocation Committee.[21] In the report, the Exchange should identify allocations that were made to specialist units with relatively poor tier ratings in the objective measures and discuss the reasons the Allocation Committee made such allocations.[22]

The Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the thirtieth day after publication of the proposed rule change in the **Federal Register**. Accelerated approval will enable the Exchange to continue to make use of the capital utilization measure of specialist performance on an uninterrupted basis and will ensure continuity and consistency in the stock allocation deliberation process. In addition, interested persons were invited to comment on the past proposal to extend the effectiveness of the measure.[23] The Commission received no comments on this proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (File No. SR–NYSE–95–24) be approved through September 10, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Jonathan G. Katz,

Secretary.

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[20] This sample period shall be January 1, 1996, through March 31, 1996.

[21] The Commission believes that this information will allow it to evaluate the extent to which the Allocation Committee's decisions appear consistent with the relative performance of specialist units according to the objective measures. In this regard, however, the Commission recognizes that the Allocation Committee also considers the SPEQ results and may use its professional judgment in making allocation decisions. *See supra* notes 3 and 17.

[22] The Exchange may submit one report for both the near neighbor and capital utilization pilots. This report should be submitted to the Commission by May 15, 1996, along with the Exchange's request for permanent approval or extension of the pilot programs.

[23] *See* Release No. 35175, *supra* note 10.

[24] 15 U.S.C. 78s(b)(2) (1988).

[25] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35932; File No. SR–NYSE–95–06]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Amendment of the Exchange's Allocation Policy and Procedures

June 30, 1995.

On February 28, 1995, the New York Stock Exchange, Inc. (''NYSE'' 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 amend the Exchange's Allocation Policy and Procedures (''Allocation Policy'').

The proposed rule change was published for comment in Securities Exchange Act Release No. 35662 (May 2, 1995), 60 FR 22596 (May 8, 1995). No comments were received on the proposal.

The NYSE Allocation Policy governs the allocation of equity securities to NYSE specialist units.[3] The intent of the Allocation Policy is to ensure that each equity security listed on the Exchange is allocated in the fairest manner possible to the best specialist unit for that security. In October 1994, the Commission permanently approved amendments to the Allocation Policy that revised, among other things, the allocation criteria, the composition of the Allocation Committee[4] and Allocation Panel,[5] and the Committee's disclosure policy.

The Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In this regard, the Allocation Policy specifies that the Committee will base its allocation decisions on the Specialist Performance Evaluation Questionnaire (''SPEQ),[6] objective performance measures, and the Committee's expert professional judgment in considering the SPEQ, objective measures, and other criteria.[7] The NYSE's current objective performance measures include: timeliness of regular openings, promptness in seeking floor official approval of a non-regulatory delayed opening, timeliness of DOT turnaround and response to administrative messages, a specialist's TTV[8] and stabilization rates,[9] and such other measures as may be adopted (and which are approved by the Commission pursuant to Section 19(b) of the Act). In addition, the NYSE has adopted two pilot programs, the capital utilization[10]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The NYSE Allocation Policy applies to the allocation of equity securities under the following circumstances: (1) when an equity security is to be initially listed on the NYSE; (2) when an equity security is to be reallocated as a result of disciplinary or other proceedings under NYSE Rules 103A, 475, or 476; or (3) when a specialist unit voluntarily surrenders its registration in a security as a result of possible disciplinary or performance improvement actions.

[4] Under the Allocation Policy, the NYSE Allocation Committee has sole responsibility for the allocation of securities to specialist units pursuant to Board-delegated authority, and is overseen by the Quality of Markets Committee of the Board of Directors. The Allocation Committee renders decisions based upon the allocation criteria specified in the Allocation Policy.

[5] The composition of the Allocation Panel reflects the Committee structure and includes floor brokers, allied members, and floor broker Governors. The Panel comprises the pool of individuals from which the Committee is formed. The Panel members are selected through an annual appointment process that utilizes input from the membership. Panel members are appointed to serve a one-year term; Governors, however, remain on the Panel for as long as they are Governors. The Exchange has proposed to amend the structure of the Allocation Panel to include Senior Floor Officials. *See* Securities Exchange Act Release No. 35776 (May 30, 1995), 60 FR 30135 (June 7, 1995).

[6] The SPEQ is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.*, any floor broker with at least one year of experience). The SPEQ consists of 21 questions and requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently.

[7] The Allocation Policy specifies that the other criteria that the Allocation Committee may consider in exercising its professional judgment are: listing company input, allocations received by the unit, capital available for market making, listing company input, disciplinary actions and justifiable complaints against the specialist unit, and foreign listing considerations.

[8] TTV percentage is computed by totaling all purchases and sales by the specialist and determining what percentage this share volume is of the security's twice total volume.

[9] The stabilization rate represents the percentage of specialist transactions which were stabilizing (buying as the price declined and selling as it rose).

[10] The specialist capital utilization program measures the dollar value of a specialist's proprietary trading in relation to the total dollar value of shares traded in the specialist's stocks. The Commission approved the capital utilization measure on a one-year pilot basis in Securities Exchange Act Release No. 33369 (December 23, 1993), 58 FR 69431 (December 30, 1993). The Commission approved a six-month extension to the pilot program in Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995) (extending pilot through June 30 1995). The Commission has extended the capital

Continued

and near neighbor [11] objective measures of specialist performance.

The Exchange proposes to amend the Allocation Policy to limit the weight that the SPEQ may be given in the allocation decision making process to no more than 25%. Currently, the Policy permits the Allocation Committee to grant up to one-third weight to SPEQ results in its allocation decisions.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[12] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act [13] and Rule 11b–1 thereunder,[14] which allow exchanges to promulgate rules relating to specialists to ensure fair and orderly markets. For the reasons set forth below, the Commission believes that limiting the weight given the SPEQ should enhance the Exchange's allocation process and encourage improved specialist performance, consistent with the protection of investors and the public interest.

Specialists play a crucial role in providing stability, liquidity and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[15] To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock allocation procedures and policies that provide specialists with an initiative to strive for optimal performance.

Although the SPEQ remains a useful tool to measure performance, the Commission has long believed that objective indications of performance should play an important role in allocation decisions. In particular, the Commission believes that objective performance measures can identify poor market making performance that otherwise may not be reflected in a unit's SPEQ survey results. In this regard, the Commission notes that the Exchange has initiated, on a pilot basis, the capital utilization and near neighbor programs. In light of these additional objective measures of specialist performance, the Commission believes that it is appropriate to limit the weight that the SPEQ may be given in allocation decisions to one quarter, thereby increasing the emphasis given to objective measures of performance. In addition, the Commission notes that a reduction in the weight given the SPEQ from one-third to 25% is relatively minor, especially given the additional objective measures to be consider by the Allocation Committee. Nevertheless, to the extent that the near neighbor and capital utilization measures are only adopted on a pilot basis, if those measure are not extended or permanently approved, the Commission would expect the NYSE to re-evaluate the Allocation Policy to ensure there are adequate indicia of performance being considered by the Allocation Committee.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–NYSE–95–06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Jonathan G. Katz,

Secretary.

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utilization program pilot so that the Exchange and the Commission may evaluate the capital utilization and near neighbor programs concurrently. *See* Securities Exchange Act Release No. 35926 (June 30, 1995) (extending pilot through September 10, 1996).

[11] The near neighbor approach to evaluating specialist performance compares the performance in a stock over rolling three-month periods to the performance of stocks with similar trading characteristics. The Commission approved the near neighbor program on a pilot basis in Securities Exchange Act Release No. 35927 (June 30, 1995).

[12] 15 U.S.C. 78f(b)(5) (1988).

[13] 15 U.S.C. 78k(b) (1988).

[14] 17 CFR 240.11b–1 (1994).

[15] *See* 17 CFR 240.11b–1 (1994); NYSE Rule 104.

[16] 15 U.S.C. 78s(b)(2) (1988).

[17] 17 CFR 200.30–3(a)(2) (1984).

[Release No. 34–35927; File No. SR–NYSE–95–05]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Near Neighbor Approach to Measuring Specialist Performance

June 30, 1995.

I. Introduction

On February 28, 1995, the New York Stock Exchange, Inc. (''NYSE'' 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 adopt a new approach to measuring specialist performance that would be used in allocation decisions and modify an existing measure of specialist performance.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35661 (May 2, 1995), 60 FR 22593 (May 8, 1995). No comments were received on the proposal.

II. Description

The NYSE proposes to adopt, on a pilot basis, the near neighbor measure of specialist performance to be considered by the Allocation Committee in allocating stocks to specialist units.[3] The Exchange also proposes some modifications to its existing capital utilization measure, which is currently used by the Allocation Committee on a pilot basis.[4]

The near neighbor measure compares the performance in a stock over ''rolling'' three-month periods to the performance of stocks with similar trading characteristics (''near neighbors''). The near neighbor program analyzes the following market quality measures: (1) Continuity, which is the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] The Exchange's Allocation Policy and Procedures governs the allocation of equity securities to NYSE specialist units. The Allocation Committee has sole responsibility for the allocation of securities to specialist units pursuant to Board-delegated authority, and is overseen by the Quality of Markets Committee of the Board of Directors. The Allocation Committee renders decisions based upon the allocation criteria specified in the Allocation Policy. The Allocation Policy states that the Allocation Committee will base its allocation decisions on the Specialist Performance Evaluation Questionnaire (''SPEQ''), objective performance measures, and the Committee's expert professional judgment. *See also* note 13, *infra*. The Allocation Committee currently considers the capital utilization measure, in addition to several other objective performance measures. *See, e.g.*, Securities Exchange Act Release No. 35927 (June 30, 1995) (discussing NYSE Allocation Policy and Procedures).

[4] The specialist capital utilization program measures the dollar value of a specialist's proprietary trading in relation to the total dollar value of shares traded in the specialist's stocks. The Commission approved the capital utilization measure on a one-year pilot basis in Securities Exchange Act Release No. 33369 (December 23, 1993), 58 FR 69431 (December 30, 1993). The Commission approved a six-month extension to the pilot program in Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995) (extending pilot through June 30, 1995). The Commission has extended the capital utilization program pilot so that the Exchange and the Commission may evaluate the captital utilization and near neighbor programs concurrently. *See* Securities Exchange Act Release No. 35926 (June 30, 1995) (extending pilot through September 10, 1996).

change in price from trade to trade;[5] (2) market depth, which is the maximum price change over a 3000-share sequence of trades;[6] (3) quotation spread, which is the difference between the bid price and the ask price;[7] and (4) specialist capital utilization.[8]

Stocks will be separated into three broad categories: (1) Stocks in the top 200 stocks in the S&P 500 Stock Index and other stocks that are as active; (2) the remaining component stocks of the S&P 500 Index and stocks among the 500 most active stocks on the Exchange; and (3) all other stocks. The following stocks will be excluded from the near neighbor analysis: Foreign stocks, preferred stocks, warrants, when issued stocks, IPOs (for the first 60 days), closed-end funds, stocks selling for $5 and under, stocks with less than 2,000 shares average daily trading volume, stocks with two classes of shares, merger/acquisition stocks if there was a significant impact on the price or volume, and stocks that have been delisted for more than half of the examination period.[9]

Each month, each specialist units' eligible stocks are classified as belonging to one of the three broad categories noted above. A determination is then made for each individual stock (the ''target stock'') as to which other stocks are statistically similar to it (its ''near neighbors''), based on certain market characteristics. The characteristics that are used in this determination are price, non-block volume, daily high low range, and the dollar value of the stock's ''float'' (*i.e.*, shares that are available for trading that are not closely held).[10] A statistical formula is applied to each stock's four market characteristics to determine its statistical ''distance'' from the target stock. Stocks with distances of 1.000 or less are considered to be ''near neighbors'' of the target stock. Stocks with distances greater than 1.000 are considered to be too different to be considered ''near neighbors'' of the target stock.[11]

For all stocks with three or more near neighbors, a single weighted[12] average performance percentage combining the results for all the near neighbors is calculated for each market quality measure. Then, using statistical techniques involving standard deviations, each target stock's actual performance in the market quality measures listed above is compared to the combined performance of its near neighbors.

When a comparison with its near neighbors is made, the target stock is then placed into one of three groups: a stock whose performance is statistically poorer than the mean performance of the near neighbor stocks is classified in the ''Below Mean'' group; a stock whose performance is statistically similar to the mean performance is classified in the ''Mean'' group; and a stock whose performance is statistically better than the mean is classified in the ''Above Mean'' group. Stocks that have fewer than three near neighbors are automatically classified in the ''Mean'' group. An additional analysis is performed on the stocks in the ''Mean'' group to highlight those stocks that have relatively high performance even though that performance is statistically similar to the calculated average of their near neighbors. A ''Mean'' group stock will be considered to have relatively high performance if its performance percentage is in the top quartile of all stocks in its stock category (*i.e.*, top 200, next 300, or other).

Each specialist unit will receive three reports each month containing the results of the near neighbor analyses for the most recent three-month period. These will include: (1) A Stock Detail Report for each stock that provides market data and performance information about the stock and each of the other stocks that were identified as its ''near neighbors,'' (2) a Stock Summary Report that lists each stock and provides data on the performance of the target stock and the average performance of its near neighbors, as well as whether the target stock's performance is ''Below Mean,'' ''Mean,'' or ''Above Mean,'' for each performance measure, and (3) a Specialist Unit Summary Report that shows, for each performance measure and within each stock category, the number of stocks that are in each group classification, and the percentage of the unit's total stocks that are in each group classification. The Unit Summary Report also shows the percentage of the unit's ''Mean'' group stocks that had high performance percentages.

The Allocation Committee will receive only the summary data appearing on the Specialist Unit Summary Report, which will be updated each month (covering the three most recent months) upon the distribution of the reports to the specialist units. The Allocation Committee will not receive near neighbor performance data for individual stocks. The Allocation Committee also will receive a list of each unit's stocks that had fewer than three near neighbors and were automatically classified in the ''Mean'' group. Included with each stock will be its percentage of the unit's total dollar value of shares traded.

The Exchange also is modifying the specialist capital utilization performance measure to ensure commonality between it and the near neighbor program as follows: (1) Exclusion of stocks with two classes of shares (*e.g.*, Class A & Class B), ''merger/acquisition'' stocks if there was a significant impact on the price or volume, and stocks that have been delisted for more than half of the examination period; and (2) reduction of the performance review period for measuring capital utilization from a rolling 12 months to a rolling three months.[13]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

[5] Continuity is measured by the percentage of trades with a change of ⅛th point or less from the previous trade.

[6] Depth is measured by the percentage of depth sequences with a high/low range of ⅛ point or less.

[7] Spread is measured by the percentage of reported quotations with a spread of ¼ point or less.

[8] A capital utilization percentage is derived for each specialist unit by dividing the average daily dollar value of the unit's stabilizing purchases and sales by the average daily total dollar value of shares traded in the unit's stocks. Capital utilization is measured two ways: (1) using stabilizing dealer volume; and (2) using stabilizing plus reliquifying dealer volume.

[9] *See* letter from Daniel Pucker Odell, NYSE, to Katherine Simmons, SEC, dated June 30, 1995 (excluding stocks that have been delisted for more than half the examination.

[10] A stock will be considered ''similar'' to a target stock if: (1) the median average daily price is within 30% of a target stock under $20, or within $6 of a target stock between $20 and $60, or within 10% of a target stock above $60; (2) the median daily non-block volume (*i.e.*, trades under 25,000 shares) is within 30% of the target stock; (3) the median daily high-low range equals the median high-low range of the target stock +/−7.5% of:

i. 30% of the price for a target stock under $20,

ii. $6 for a target stock between $20 and $60,

iii. 10% of the price for a target stock above $60 and (4) the market value of the float is within 30% of the target stock.

[11] If there are more than 20 stocks with distances of 1.000 or less, only the 20 stocks that are closest to the target stock are used in the analysis.

[12] The weight of a near neighbor stock decreases as its distance from the target stock increases. If a stock's distance from the target stock is less than 0.500, then its weight is 1.000. If a stock's distance from the target stock is greater than 0.500, then its weight is less than 1.000.

[13] The Commission also has approved an NYSE proposal to reduce the weight given in the allocation decision making process to the Specialist Performance Evaluation Questionnaire from ⅓ to ¼ in recognition of the Exchange's adoption for allocation decision purposes of the near neighbor and capital utilization objective measures. *See* Securities Exchange Act Release No. 35932 (June 30, 1995).

applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[14] Section 6(b)(5) requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act [15] and Rule 11b–1 thereunder,[16] which allow exchanges to promulgate rules relating to specialists to ensure fair and orderly markets. For the reasons set forth below, the Commission believes that the consideration of the near neighbor analysis by the Allocation Committee should enhance the Exchange's allocation process and encourage improved specialist performance, consistent with the protection of investors and the public interest.

Specialists play a crucial role in providing stability, liquidity and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and rules thereunder, is the maintenance of fair and orderly markets in designated securities.[17] To ensure that specialists fulfill these obligations, it is important that the Exchange develop objective measures of specialist performance and prescribe stock allocation procedures and policies that encourage specialists to strive for optimal performance. The Commission supports the NYSE's effort to develop the near neighbor measure to encourage improved specialist performance and market quality.

The Commission believes that the near neighbor measure should provide the NYSE Allocation Committee with an objective measure of specialist performance that will refine the Exchange's allocation process. The NYSE's Allocation Policy emphasizes that the most significant allocation criterion is specialist performance. In the Commission's view, performance based stock allocations not only help to ensure that stocks are allocated to specialists who will make the best markets, but will provide an incentive for specialists to improve their performance or maintain superior performance.

The Commission believes that the near neighbor measure, which compares a specialist's performance in an issue to the performance of other stocks with similar trading characteristics,[18] has the potential to be a significant advance in the NYSE's evaluation of a specialist's market making. The near neighbor program analyzes four market quality measures: continuity, market depth, quotation spread, and capital utilization. The Commission believes these market quality measures identify aspects of market making that are directly relevant to the specialist's maintenance of fair and orderly markets. Thus, the Commission believes that the near neighbor approach could aide the Allocation Committee in allocating stocks to specialists who commit their own capital to maintain stable and liquid markets.

Finally, the Commission believes that it is appropriate for the NYSE to implement the near neighbor measure on a pilot basis until September 10, 1996. A pilot will provide the Exchange and the Commission with an opportunity to study the effects of the use of the measure on the NYSE's allocation process. The Commission also has approved an extension of the NYSE's specialist capital utilization measure so that the two objective measures can be evaluated simultaneously.[19] During the pilot period, the Commission expects the NYSE to monitor carefully the effects of the near neighbor and capital utilization programs and report its findings to the Commission. Specifically, the Commission requests that the NYSE report the near neighbor and capital utilization data as presented to the Allocation Committee. In addition, the Exchange should, for a three month sample period,[20] submit a report that identifies the specialist units, the securities for which they applied, the stocks that were allocated to them, and the specialist units' SPEQ ratings as presented to the Allocation Committee.[21] In the report, the Exchange should identify allocations that were made to specialist units with relatively poor tier ratings in the objective measures and discuss the reasons the Allocation Committee made such allocations.[22] Because near neighbor also measures, among other things, capital utilization, the Exchange also should address in its report how the two measures work together and whether there is a need for a separate capital utilization standard if they determine to continue the near neighbor measure.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–NYSE–95–05) is approved through September 10, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16919 Filed 7–10–95; 8:45 am]

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[14] 15 U.S.C. 78f(b)(5) (1988).

[15] 15 U.S.C. 78k(b) (1988).

[16] 17 CFR 240.11b–1 (1994).

[17] *See, e.g.,* 17 CFR 240.11b–1 (1994); NYSE Rule 104.

[18] The NYSE believes preliminarily that the stocks being excluded from the near neighbor measure do not lend themselves to comparison with other stocks and therefore could tend to inappropriately affect the results obtained from the analysis. The Commission therefore believes that it is appropriate that the Exchange also exclude the securities from the capital utilization program, which reports to the Allocation Committee a specialist unit's commitment of capital relative to other specialist units. As the NYSE gains experience with the near neighbor approach, it should evaluate whether some categories of the excluded stocks can be included in the programs in order to expand the universe of stocks being examined via these approaches.

[19] *See supra* note 4. The Commission recently extended the Exchange's Rule 103A pilot program so that it would run concurrently with the near neighbor and capital utilization pilot programs. *See* Securities Exchange Act Release No. 35704 (May 10, 1995), 60 FR 26060 (May 16, 1995). Rule 103A grants authority to the Exchange's Market Performance Committee to develop and administer systems and procedures, including the determination of appropriate standards and measurements of performance, designed to measure specialist performance and market quality on a periodic basis to determine whether or not particular specialist units need to take actions to improve their performance. The Commission emphasized in the extension order its belief that objective measures of specialist performance should be incorporated into the evaluation process. During the pilot period, the Market Performance Committee will receive quarterly reports on the near neighbor initiative, with a view toward their recommending such enhancements or modifications as may seem appropriate based on actual experience with the measure. The Commission believes that the Exchange should have sufficient experience with the capital utilization and near neighbor measures of specialist performance at the end of the pilot period to judge whether these objective measures should be incorporated into the Rule 103A evaluation criteria.

[20] This sample period shall be January 1, 1996, through March 31, 1996.

[21] The Commission believes that this information will allow it to evaluate to the extent to which the Allocation Committee's decisions appear consistent with the relative performance of specialist units according to the objective measures. In this regard, however, the Commission recognizes that the Allocation Committee also considers the SPEQ results and may use its professional judgment in making allocation decisions. *See supra* note 12.

[22] The Exchange may submit one report for both the near neighbor and capital utilization pilots. This report should be submitted to the Commission by May 15, 1996, along with the Exchange's request for permanent approval or extension of the pilot programs.

[23] 15 U.S.C. 78s(b)(2) (1988).

[24] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35931; File No. SR–NYSE–95–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Exchange's Wireless Data Communications Initiatives

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 1995, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to introduce onto its trading floor wireless data communications technology that allows a member in a trading crowd or elsewhere on the floor to communicate with others by means of a hand-held wireless device. The Exchange is also proposing to issue an interpretation with respect to NYSE Rule 117 which requires members' orders to be in writing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange is proposing to introduce wireless data communications in order to expedite, and make more efficient, the process by which members receive and execute orders on the floor of the Exchange. The Exchange also is proposing to issue an interpretation to NYSE Rule 117 (Orders of Members To Be in Writing) that would deem a transmission of an order that a member receives by means of an authorized hand-held device to constitute a ''written order.''

a. *Interpretation of NYSE Rule 117*

The use of the Exchange's proposed wireless data communications technology will affect Exchange Rule 117 which prohibits members on the floor of the Exchange from making a bid, offer or transaction for or on behalf of another member except pursuant to a written order.[1] The Exchange is proposing an interpretation that will deem a transmission of an order that a member located on the floor of the Exchange receives by means of an authorized hand-held device to constitute a ''written order'' for the purposes of Rule 117 if the member can show that the transmission of the order:

(i) Provides adequate information relating to the price, size and time of the order, the cancellation of the order, and the like;[2]

(ii) Satisfies the Exchange's audit trail requirements; and

(iii) Satisfies all other Exchange reporting and recordkeeping requirements.[3]

[1] Rule 117 also provides that if a member to whom an order has been entrusted leaves the trading crowd without actually transferring the written order to another member, the order shall not be represented in the market during his absence. The use of wireless data communications devices does not affect this portion of Rule 117. If a member receives an order by means of a transmission to his wireless device and he leaves a trading crowd without transferring a written version of the order to another member, the order may not be represented in the market in his absence.

[2] All orders entered from off the floor must be transmitted to a booth terminal before they are retransmitted to a hand-held device.

[3] In the case where an order is transmitted electronically from a member's off-floor location to a booth terminal and then the order is retransmitted from the booth terminal to a member's hand-held device, a record must be established and maintained which reflects the time the order was received by the booth terminal and the time the order was received by the hand-held device. The record of time of receipt by the booth terminal may be established and maintained by such terminal or by a server which records the time such terminal acknowledges receipt of the order. The booth terminal must display the order (and the time of receipt, on inquiry) and the automated record of the order (including time of receipt) must be supplemented by a paper record of the order at the booth. If the paper record cannot be produced at the booth terminal, it must then be produced by hand. The record of time of receipt by a hand-held device may be established and maintained by such device or by the server or the booth terminal which receives a message acknowledgement from the hand-held device. Regardless of whether the hand-held device records are maintained in such device or in the booth terminal or a server, such records must be capable of being printed at the booth location.

b. *Wireless Communications Plan*

The Exchange's proposed wireless data communications technology involves the floor-based use of wireless hand-held data communications devices. The Exchange proposes to adopt a four-phase process to integrate new technology into the floor environment. The Exchange's basic operating premise is to allow private vendors to provide wireless data communications services to Exchange members on the floor, but only in a manner that treats members equitably and does not unfairly discriminate among members. The Exchange also proposes to provide its own wireless data communications service on a non-discriminatory basis.

Phase I

In Phase I, which the Exchange has already completed, the Exchange supervised and monitored three ''proof-of-concept'' pilot programs on the floor of the Exchange.[4] Each of the programs tested the viability of the operation and functionality of wireless hand-held data devices on the floor. Members participating in the pilot programs were instructed to use the devices strictly for the purposes of evaluating the devices and to compare results that might have been achieved had the devices been used for actual trading purposes with results from actual trades using traditional paper tickets, telephones and the like.

The Phase I pilot programs allowed the Exchange to conclude that the technology will function in the Exchange's floor environment and would improve broker efficiency. They also made clear that introducing the technology on the floor on a wide scale (*i.e.*, allowing the technology to be offered to all members) would require the Exchange to install a robust, standardized, Exchange-controlled infrastructure in order to ensure reliable, secure wireless data communications.

Phase II

Phase II, which the Exchange proposes to commence upon Commission approval of the proposed rule change, would involve additional, more structured, pilot testing of independent wireless data communications services, including that offered by the Exchange. A prototype of the infrastructure that the Exchange hopes will eventually support all such

[4] One pilot program was conducted by the Exchange and the other two were conducted by member-sponsored, private wireless data communications vendors.

services will support the Exchange's Phase II pilot program. A description of the primary characteristics of the Phase II pilot programs follows.

1. *Scope of Phase II Pilot Programs.* (a) *Functions of Pilot Programs.* For the purposes of the Phase II pilot programs, the Exchange proposes to permit members to use hand-held data devices for actual trading purposes. That is, a participating member may rely on the information it receives on the floor by means of the device to make trading decisions, without having to rely on such conventional trading tools as paper tickets and telephones.

(b) *Number of Pilot Programs.* In order to preserve the ability of the Exchange to satisfy its regulatory oversight responsibilities, the Exchange reserves the right to limit the number of private vendors that it will allow to provide those pilot programs. The Exchange will choose vendors in its sole discretion. In the absence of mitigating circumstances, the Exchange currently contemplates that it will accept vendor Phase II pilot programs on a ''first-come, first-serve'' basis.

(c) *Size of Pilot Programs.* Similarly, the Exchange will initially limit the number of members that may participate in any vendor's Phase II pilot program to 25. That is, at the commencement of Phase II, no vendor may provide its pilot program to more than 25 members. This limitation will facilitate the control, monitoring and evaluation of pilot program operations. Where more than 25 members wish to participate in a vendor's Phase II pilot program, the Exchange will require the vendor to describe its procedures for selecting which 25 members it will allow to participate. Those procedures must provide a fair and non-discriminatory environment and must otherwise comply with the Exchange's selection requirements. The Exchange will develop procedures for selecting its own pilot program participants on the same basis.

If the Exchange determines that circumstances so warrant (based on its actual experience with the Phase II pilot programs), it may permit increases, or require decreases, in the maximum allowable number of pilot programs or the number of participants in any or all Phase II pilot programs.

2. *Exchange Support of Vendor Systems.* The Exchange will use reasonable efforts to accommodate the installation of a participating vendor's base stations, battery charging equipment, antennae and other such service facilities. However, the Exchange will do so only at the vendor's expense and only insofar as any such installation does not necessitate any substantial modification to the Exchange's facilities and does not interfere with the Exchange's development and installation of its planned wireless data communications system infrastructure or other aspects of the Exchange's wireless data communications, or other Exchange technology upgrade initiatives.

The Exchange will have no other obligation to support any aspect of the vendor's communications system. This means, among other things, that the Exchange will have no obligation to install, maintain or support base stations, base antennae, battery charging equipment, user equipment, user training, or any other special facilities, services or features related to the vendor's system.

3. *Exchange Charges.* Except as described above in connection with vendor responsibility for installation costs, the Exchange does not currently plan to charge vendors for the privilege of providing a Phase II pilot program. However, the Exchange may impose charges on vendors that provide wireless data communications services during Phase IV. If the Exchange does determine to impose Phase IV charges or any other charges, it would first seek Commission approval of any such charge.

4. *Vendor Requirements.* (a) *Contract with the Exchange.* The Exchange will not permit a vendor to provide a Phase II pilot program until the vendor and the Exchange have entered into the Exchange's Phase II pilot program agreement.[5] That agreement codifies the terms and conditions that are described in the proposed rule change and pursuant to which the Exchange is willing to allow a vendor to provide its Phase II pilot program.

(b) *Contracts with Participating Members.* The Exchange will not permit a vendor to provide its Phase II pilot program to a particular member until the vendor and the member have entered into an agreement which (i) extends to the Exchange third-party beneficiary status and the right to enforce the agreement, (ii) codifies the Exchange's required provisions regarding the terms and conditions pertaining to members' receipt of a wireless data communications service that the proposed rule change describes (''Service Agreement Terms'')[6] and (iii) specifies the parties' obligations as to the following matters:

(A) The degree of responsibility and liability, if any, that the vendor agrees to assume in the event that data is lost or delayed through the system or losses otherwise occur as a result of the member's use of the system;

(B) the amount of training that the vendor will provide;

(C) the maintenance and system support that the vendor will provide;

(D) any technological limitations or other restrictions on the member's participation (*e.g.*, restrictions on where the member may use the device or the types of orders or other messages that the member may receive or transmit by means of the device);

(E) the availability of equipment and spare parts; and

(F) any charges that the vendor may impose for the use of its system.

In addition, a vendor's agreements with members receiving its service must be non-discriminatory. That is, the vendor must agree to offer its system to members pursuant to fair and unbiased terms and conditions that do not unfairly discriminate against any Exchange member. The Exchange will require each vendor to submit each such agreement or any form of agreement to the Exchange for the Exchange's prior approval so as to allow the Exchange to monitor that it comports with the Exchange's Service Agreement Terms and does not give one or more of the vendor's subscribing members an unfair competitive advantage over other of the vendor's subscribing members.

(c) *Use of Radio Frequencies.* (i) *Pre-Infrastructure Frequencies.* During Phase II, the Exchange will test a prototype of its proposed wireless data communications infrastructure and will design and, perhaps during Phase II, install and test the infrastructure itself. The Exchange plans to use the 2.4 Ghz ''unlicensed'' radio band for both the prototype and the actual infrastructure.

Because the Exchange cannot yet assess whether, or the extent to which, vendor pilot programs will interfere with the infrastructure or with other Exchange uses of radio frequencies, the Exchange reserves the right to require a vendor to refrain from using a particular frequency if the Exchange determines that the use would interfere with any of the Exchange's wireless systems. In particular, the Exchange plans to preclude Phase II pilot program vendors from using the 2.4 Ghz radio band for part or all of the Phase II period.

[5] A copy of the Exchange's Phase II pilot program agreement is included in the Exchange's Form 19b–4 which may be examined at the places specified in Item IV below.

[6] The Exchange's Service Agreement Terms are set forth in *Attachment B* to *Exhibit A* in the Exchange's Form 19b–4 which may be examined at the places specified in Item IV below.

To ensure an absence of interference with Exchange systems, the Exchange will require vendors to receive advance Exchange approval of any radio frequency that a vendor may wish to use for the purposes of its Phase II pilot program.

In addition, the Exchange reserves the right to notify a vendor of any interference with Exchange systems that the vendor's wireless transmissions may be causing. The vendor would then have to cease to use the interfering frequency immediately or would have to otherwise resolve the interference problem to the Exchange's satisfaction.

The Exchange will not allow a vendor to use infrared technology.

(ii) *Post-Infrastructure Frequencies.* The Exchange, after consultation with its system integrator, will determine when the Exchange's proposed wireless data communications infrastructure is ready for pre-production pilot testing and/or full production implementation. The Exchange will then direct the orderly migration of the wireless data communications services to the infrastructure. Pursuant to a time schedule that the Exchange will establish, the Exchange will then require each vendor that wishes to continue to provide a wireless data communications system on the floor to conform its system to, and cause its system to interface with, the infrastructure. The vendors would bear all expenses of migrating from its Phase II radio frequency to the radio frequency that the Exchange's infrastructure will support, and of adopting the communications specifications and protocols that the infrastructure will require.

(d) *Permissible Communications.* A vendor's Phase II pilot program must restrict wireless data communications to communications between a hand-held device used by a member on the floor and a terminal in a floor booth location. The Exchange will prohibit all floor-based wireless data communications between any other points.

However, a pilot program participant may effect communications between a floor booth terminal and a member's off-floor system in the same ''wired'' manner as it can today, subject to applicable rules and policies. In addition, the pilot program participant's booth terminal may interface with the Exchange's Common Message Switch (''CMS'') in order to allow the member to enter orders into the Exchange's SuperDOT System complex. That interface would not differ from today's booth/CMS interfaces and would be subject to existing CMS interface standards.

(e) *Fair Treatment of Participating Members.* Because wireless data communications systems may imbue users with real or perceived competitive advantages, each vendor must demonstrate to the Exchange that it is willing and able to offer any member who wishes to use that vendor's system the opportunity to participate in the vendor's pilot program, subject to (i) the capacity constraints of the vendor's system, (ii) reasonable lead-time that the vendor may need to bring new users on-line and (iii) the above-mentioned limit of 25 participants per pilot program. The Exchange will require each vendor to provide its pilot program to participating members on fair, unbiased, non-discriminatory terms, including the provision of adequate support for all such participating members. Creating a level playing field requires each vendor, among other things, to offer its service in a reasonable manner that does not give the vendor (if it is also a member), or a member that is a sponsor or affiliate of the vendor, an unfair advantage over other of the vendor's competing members.

The Exchange will prohibit a vendor from commencing to provide its pilot program to any member that primarily trades [7] in one stock unless and until (i) the vendor is prepared to provide its service to all members who primarily trade in the same stock and who desire to participate in the pilot program or (ii) the Exchange otherwise permits.

In addition, the Exchange will require each vendor to refrain from falsely representing that it is the sole vendor of wireless data communications services on the floor and to assure that each member that expresses an interest in participating in its Phase II pilot program is aware that the Exchange will require the vendor's service to move to the wireless data communications infrastructure that the Exchange plans to develop and install.

(f) *Description of System.* As a condition precedent to the Exchange's approval of a vendor's pilot program, the Exchange will require each vendor to provide the Exchange with a detailed description of the capabilities and limitations of the vendor's system and its functionality. That description must be approved by the Exchange and must satisfy the description requirements set forth in the Exchange's proposed ''Agreement for Wireless Data Communications Service,'' [8] including a description of such things as:

(i) The number of members that the system can support (and if the number of users needs to be ''scaled'', a description of the time frame required for each upgrade to the system's capacity);

(ii) Technical specifications (*e.g.*, the radio frequency, the transmission method (such as frequency hopping spread spectrum), system protocols and hardware descriptions, etc.);

(iii) Operating plans (*e.g.*, the manner for charging devices, for distributing them to members each day and for collecting them at day's end);

(iv) The functionality of the vendor's hand-held device;

(v) The manner for assuring compliance with all rules and regulatory requirements of the Exchange, the Commission and the Federal Communications Commission; and

(vi) Such other technical information, records and other items as the Exchange may require to determine whether the vendor's proposed pilot program will interfere with the Exchange's proposed infrastructure or the pilot programs of the Exchange or of any other vendor or to determine whether the vendor is complying with its agreement with the Exchange.

The Exchange will further require each vendor to provide advance notice of any changes to the technical specifications of its system, to update its description as necessary to keep the description current and to cause its pilot program to perform in compliance with its description at all times. The Exchange may prohibit a vendor from effecting a proposed modification to its pilot program if the Exchange determines that the modification would interfere with other aspects of Phase II or other operations of the Exchange.

In addition, if the Exchange determines that equipment or software that a vendor uses for the purposes of its service interferes, or is otherwise inconsistent, with other aspects of the wireless data communications technology on the floor or other Exchange systems, the Exchange may require the vendor to change the equipment or software or to modify the manner in which it provides its service.

(g) *Reporting and Cooperation.* The Exchange will require vendors to submit to the Exchange whatever documentation and/or periodic reports that the Exchange may require to assure

[7] The Exchange deems a member to ''primarily trade in one stock'' if more than 50 percent of either his trades or share volume occur in that stock. The Exchange will base determinations of percentages of trades and share volumes on, among other things, the Exchange's audit trail data.

[8] A copy of the Exchange's proposed ''Agreement for Wireless Data Communications Service'' is set forth in *Attachment A* to *Exhibit A* in the Exchange's Form 19b–4 which may be examined at the places specified in Item IV below.

that the vendor's Phase II pilot program is operating in compliance with existing regulatory requirements and is not interfering with other pilot programs or production operations of the Exchange. The Exchange will also require vendors to supply the Exchange with such data relating to its pilot program as the Exchange may reasonably request so as to enable the Exchange to evaluate the features of the vendor's pilot program and to develop the Exchange's infrastructure in a way that provides adequate support of private systems.

In addition, each vendor must agree to cooperate with the Exchange as necessary to assist the Exchange in its dealings with the Commission. That may mean providing information concerning such matters as complaints received, system and device failures, the perceived strengths and weaknesses of the system, the number of pilot program participants, the number of pilot program transmissions and such other information as the Commission may require.

(h) *Compliance with Regulatory Requirements.* The Exchange will require each vendor to acknowledge, and to assure that each of its pilot program participants acknowledges, that (i) it understands that the Exchange has submitted to the Commission, and the Commission has approved, the terms and conditions governing the Phase II pilot programs and (ii) it is familiar with those terms and conditions. The Exchange will require each vendor to agree to comply, and to cause each of its pilot program participants to agree to comply, with those terms and conditions.

In addition, the Exchange will hold each vendor responsible for assuring that its pilot program complies with all Exchange rules and with any rules and regulations of the Commission or the Federal Communications Commission. This includes compliance with Exchange Rule 117 (Orders of Members to Be in Writing), which require certain orders to be in writing, and Commission Rule 17a–3, which imposes record-keeping requirements.

The Exchange will also require each vendor to agree to comply with, and to assure that its participating members will comply with, such other limitations and restrictions as the Exchange may determine to be necessary to assure the integrity of other aspects of the Phase II pilot programs, the Exchange's development of the infrastructure or other Exchange systems.

(*i*) *Exculpation of the Exchange.* The Exchange will require each vendor to agree that the Exchange assumes no liability or responsibility for any inaccuracies, delays, omissions, security breaches or other failures that may result from any use of the vendor's wireless data communications system. Furthermore, the Exchange will require any vendor to agree, and to cause each of its participating members or member organizations to agree, to indemnify and defend the Exchange against, and hold the Exchange harmless from, any losses or claims arising from any use of the vendor's system.

(j) *Termination of Service.* (i) *By the Exchange.* The Exchange reserves the right to withdraw its permission for a vendor to provide a Phase II pilot program, either in its entirety or as to any particular member or function. The Exchange will base any determination to withdraw its permission on feedback that the Exchange receives from the program's participants or other members, or other evidence that the Exchange may collect. In making any such determination, the Exchange will examine the merits of the vendor's particular pilot program. In addition, the Exchange will examine whether one or more Phase II pilot programs, whether alone or in combination, is disrupting the fair, orderly and efficient conduct of business, including any interference with the Exchange's systems and any reduction in the ability of program participants (A) to communicate orders, reports and related information in a timely and accurate manner and (B) to provide their customers with an opportunity to receive best-price executions.

(ii) *By the Vendor.* The Exchange will allow a vendor to terminate its provision of the service to a participating member only (A) for ''cause'', upon 10 days written notice to the Exchange and the member (unless the Exchange agrees that circumstances warrant a shorter termination period or immediate termination), which notice must explain the ''cause'' in detail, or (B) because the vendor no longer wishes to provide its service on the floor of the Exchange to any and all members, upon 60 days written notice to the Exchange and each of the vendor's participating members.

(iii) *By a Participating Member.* The Exchange will require each vendor to allow any member participating in the vendor's Phase II pilot program to cease its participation immediately upon notice to the vendor.

(iv) *Removal of Equipment.* Insofar as a vendor ceases to provide a Phase II pilot program, either in its entirety or as to any particular member, whether because the Exchange determines to withdraw its permission as to that vendor or member or as to all vendors or because the vendor determines to cease providing its service, then the Exchange will require the affected vendor to remove, and to assure that each of its participating members removes, from the floor all affected pilot program equipment.

5. *Participating Member Requirements.* The Exchange will require each member that wishes to participate in a vendor's Phase II pilot program to agree to comply with Exchange-prescribed terms and conditions. The Exchange will not contract directly with those participating members, but, instead, will require each vendor to contract with each of the vendor's participating members for the benefit of the Exchange, as described above. The Exchange will require vendors to include in those contracts the following member acknowledgements:

(a) That the Exchange has no responsibility or liability with respect to the vendor's system;

(b) That the member will indemnify and defend the Exchange and hold the Exchange harmless for claims or losses evolving from the member's use of the system;

(c) That the Exchange can direct the vendor to terminate its service, or to terminate the vendor's provision of the service to the member, if the Exchange deems the circumstances to warrant that action; and

(d) That the member's use of the vendor's system shall be subject to all applicable rules, regulations and other requirements of the Exchange, the Commission and the Federal Communications Commission.

Phase III

In Phase III, the Exchange will conduct on the floor a preproduction pilot test of its wireless data communications system infrastructure. The Exchange will design that infrastructure to use the 2.4 Ghz radio frequency band and to support all hand-held device wireless data communications services of the Exchange and vendors. The Exchange will select an integrator to assist in the design, installation, testing and maintenance of the infrastructure.[9]

During Phase III, the Exchange plans to allow its wireless data communications service to interface with the Exchange's Broker Booth Support System.

As the Exchange gains confidence in the capacity and reliability of the

[9] The Exchange plans to have the integrator define requirements, analyze technology and design the infrastructure during Phase II.

infrastructure, the Exchange may invite, or even require, vendors to test their systems on the infrastructure and/or to migrate to it. The timing of such invitations or requirements will depend on the timing and success of the testing of the infrastructure.

The Exchange will continue to limit the size of each vendor's wireless data communications system during Phase III.

Phase IV

One Phase IV commences, the Exchange will have installed and tested the infrastructure, which would then be fully operational and will have moved its own wireless data communications system to the infrastructure. At that point, the Exchange will have commenced the production roll-out of the wireless data communications infrastructure and will have directed all vendors to migrate their systems to the infrastructure.

During Phase IV, the Exchange will permit all authorized vendors to offer their wireless data communications services (and the Exchange will offer its own system) to such number of members as their respective systems can accommodate. At that point, the Exchange anticipates that floor-based wireless data communications technology will be available to all members.

Terms and Conditions Applicable to Vendors and Members During Phase III and Phase IV

As in respect to Phase II, the Exchange reserves the right to limit the number of vendors that may provide wireless data communications systems on the floor during Phase III and Phase IV, based on the ability of the Exchange to maintain its regulatory oversight responsibilities in a satisfactory manner. In addition, as the Exchange gains experience with the use of wireless data communications technology on its floor, it may determine that additional restrictions, such as in respect of permissible transmissions or hardware, are warranted.

The Exchange anticipates that it will impose the same contract structure on vendors and members during Phase III and Phase IV as it will impose in Phase II. The continued use of Phase II contracts in the later phases will assure that vendors and members remain subject to regulatory, reporting and other applicable requirements in an uninterrupted manner.

Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest, and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the proposed rule change is based on the requirement under Section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–95–22 and should be submitted by August 1, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16920 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35925; File No. SR–PHLX–95–35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Routing and Delivery of Broker-Dealer Orders in USTOP 100 Index Options Through the Automated Options Market System

June 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 22, 1995, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, only public customer orders are eligible for delivery through

[1] The PHLX amended its proposal to limit the scope of the proposed rule change to one index option, the USTOP 100 Index (''TPX''). *See* Letter from Gerald D. O'Connell, First Vice President, Market Regulation and Trading Operations, PHLX, to Michael Walinskas, Branch Chief, Office of Market Supervision, Division of Market Regulation, Commission, dated June 14, 1995 (''Amendment No. 1'').

the Automated Options Market (''AUTOM'') system, the PHLX's electronic order routing and delivery system for equity and index options. The PHLX proposes to amend its rules to allow the orders of PHLX member and non-member broker-dealers in USTOP 100 Index (''TPX'') options to be routed and delivered through AUTOM and executed manually. The broker-dealer TPX options orders will not be eligible for AUTO-X, the automatic execution feature of AUTOM.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposal is to permit TPX orders for the accounts of broker-dealers to be delivered through AUTOM. AUTOM, which has operated on a pilot basis since 1988 and was most recently extended through December 31, 1995,[2] is an on-line system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor. Currently, public customer orders for up to 500 options contracts are eligible for AUTOM[3] and public customer orders for up to 25 contracts, in general, are eligible for AUTO-X,[4] the automatic execution feature of AUTOM.[5] AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Orders that are not eligible for AUTO-X are handled manually by the specialist. Under the proposal, broker-dealer TPX option orders will not be eligible for AUTO-X.

At this time, the PHLX proposes to permit broker-dealer TPX option orders to avail upon the Exchange's AUTOM system. The PHLX believes that extending AUTOM to broker-dealer TPX option orders will allow additional orders to benefit from AUTOM's prompt and efficient electronic order delivery and reporting. This, in turn, should add liquidity to the PHLX's marketplace for TPX options by encouraging broker-dealer orders who seek such automated order treatment. As noted above, AUTO–X will not be available for broker-dealer TPX orders; all such broker-dealer TPX orders will be handled manually by the specialist.

For these reasons, the PHLX believes that the proposal is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by extending the benefits of AUTOM to broker-dealer accounts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 1, 1995.

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[2] *See* Securities Exchange Act Release No. 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR–PHLX–94–41). *See also* Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (order approving AUTOM on a pilot basis); 25868 (June 30, 1988), 53 FR 25563 (order approving File No. SR–PHLX–88–22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR–PHLX–88–33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (order approving File No. SR–PHLX–89–1, extending pilot through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (order approving File No. SR–PHLX–89–03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR–PHLX–90–16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR–PHLX–90–34), extending pilot through December 31, 1991); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR–PHLX–91–31, permitting AUTO-X orders up to 20 contracts in Duracell options only); 29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR–PHLX–91–33, permitting AUTO-X for all strike prices and expiration months); 29837 (October 18, 1991), 56 FR 36496 (order approving File No. SR–PHLX–90–03, extending pilot through December 31, 1993); 32906 (September 15, 1993), 58 FR 15168 (order approving File No. SR–PHLX–92–38, permitting AUTO-X orders up to 25 contracts in all options); and 33405 (December 30, 1993), 59 FR 790 (order approving File No. SR–PHLX–93–57, extending pilot through December 31, 1994).

[3] *See* Securities Exchange Act Release No. 35782 (May 30, 1995), 60 FR 30136 (File No. SR–PHLX–95–30).

[4] Recently, the Commission approved a proposal increasing the maximum number of public customer orders in USTOP 100 Index options that are eligible for AUTO-X from 25 to 50 contracts. *See* Securities Exchange Act Release No. 35781 (May 30, 1995) (order approving File No. SR–PHLX–95–29).

[5] The Commission has approved a PHLX proposal to codify the use of AUTOM and AUTO-X for index options. *See* Securities Exchange Act Release No. 34920 (October 31, 1994), 59 FR 5510 (November 7, 1994) (order approving File No. SR–PHLX–94–40). In addition, the Commission has approved a PHLX proposal to codify the Exchange's practice of accepting certain order for AUTOM and AUTO-X. *See* Securities Exchange Act Release No. 35601 (April 13, 1995), 60 FR 19616 (April 19, 1995) (order approving File No. SR–PHLX–95–18).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16931 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21181; No. 812–9514]

Hartford Life Insurance Company, et al.

June 30, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Hartford Life Insurance Company (''Hartford''), ITT Hartford Life and Annuity Insurance Company (''ITT-Hartford'') (collectively, ''Companies''), Separate Account VL–II of Hartford (''Account VL–II''), Separate Account VL III of ITT-Hartford (''Account VL–III'') (collectively, ''Separate Accounts''), any future separate accounts (''Future Accounts'') of the Companies offering variable life insurance contracts (''Future Contracts'') that are materially similar to the last survivor flexible premium variable life insurance contracts (''Contracts'') offered by the Separate Accounts, and Hartford Equity Sales Company (''HESCO'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and Rules 6e–3(T)(b)(13)(ii) and 6e–3(T)(c)(4)(v) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the issuance of the Contracts in which: (1) Premium payments attributable to the basic face amount in excess of the target premium and any premium payments attributable to the supplemental face amount may be subject to a lower sales load when compared to a subsequent year's premium payment attributable to the basic face amount up to the target premium; and (2) a deduction is made from premium payments of an amount that is reasonably related to the Companies' increased federal tax burden resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended (''Code'').

FILING DATE: The application was filed on March 3, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 24, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Rodney J. Vessels, Esq., Counsel, ITT Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, Connecticut 06089.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Hartford, a Connecticut stock life insurance company, offers life insurance in all states and the District of Columbia. Hartford is indirectly wholly-owned by Hartford Fire Insurance Company, a subsidiary of ITT Corporation.

2. ITT-Hartford, a Wisconsin stock life insurance company, offers life insurance and annuities in all states, except New York, and in the District of Columbia. ITT-Hartford is a wholly owned subsidiary of Hartford.

3. Account VL-II was established by Hartford as a separate account under the insurance laws of Connecticut. Account VL-III was established by ITT-Hartford as a separate account under the insurance laws of Wisconsin. The Separate Accounts have filed registration statements to register as unit investment trusts under the 1940 Act. Registration statements also have been filed under the Securities Act of 1933 in connection with the offering of the Contracts by the Separate Accounts. Each Separate Account presently is comprised of twenty-two sub-accounts (''Sub-Accounts''), which invest exclusively in certain open-end management investment companies or series of such companies (''Funds'').[1]

4. HESCO is the principal underwriter for the Contracts and for other variable insurance contracts issued by the Companies' other separate accounts. HESCO is registered as a broker-dealer under the Securities Exchange Act of 1934.

5. The Policies are last survivor flexible premium variable life insurance contracts that provide for allocation of premium payments to the Sub-Accounts or to a fixed account. The cash value and the death benefit under the Contracts may fluctuate depending on the investment experience of the Sub-Accounts. There are three Death Benefit Options, which are payable at the death of the last surviving insured: (a) face amount; (b) face amount plus account value; or (c) face amount plus a return of premiums. The minimum death benefit is equal to the account value multiplied by a specified percentage, which varies according to certain conditions. The Contracts will not lapse if the cash surrender value is sufficient to cover monthly fees and charges deducted from account value or the death benefit guarantee is in effect.

6. Certain fees and charges are deducted under the Contracts, including a premium expense and processing charge and a state premium tax charge as well as monthly issue charges, administrative charges, insurance charges, charges for optional rider benefits, charges for extra mortality risks, and a charge for mortality and expense risks. In addition, Applicants propose to deduct from premium payments a front-end sales load and a charge equal to 1.25% of each premium payment to cover the estimated cost of the federal income tax treatment under Section 848 of the Code, commonly referred to as the ''DAC Tax,'' both of which are discussed below.

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[6] 17 CFR 200.30–3(a)(12) (1994).

[1] The Funds include: (1) the Hartford Funds—Hartford Advisers Fund, Inc., Hartford Aggressive Growth Fund, Inc., Hartford Bond Fund, Inc., Hartford Dividend and Growth Fund, Inc., Hartford Index Fund, Inc., Hartford International Opportunities Fund, Inc., Hartford Mortgage Securities Fund, Inc., Hartford Stock Fund, Inc., and HVA Money Market Fund, Inc., which are managed by Hartford Investment Management Company; (2) The Putnam Funds—PCM Diversified Income Fund, PCM Global Asset Allocation Fund, PCM Global Growth Fund, PCM Growth and Income Fund, PCM High Yield Fund, PCM Money Market Fund, PCM New Opportunities Fund, PCM U.S. Government and High Quality Bond Fund, PCM Utilities Growth and Income Fund, and PCM Voyager Fund, which are managed by the Putnam Management Company, Inc.; and (3) the Fidelity Funds—the Equity-Income Portfolio, Overseas Portfolio and Asset Manager Portfolio, which are managed by Fidelity Management & Research Company.

7. *Front-End Sales Load Charge.* a. The front-end sales load is based on the amount of the premium paid in relation to the ''Target Premium,''[2] the Contract Year in which the premium is paid, and the pro-rated amount of the premium payment attributable to the basic face amount and to the supplemental face amount.[3]

b. Current and maximum front-end sales load for premium payments attributable to: (1) the basic face amount up to Target Premium, (2) the basic face amount in excess of the Target Premium, and (3) supplemental face amount, are as follows:

FRONT-END SALES LOADS

Contract years	Basic face amount		Supplemental face amount
	Up to target premium	Excess of target premium	Current/max (percent)
	Current/max (percent)	Current/max (percent)	
1	50.0/50.0	9.0/9.0	4.0/4.0
2–5	15.0/15.0	4.0/4.0	4.0/4.0
6–10	10.0/10.0	4.0/4.0	4.0/4.0
11–20	2.0/2.0	2.0/2.0	2.0/2.0
After 20	0.0/0.0	0.0/2.0	0.0/2.0

8. *Section 848 ''DAC Tax'' Charge.* a. Applicants state that the 1.25% charge deducted from each Premium Payment is designed to reimburse the Companies for their increased federal tax burden resulting from the application of Section 848 of the Code to the receipt of those premiums. Section 848, as amended, requires life insurance companies to capitalize and amortize over ten years certain general expenses for the current year rather than deduct these expenses in full from the current year's gross income, as allowed under prior law. Section 848 effectively accelerates the realization of income from specified contracts and, consequently, the payment of taxes on that income. Taking into account the time value of money, Section 848 increases the insurance company's tax burden because the amount of general deductions that must be capitalized and amortized is measured by the premiums received under the Contracts.

b. Deductions subject to Section 848 equal a percentage of the current year's net premiums received (*i.e.*, gross premiums minus return premiums and reinsurance premiums) under life insurance or other contracts categorized under this Section. The Contracts will be categorized as ''specific contracts'' under Section 848 requiring 7.7% of the net premiums received to be capitalized and amortized under the schedule set forth in Section 848(c)(1).

c. The increased tax burden on every $10,000 of net premiums received under the Contracts is quantified by Applicants as follows. For each $10,000 of net premiums received in a given year, the Companies' general deductions are reduced by $731.50, or (a) $770 (*i.e.*, 7.7% of $10,000), minus (b) $38.50 (one-half year's portion of the ten year amortization which may be deducted in the current year). The remaining $731.50 ($770 less $38.50) is subject to taxation at the corporate tax rate of 34% and results in $248.71 (.34% × $731.50) more in taxes for the current year than the Companies otherwise would have owed prior to OBRA 1990. However, the current tax increase will be offset partially by deductions allowed during the next ten years, which result from amortizing the remainder $770 ($77 in each of the following nine years and $38.50 in year ten).

d. In calculating the present value of these increased future deductions, the Companies determined that, in their business judgment, it is appropriate to use a discount rate of 10% for the following reasons. To the extent that capital must be used by the Companies to pay the increased federal tax burden under Section 848, such surplus will be unavailable for investment. Thus, the cost of capital used to satisfy this increased tax burden under Section 848 is the Companies' targeted rate of return (*i.e.*, return sought on invested capital), which is in excess of 10%. Accordingly, Applicants submit that the targeted rate of return is appropriate for use in this present value calculation.

e. Applicants also submit that, to the extent that the 10% discount rate is lower than the Companies' actual targeted rate of return, the calculation of this increased tax burden will continue to be reasonable over time, even if the applicable corporate tax rate is reduced, or their targeted rate of return is lowered.

f. In determining the targeted rate of return used in arriving at the discount rate, the Companies first identified a reasonable risk-free rate of return that can be expected to be earned over the long term. The Companies then determined the premium needed to earn more than that risk-free rate of return because of the inherently risky nature of the insurance products it sells. Applicants represent that these are appropriate factors to consider in determining the Companies' targeted rate of return.

g. Using a federal corporate tax rate of 34%, and applying a discount rate of 10%, the present value of the tax effect of the increased deductions allowable in the following ten years, which partially offsets the increased tax burden, equals $155.82. The effect of Section 848 on the Contract, therefore, is an increased tax burden with a present value of $92.89 for each $10,000 of net premiums (*i.e.*, $248.71 less $155.82).

h. Applicants state that the Companies do not incur incremental federal income tax when they pass on state premium taxes to Contract Owners because state premium taxes are deductible in computing the Companies' federal income taxes. Conversely, federal income taxes are not deductible in computing the Companies' federal income taxes. To compensate the Companies fully for the impact of Section 848, an additional charge must be imposed to make them whole for the $92.89 additional tax

[2] The ''Target Premium'' is a percentage of the level annual premium payment, or the ''Guideline Annual Premium,'' necessary to provide future benefits under the Policy through maturity.

[3] Premium payments are allocated to the basic face amount and to the supplemental face amount in the same ratio that the initial amounts each bear, respectively, to the initial face amount.

burden attributable to Section 848, as well as the tax on the additional $92.89 itself. This additional charge can be determined by dividing $92.89 by the complement of 34% federal corporate income tax rate (*i.e.*, 66%) resulting in an additional charge of $140.74 for each $10,000 of net premiums, or 1.41%.

i. Based on prior experience, the Companies reasonably expect to take almost all future deductions. It is the judgment of the Companies that a charge of 1.25% would reimburse them for the increased federal income tax liabilities under Section 848 of the Code. Applicants represent that the 1.25% charge will be reasonably related to the Companies' increased federal income tax burden under Section 848 of the Code. This representation takes into account the benefit to the Companies of the amortization permitted by Section 848 and the use of a 10% discount rate (which is equivalent to the Companies' targeted rate of return) in computing the future deductions resulting from such amortization. Applicants assert that it is appropriate to deduct this charge, and to exclude the deduction of this charge from sales load, because it is a legitimate expense of the Companies and not for sales and distribution expenses.

Applicants' Legal Analysis

A. Exemptive Relief Under Section 27(a)(3) of the 1940 Act and Rule 6e–3(T)(b)(13)(ii) Thereunder

1. Section 27(a)(3) of the 1940 Act provides that the amount of sales charge deducted from any of the first twelve monthly payments on a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment. Section 27(a)(3) further provides that the sales charge deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment.

2. Rule 6e-3(T)(b)(13)(ii) provides a partial exemption from the prohibitions of Section 27(a)(3). Exemptive relief from the prohibitions of Section 27(a)(3) provided by Rule 6e-3(T)(13)(ii) is available if the proportionate amount of sales charge deducted from any premium payment, unless an increase is caused by reductions in the annual cost of insurance or in sales charge for amounts transferred to a variable life insurance contract from another plan of insurance. Rule 6e-3(T)(b)(13)(ii) thus permits a decrease in sales load for any subsequent premium payment but not an increase.

3. Under the Contracts' sales load structure, a subsequent year's premium payment that is attributable to the basic face amount up to the Target Premium will be subject to a higher sales charge than premium payments attributable to the basic face amount in excess of one year's Target Premium and the supplemental face amount (together, ''Excess Premium'').[4] Applicants thus request an exemption from the requirements of Section 27(a)(3) and Rule 6e-3(T)(b)(13)(ii) because the Contracts' sales load structure violates the ''stair-step'' provisions in Section 27(a)(3) and because the exemption from Section 27(a)(3) provided by Rule 6e-3(T)(b)(13)(ii) does not apply to the Contracts' sales load structure.

4. Applicants state that, had they chosen to impose the higher front-end sales load equally on all premium payments, the Contracts would qualify for exemptive relief under Rule 6e-3(T)(b)(13)(ii), subject to the maximum limits permissible under subparagraph (b)(13)(i) of the Rule. Applicants represent, however, that the sales load structure has been designed based on the Companies' operating expenses for the sale of the Contracts and, thus, reflects in part the lower overall distribution costs that are associated with Excess Premiums paid over the life of a Contract. Applicants submit that it would not be in the best interest of a Contract Owner to require the imposition of a higher sales load structure than Applicants deem necessary to adequately defray their expenses.

5. Applicants argue that Section 27(a)(3) was designed to address the abuse of periodic payment plan certificates under which large amounts of front end sales loads were deducted so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment since only a small portion of the investor's early payments were actually invested. Applicants submit that the deduction of a reduced front-end sales load on Excess Premiums paid in any Contract Year does not have the detrimental effect that Section 27(a)(3) was designed to prevent because a greater proportion of the Contracts' sales loads are deducted later than otherwise would be the case.

6. Applicants state that Rule 6e-3(T)(b)(13)(i) specifically permits an insurance company to reduce or eliminate its sales loads with respect to amounts contributed to a variable life insurance contract in connection with an exchange from another plan of insurance and, thereafter, to impose the full sales load with respect to subsequent premium payments. Applicants submit that such sales load variations normally reflect decreased sales expenses in connection with the exchanged amounts. Similarly, Applicants submit that the Companies should be permitted to pass on its reduced sales expenses by forgoing the extra front-end sales load applicable to any Excess Premium, notwithstanding that it will impose a front-end sales load on premium payments in subsequent years as described herein.

7. Applicants also state that Target Premiums and Excess Premium have different levels of sales expenses because they serve different purposes. Premium payments up to the Target Premium are applied primarily to guarantee benefits under the Contracts and have a higher level of sales expenses than the Excess Premium, which are applied to increase account values under the Contracts, resulting in an increase in the investment element of the Contracts. Applicants argue that it is appropriate to analyze the sales load structure for premium payments up to and in excess of Target Premium separately from those attributable to supplemental face amounts. Applicants submit that, when analyzed separately, both types of sales load comply with Rule 6e-3(T)(b)(13)(ii).

B. Exemptive Request With Respect to Section 27(c)(2) of the 1940 Act and Rule 6e-3(T)(c)(4)(v) Thereunder in Connection With Deduction of Charge for Section 848 Deferred Acquisition Costs

1. Section 27(c)(2) prohibits a registered investment company or its depositor or underwriter from making any deduction from premium payments made under periodic payment plan certificates other than a deduction for ''sales load.'' Section 2(a)(35)[5] defines ''sales load'' as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment, less amounts deducted

[4] For example, in Contract Year 2, premium payments attributable to the basic face amount in excess of the Target Premium and premium payments attributable to the supplemental face amount are subject to a 4% sales load. In Contract Year 3, however, subsequent premium payments attributable to the basic face amount up to the Target Premium are subject to a 15% sales load.

[5] Sales loads, as defined under Section 2(a)(35), are limited by Sections 27(a)(1) and 27(h)(1) to a maximum of 9% of total payments on periodic payment plan certificates. The proceeds of all payments (except amounts deducted for ''sales load'') must be held by a trustee or custodian having the qualifications established under Section 26(a)(1) for the trustees of unit investment trusts and held under an indenture or agreement that conforms with the provisions of Section 26(a)(2) and Section 26(a)(3) of the 1940 Act.

from trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees that are not properly chargeable to ''sales load.''

2. The Separate Accounts are, and the Future Accounts will be, regulated under the 1940 Act as issuers of periodic payment plan certificates. Accordingly, the Separate Accounts, the Future Accounts, the Companies (as depositor), and HESCO (as principal underwriter) are deemed to be subject to Section 27 of the 1940 Act. Applicants thus request an order under Section 6(c) of the 1940 Act granting exemptions from Sections 27(c)(2) of the 1940 Act to allow the deduction of a charge from premium payments to compensate the Companies for their increased federal tax burden resulting from the receipt of such premium payments under the Contracts.

3. Certain provisions of Rule 6e-3(T) provides exemptive relief from Section 27(c)(2) if the separate account issues flexible premium variable life insurance contracts, as defined in subparagraph (c)(1) of that Rule. Rule 6e-3(T)(b)(13)(iii) provides exemptive relief from Section 27(c)(2) to permit an insurer to make certain deductions, other than ''sales load,'' including the insurer's tax liabilities from receipt of premium payments imposed by states or by other governmental entities. For purposes of variable life insurance contracts issued in reliance on Rule 6e-3(T), paragraph (b)(1) of the Rule provides an exemption from the Section 2(a)(35) definition of ''sales load'' by substituting a new definition provided in paragraph (c)(4) of the Rule. Under Rule 6e-3(T)(c)(4), ''sales load'' charged during a period is defined as the excess of any payments made during that period over the sum of certain specified charges and adjustments, including a deduction for state premium taxes.

4. Applicants request exemptions from Rule 6e-3(T)(c)(4)(v) under the 1940 Act to permit the proposed deduction with respect to Section 848 of the Code to be treated as other than ''sales load,'' as defined under Section 2(a)(35) of the 1940 Act, for purposes of Section 27 and the exemptions from various provisions of that Section found in Rule 6e-3(T).

5. Applicants assert that the proposed deduction with respect to Section 848 of the Code arguably is covered by Rule 6e-3(T)(b)(13)(iii) and should be treated as other than ''sales load.'' Applicants note, however, that the language of paragraph (c)(4) of Rule 6e-3(T) appears to require that deductions for federal tax obligations from receipt of premium payments be treated as ''sales load.'' Under a literal reading of Rule 6e-3(T)(c)(4), a deduction for an insurer's increased federal tax burden does not fall squarely into those itemized charges or deductions, arguably causing the deduction to be treated as part of ''sales load.''

6. Applicants state that they have found no public policy reason for including a deduction for an insurer's increased federal tax burden in sales load. Applicants assert that the public policy that underlies paragraph (b)(13)(i) of Rule 6e-3(T), like that which underlies paragraphs (a)(1) and (h)(1) of Section 27, is to prevent excessive sales loads from being charged for the sale of periodic payment plan certificates. Applicants submit that this legislative purpose is not furthered by treating a federal income tax charge based on premium payments as a sales load because the deduction is not related to the payment of sales commissions or other distribution expenses. Applicants assert that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of ''sales load'' in Rule 6e-3(T)(c)(4).

7. Applicants submit that the source for the definition of ''sales load'' found in Rule 6e-3(T)(c)(4) supports this analysis. Applicants believe that, in adopting paragraph (c)(4) of the Rule, the Commission intended to tailor the general terms of Section 2(a)(35) to variable life insurance contracts to ease verification by the Commission of compliance with the sales load limits of subparagraph (b)(13)(i) of the Rule. Just as the percentage limits of Sections 27(a)(1) and 27(h)(1) depend on the definition of ''sales load'' in Section 2(a)(35) for their efficacy, Applicants assert that the percentage limits in subparagraph (b)(13)(i) of Rule 6e-3(T) depends on paragraph (c)(4) of that Rule, which does not depart, in principal, from Section 2(a)(35).

8. Applicants submit that the exclusion from the definition of ''sales load'' under Section 2(a)(35) of deductions from premiums for ''issue taxes'' suggests that it is consistent with the policies of the 1940 Act to exclude from the definition of ''sales load'' in Rule 6e-3(T) deductions made to pay an insure's costs attributable to its federal tax obligations. Additionally, the exclusion of administrative expenses or fees that are ''not properly chargeable to sales or promotional activities'' also suggests that the only deductions intended to fall within the definition of ''sales load'' are those that are properly chargeable to sales or promotional activities. Applicants represent that the proposed deductions will be used to compensate the Companies for their increased federal tax burden attributable to the receipt of premiums and not for sales or promotional activities. Applicants therefore believe the language in Section 2(a)(35) further indicates that not treating such deductions as sales load is consistent with policies of the 1940 Act.

9. Finally, Applicants submit that it is probably an historical accident that the exclusion of premium tax in subparagraph (c)(4)(v) of Rule 6e-3(T) from the definition of ''sales load'' is limited to state premium taxes. Applicants note that, when Rule 6e-3(T) was adopted, and later amended, the additional Section 848 tax burden attributable to the receipt of premiums did not yet exist.

10. Applicants further submit that the terms of the relief requested with respect to Future Contracts to be issued through Future Accounts are also consistent with the standards of Section 6(c). Without the requested relief, the Applicants would have to request and obtain such exemptive relief for each Future Contract to be issued through a Future Account. Such additional requests for exemptive relief would present no issues under the 1940 Act that have not already been addressed in this application.

11. The requested relief is appropriate in the public interest because it would promote competitiveness in the variable life insurance market by eliminating the need for the Applicants to file redundant exemptive applications regarding the federal tax charge, thereby reducing their administrative expenses and maximizing the efficient use of their resources. Applicants represent that the delay and expense involved in having to repeatedly seek exemptive relief would impair their ability to effectively take advantage of business opportunities as they arise.

12. Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. If Applicants were required to repeatedly seek exemptive relief with respect to the same issues regarding the federal tax charge addressed in this application, investors would not receive any benefit or additional protection thereby and might be disadvantaged as a result of the Applicants' increased overhead expenses.

13. Conditions for Relief. Applicants agree to the following conditions:

a. The Companies will monitor the reasonableness of the charge to be deducted pursuant to the requested exemptive relief.

b. The registration statement for each Contract under which the above-

referenced federal tax charge is deducted will: (1) disclose the charge; (2) explain the purpose of the charge; and (3) state that the charge is reasonable in relation to the relevant Company's increased federal tax burden under Section 848 of the Code resulting from the receipt of premium payments.

c. The registration statement for each Contract under which the above-referenced federal tax charge is deducted will contain as an exhibit an actuarial opinion as to: (1) The reasonableness of the charge in relation to the relevant Company's increased federal tax burden under Section 848 of the Code resulting from the receipt of premiums; (2) the reasonableness of the targeted rate of return that is used in calculating such charge; and (3) the appropriateness of the factors taken into account by the relevant Company in determining such targeted rate of return.

Conclusion

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act.

2. For the reasons and upon the facts set forth above, Applicants submit that the requested exemptions from Sections 27(a)(3) and 27(c)(2) of the 1940 Act and paragraphs (b)(13)(ii) and (c)(4) of Rule 6e-3(T) thereunder, are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the 1940 Act. Therefore, the standards set forth in Section 6(c) of the 1940 Act are satisfied.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16933 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 21177; 812–9510]

Paine Webber Group Inc., et al.; Notice of Application

June 30, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of Application for an Order under section 2(a)(9) of the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Paine Webber Group Inc. (''PWG''), PaineWebber Incorporated (''PWI''), Mitchell Hutchins Asset Management Inc. (''MHAM''), and Mitchell Hutchins Institutional Investors Inc. (''MHII'') (collectively, the ''Painewebber Companies'').

RELEVANT ACT SECTION: Declaratory order requested under section 2(a)(9).

SUMMARY OF APPLICATION: General Electric Company (''GE'') acquired securities of Paine Webber Group Inc. (''PWG'') that, upon conversion of certain of such securities into common stock, would result in GE owning more than 25% of PWG's outstanding voting securities. The PWG securities owned by GE are subject to certain restrictions, obligations, and prohibitions as described in a stockholders agreement. Applicants request an order declaring that the presumption of control by a greater than 25% shareholder under section 2(a)(9) of the Act has been rebutted. The order would be effective for so long as the stockholders agreement remains in full force and effect without any amendment that would materially reduce the restrictions, obligations, and prohibitions with respect to GE's ownership of PWG's securities.

FILLING DATES: The application was filed on March 3, 1995 and amended on June 12, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 26, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Mitchell Hutchins Asset Management Inc., 1285 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, at (202) 942–0565, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. PWG is a publicly held financial services holding company. PWI, a wholly owned subsidiary of PWG, is a broker-dealer registered under the Securities Exchange Act of 1934 (''1934 Act'') and an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''). MHAM, a wholly owned subsidiary of PWI, is a broker-dealer registered under the 1934 Act and an investment adviser registered under the Advisers Act. As of October 31, 1994, MHAM served as investment adviser or sub-adviser to thirty investment companies with fifty-six separate portfolios and aggregate assets of over $23.3 billion. MHII, a wholly owned subsidiary of MHAM, is an investment adviser registered under the Advisers Act. As of October 31, 1994, MHII served as investment sub-adviser to eight separate portfolios of seven investment companies with aggregate assets of over $1.1 billion.

2. On October 17, 1994, PWG entered into an asset purchase agreement with General Electric Company (''GE'') and Kidder, Peabody Group Inc. (''Kidder'') (the ''Asset Purchase Agreement''). Under the Asset Purchase Agreement, PWG agreed to purchase certain assets from Kidder, a wholly owned subsidiary of GE. As part of the consideration for the purchase of those assets, on December 16, 1994 (the ''Closing''), PWG issued to GE shares of PWG Common Stock, Redeemable Preferred Stock, and Convertible Preferred Stock (collectively, the ''Equity Securities'').

3. At the Closing, GE received shares representing approximately 21.6% of the shares of Common Stock outstanding as of February 28, 1995. The Common Stock is the only class of securities of PWG outstanding that are generally entitled to vote for the election of directors.[1] GE does not hold for its

[1] As a holder of Redeemable Preferred Stock and Convertible Preferred Stock, GE could, under

Continued

own account any shares of Common Stock other than through its interest in the Equity Securities.

4. GE also received at the Closing 2,500,000 shares of Redeemable Preferred Stock, which stock does not have voting rights generally and is not convertible into shares of Common Stock. As of February 28, 1995, PWG has no other shares of Redeemable Preferred Stock outstanding.

5. GE also received at the Closing 1,000,000 shares of Convertible Preferred Stock. Such stock does not generally have the right to vote for the election of directors, but may be converted into shares of Common Stock. As of February 28, 1995, PWG has no other shares of Convertible Preferred Stock outstanding. Assuming that the Convertible Preferred Stock was converted into shares of Common Stock, GE would hold in the aggregate approximately 25.8% of the outstanding shares of Common Stock as of February 28, 1995.[2]

6. The Equity Securities issued by PWG to GE are subject to the terms of a stockholders agreement, dated as of the date of Closing, that creates material restrictions, obligations, and prohibitions with respect to GE's ownership of the Equity Securities (the ''Stockholders Agreement''). Under the Stockholders Agreement, GE is prohibited from acquiring additional voting securities of PWG, except in certain limited circumstances, and is prohibited from seeking to control or influence the management, business, operations, or affairs of PWG, other than through its single representative on the Board of Directors of PWG (the ''Board of Directors''). GE may not seek, submit, or give to any third party any proxy or consent for any matter subject to shareholder action, not may it propose any matter to be considered or voted upon by PWG's shareholders, nor may it seek to call a shareholder meeting for any purpose. GE may not propose any designee of GE to be elected to the Board of Directors of PWG other than the single representative (out of a total of 15 directors) contemplated by the Stockholders Agreement.[3]

7. Under the Stockholders Agreement, GE also may not propose any business combination with PWG. GE may not deposit its voting securities in any voting trust and must present all of its shares at each shareholder meeting either in person or by proxy, for purposes of establishing a quorum. GE must vote all its shares for or against any matter as directed by the Board of Directors or, in certain limited circumstances, if requested by the Board of Directors, as all other shares of Common Stock are voted. GE may sell its Common Stock only pursuant to an underwritten offering, or pursuant to certain registration rights, or pursuant to a tender offer that is not opposed by the Board of Directors. Subject to these restrictions, all shares of Common Stock and Convertible Preferred Stock proposed to be transferred by GE to a third party are subject to a right of first refusal in favor of PWG. GE's shares of Common Stock and Convertible Preferred Stock also are subject to a right of repurchase in favor of PWG that may be exercised at any time at the discretion of PWG.

8. The Stockholders Agreement has a scheduled term of 15 years. The Stockholders Agreement may be terminated earlier upon the written agreement of PWG, Kidder, and GE; upon the third anniversary of the date upon which GE and its affiliates no longer beneficially own any voting securities of PWG; or in the event that the obligations of PWG under the Stockholders Agreement (relating to nominating and electing a member to the Board of Directors) are not observed and performed.

Applicants' Legal Analysis

1. Section 2(a)(9) of the Act provides, in relevant part, that any person who owns beneficially more than 25% of the voting securities of a company shall be presumed to control such company. Applicants request an order declaring that the presumption of control by a greater than 25% shareholder under section 2(a)(9) has been rebutted by evidence presented in the application.

2. Section 2(a)(4) defines an ''assignment'' to include any transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 15(a)(4) provides that a registered investment company's investment advisory contracts automatically terminate in the event of their assignment. If GE's acquisition of the Equity Securities is deemed to result in a change of control of PWG, then all of the existing investment advisory contracts to which MHAM or PWI is a party automatically would be terminated. If such contracts are terminated, new investment advisory contracts must be approved by the funds' Board of Directors and shareholders in accordance with section 15(a).

3. For the reasons set forth below, applicants believe that the evidence presented in the application rebuts the presumption under section 2(a)(9) that GE controls PWG as a result of its acquisition of the Equity Securities. There is not currently, nor has there ever been, any historical or traditional relationship between PWG and GE that would indicate any prospective intention or latent ability of GE, in fact, to control PWG. GE is entitled to a single representative to serve on the Board of Directors of 15 people, and only for so long as it owns 10% of the outstanding voting securities of PWG. Other than its single representative to the Board of Directors, GE is expressly prohibited from influencing or seeking any third party to influence any of the business, operations, management, or policies of PWG. In addition, GE has no right, privilege, or power to be consulted with respect to any material corporate actions by PWG and has no veto power over any extraordinary corporate action.

4. Applicants believe that the beneficial ownership by GE of approximately 25.8% of PWG Common Stock would not result in a change of control of PWG because there would be no transfer of actual control to GE. The Stockholders Agreement reflects the business agreement between the parties that PWG maintain its independence and that GE's ownership interest be a passive investment.

5. The order would remain in effect for so long as the Stockholders Agreement remains in full force and effect, without any amendment that would materially reduce the restrictions, obligations, and prohibitions with respect to GE's ownership, communication, voting, and transfer rights with respect to the Equity Securities contained therein.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16929 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

certain limited circumstances, elect two additional directors to the Board of Directors of PWG. *See* footnote 2.

[2] In a letter dated June 30, 1995, counsel for applicants stated that, as of the date of amendment 1 to the application, GE held in excess of 25% of PWG's outstanding voting securities on a fully diluted basis.

[3] If PWG does not pay in full six quarterly dividends (whether or not consecutive) or fails to make a mandatory redemption payment with respect to the Redeemable Preferred Stock or the Convertible Preferred Stock, the Board of Directors would be increased by two and GE would have the right to elect the two additional directors for so long as such arrearage continues and for a one-year period thereafter. In such event, GE nevertheless would continue to have minority representation on the Board of Directors.

[Rel. No. IC–21179; 811–2294]

Pioneer America Fund, Inc. (Formerly Mutual of Omaha America Fund, Inc.); Notice of Application

June 30, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Pioneer America Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 19, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 25, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 60 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a Nebraska corporation. On January 18, 1974, applicant registered under the Act as an investment company. Applicant filed a registration statement to register its shares under the Securities Act of 1933 on June 21, 1972. The registration statement was declared effective on October 29, 1973, and an initial public offering commenced shortly thereafter. On April 6, 1994, applicant filed an amendment to its registration statement under the Act reflecting a change in its corporate name.

2. On April 11, 1994, applicant's board of directors approved an agreement and plan of reorganization (the ''Plan'') between applicant and Pioneer U.S. Government Trust (the ''Trust''), a registered management investment company. On the same date, the board of directors made the findings required by rule 17a–8 under the Act.[1]

3. On April 15, 1994, applicant distributed proxy materials to its shareholders. At a meeting held on June 21, 1994, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on June 30, 1995, applicant transferred all of its assets and liabilities to the Trust in exchange for shares of the Trust with an aggregate net asset value equal to the net asset value of applicant. Immediately thereafter, applicant distributed shares of the Trust received in connection with the reorganization to its shareholders on a *pro rata* basis. On the date of the reorganization, applicant had 7,474,763.794 shares outstanding, having an aggregate net asset value of $77,633,737.69 and a per share net asset value of $10.39.

5. Applicant and the Trust each assumed their own expenses in connection with the reorganization. Legal, accounting, and printing and mailing expenses in the approximate amounts of $15,000, $2,500, and $9,300, respectively were borne by applicant. The Trust had legal expenses of $1,500 in connection with the reorganization.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant was dissolved as a Nebraska corporation pursuant to articles of dissolution, dated March 20, 1995, filed with the State of Nebraska.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

[1] Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16927 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21178; 811–2921]

Pioneer Money Market Account, Inc. (Formerly Mutual of Omaha Money Market Account, Inc.); Notice of Application

June 30, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Pioneer Money Market Account, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 19, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 25, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 60 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that

was organized as a Nebraska corporation. On July 27, 1979, applicant registered under the Act as an investment company. Applicant filed a registration statement to register its shares under the Securities Act of 1933 on July 5, 1979. The registration statement which was declared effective on July 27, 1979, and an initial public offering commenced shortly thereafter. On April 6, 1994, applicant filed an amendment to its registration statement under the Act reflecting a change in its corporate name.

2. On April 11, 1994, applicant's board of directors approved an agreement and plan of reorganization (the ''Plan'') between applicant and Pioneer Money Market Trust (the ''Trust'') on behalf of Cash Reserves Fund (''Cash Reserves''). Cash Reserves is a series of the Trust and is a registered management investment company. On the same date, the board of directors made the findings required by rule 17a–8 under the Act.[1]

3. On April 15, 1994, applicant distributed proxy materials to its shareholders. At a meeting held on June 21, 1994, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on June 30, 1995, applicant transferred all of its assets and liabilities to Cash Reserves in exchange for shares of Cash Reserves with an aggregate net asset value equal to the net asset value of applicant. Immediately thereafter, applicant distributed shares of Cash Reserves received in connection with the reorganization to its shareholders on a *pro rata* basis. On the date of the reorganization, applicant had 106,188,627.16 shares outstanding, having an aggregate net asset value of $106,188,627.15 and a per share net asset value of $1.00.

5. Applicant and Cash Reserves each assumed their own expenses in connection with the reorganization. Legal, accounting, and printing and mailing expenses in the approximate amounts of $10,000, $2,500, and $31,700, respectively were borne by applicant. Cash Reserves had legal expenses of $500 in connection with the reorganization.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant was dissolved as a Nebraska corporation pursuant to articles of dissolution, dated March 20, 1995, filed with the State of Nebraska.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16928 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers.

[Release No. 35–26324]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 30, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 24, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company (70–8421)

The Southern Company (''Southern''), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 42 and 53 thereunder.

By order dated August 3, 1994 (HCAR No. 26096) (''August 1994 Order''), Southern was authorized, through December 31, 1996, to: (i) Acquire the securities of one or more companies (''Project Parents'') engaged directly or indirectly, and exclusively, in the business of owning and holding the securities of foreign utility companies and exempt wholesale generators; (ii) make direct or indirect investments in Project Parents in an aggregate amount at any one time outstanding not to exceed $400 million, including (a) guaranties by Southern of the principal of or interest on any promissory notes or other evidences of indebtedness of any Project Parent issued to lenders other than Southern and (b) conversions of promissory notes issued to Southern by any Project Parent to capital contributions; and (iii) cause such Project Parents to borrow up to $800 million from persons other than Southern of which no more than $200 million could be denominated in currencies other than U.S. dollars.

Southern now proposes to: (i) Extend the authorization period of the August 1994 Order to the earlier of (a) December 31, 1997 or (b) the effective date of any rule of general applicability adopted by the Commission that would exempt the issuance of securities by any Project Parent and the acquisition thereof by a registered holding company from the provisions of sections 6, 7, 9 and 10 of the Act; (ii) make investments in Project Parents up to the greater of (a) $1.072 billion or (b) 50% of Southern's ''consolidated retained earnings,'' determined in accordance with rule 53(a); and (iii) cause the Project Parents to issue debt securities to persons other than Southern (and with respect to which there is no recourse to Southern) in an aggregate principal amount at any time outstanding not to exceed $1 billion, which may be denominated in either U.S. dollars or foreign currencies.

Northeast Utilities, et al. (70–8507)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and its wholly owned subsidiary companies, Charter Oak Energy, Inc. (''Charter Oak'') and COE Development Corporation (''COE Development''), both located at 107 Seldon Street, Berlin, Connecticut 06037, (collectively, the ''Applicants'') have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10, 13(b), 32 and

33 of the Act and rules 53, 83, 86, 87, 90 and 91 thereunder.

By order dated December 31, 1994 (HCAR No. 26213) (''Order''), the Commission authorized NU to invest directly in Charter Oak and indirectly in COE Development up to an aggregate principal amount of $200 million from January 1, 1995 through December 31, 1996. Applicants were further authorized, among other things, to pursue preliminary development activities with regard to investment and participation in qualifying cogeneration and small power production facilities (''QFs'') throughout the United States and independent power production facilities that would constitute a part of NU's integrated public utility system (''Qualified IPPs'') and to provide consulting services to such projects. Charter Oak and COE Development may invest in QFs and Qualified IPPs after obtaining Commission approval and may invest in, and finance the acquisition of, exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs'') subject to certain limitations (''Exempt Projects''). In addition, the Applicants were authorized to issue guarantees and assume the liabilities of subsidiary companies for pre-development activities relating to QFs and Qualified IPPs, and for both pre-development and contingent liabilities subsequent to operation with regard to Exempt Projects, subject to certain restrictions.

The Applicants have also been authorized: (1) To form intermediate subsidiary companies (''Intermediate Companies'') to acquire interests in, finance the acquisition of, and hold the securities of EWGs and FUCOs, through the issuance of equity securities and debt securities to third parties; (2) to cause Intermediate Companies to make partial sales of certain projects; (3) to participate in joint ventures, and to dissolve Intermediate Companies under specified circumstances; and (4) to have Charter Oak's employees and employees of other NU service companies provide a *de minimis* amount of services to affiliated Intermediate Companies, EWGs and FUCOs.

The Applicants now request authorization to increase their existing funding authorization by $200 million, under the terms and conditions set forth in the Order, for a total authorization of $400 million from January 1, 1995 through December 31, 1996.

The Order also authorized Charter Oak to obtain debt financing from unaffiliated third parties, anticipated to be banks, insurance companies, and other institutional investors (''Debt Financing''), as long as the total of all investments together with any Debt Financing does not exceed the total funding authorization of Charter Oak. The Applicants propose to modify the permissible terms of commitment and other fees payable by Charter Oak in connection with Debt Financing such that they may not exceed 50 basis points per annum on the total amount of the Debt Financing instead of the 25 basis points currently authorized.

NorAm Energy Corp. (70–8629)

NorAm Energy Corporation (''NorAm''), 1600 Smith, 11th Floor, Houston, Texas, 77002, has filed an application under Section 3(b) of the (''Act'') for an order of exemption in connection with its contemplated acquisition of an interest in Gas Natural, S.A. (''Gas Natural''), a gas public utility, shares of which will be sold by the Colombian government pursuant to a privatization plan.

NorAm is engaged in the distribution and transmission of natural gas in six states. NorAm is not a public utility holding company under the Act.

NorAm would participate in the acquisition of Gas Natural through a wholly owned Delaware subsidiary (''Delaware Subsidiary''). NorAm might create a Colombian corporation (''Colombian Corporation'') to hold its interest in Gas Natural or it might create a wholly owned Colombian subsidiary (''Colombian Subsidiary'') to hold its interest in Gas Natural. The Delaware Subsidiary would hold, in either case, shares of the Colombian Corporation or the Colombian Subsidiary (''Colombian Companies''). NorAm would not acquire an interest in Gas Natural in excess of 49%.

NorAm, the Delaware Subsidiary and the Colombian Companies would be holding companies under the Act with respect to Gas Natural. Section 3(b) of the Act authorizes the Commission to exempt from the Act a subsidiary company of a holding company if it derives no material part of its income from sources within the United States and neither it nor its subsidiary companies is a public utility with operations in the United States.

Neither Gas Natural nor the Colombian Companies would derive income from sources in the United States and would have no public utility operations, and would have no subsidiary companies with public utility operations, in the United States. Finally, it is stated that the proposed acquisition would not affect or impair utility functions or the financial condition of NorAm.

Central and South West Corporation (70–8645)

Central and South West Corporation (''CSW''), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and rule 45 thereunder.

CSW proposes to establish a new subsidiary, EnerShop Inc. (''EnerShop''), to engage in the business of providing energy and demand side management services to commercial and industrial customers of both associate and nonassociate companies. EnerShop will provide a wide range of energy-related products and services, including consulting and energy analysis, project management, design and construction, energy efficient equipment installation and maintenance, equipment financing and leasing, facilities management services, environmental services and compliance and fuel procurement. Customer financing provided by EnerShop may take the form of capital leases, operating leases, tax-exempt financing, promissory notes, or performance guarantee contracts, with terms from one to thirty years, priced at fair market value. CSW states that the majority of this financing is expected to be placed with third party lenders and leasing companies.

Initially, EnerShop will have a relatively small staff, and will contract or subcontract with third-party providers of services, including other companies in the CSW system and partnerships and joint ventures to which EnerShop may become a party. In addition, EnerShop may request CSW Services, Inc. and the electric utility company subsidiaries of CSW to provide personnel and other resources to consult and assist in accounting, procurement, marketing, engineering and other required functions in connection with EnerShop's business activities. CSW states that all transactions between EnerShop and any other CSW system company will be at cost, in compliance with section 13 of the Act and the related rules.

CSW states that transactions with customers (all of which will be nonassociate companies) will be at prices reflecting EnerShop's costs, including overhead, plus a profit, that EnerShop will retain such of its earnings as remain after reimbursement to CSW system companies of costs and payment of EnerShop's other costs and liabilities, and that some or all of those retained earnings may be paid to CSW as dividends.

CSW proposes to make an initial purchase of 100 shares of EnerShop common stock, par value $0.10 per share, for an aggregate cash purchase price of $1,000. CSW also proposes to make loans to EnerShop from time to time through December 31, 1999, with maturities no later than December 31, 2000. Such loans will bear an interest rate that will not exceed the prime rate in effect on the date of the loan at a bank designated by CSW, and may be either evidenced by notes or made pursuant to open account advances. CSW further proposes to guarantee or to act as surety on bonds, indebtedness and performance and other obligations of EnerShop. Such guarantees and arrangements will be made from time to time through December 31, 2000, and will expire or terminate no later than December 31, 2002. The total amount of all common stock purchases, loans and guarantees for which authorization is sought (together with all other purchases by CSW of EnerShop common stock and capital contributions and loans by CSW to EnerShop that are exempt from the requirement of Commission approval) will not exceed $100 million at any time outstanding. CSW intends to fund loans to EnerShop through its external short-term borrowing program (Holding Co. Act Release No. 26254, March 21, 1995).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16930 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21180; 812–9606]

Smith Hayes Trust, Inc.-Capital Builder Fund, et al.; Notice of Application

June 30, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Smith Hayes Trust, Inc.-Capital Builder Fund (the ''Company''), Conley Partners Limited Partnership (the ''Partnership''), Conley Investment Counsel, Inc. (''CIC''), and John H. Conley (''Conley'').

RELEVANT ACT SECTIONS: Orders requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Partnership, a private investment company, to merge into a series of the Company, an affiliated registered investment company.

FILING DATE: The application was filed on May 15, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 25, 1995 by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 500 Centre Terrace, 1225 ''L'' Street, Lincoln, Nebraska 68508.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Company is a registered open-end investment company organized as a Minnesota corporation. The Company currently is comprised of nine portfolios, including the Capital Builder Fund (the ''CB Fund''). The CB Fund became effective on April 4, 1995, and no offering of shares has commenced. Conley Smith, Inc. (the ''Adviser''), a subsidiary of Consolidated Investment Corporation, will act as investment adviser to the CB Fund. Conley is the president of the Adviser and owns approximately 5% of the voting securities of Consolidated Investment Corporation. The principal underwriter for the shares of the CB Fund will be Smith Hayes Financial Services Corporation (the ''Distributor'').

2. The Partnership was formed in 1989 as a limited partnership under Nebraska state law. The Partnership has not been registered under the Act in reliance upon section 3(c)(1) of the Act, and the Partnership interests have not been registered under the Securities Act of 1933 in reliance upon section 4(2) of the Act. CIC is the sole general partner of the Partnership and has exclusive control over the management of its business. Conley is the sole shareholder of CIC and the portfolio manager for the Partnership. No person who is an officer or director of the Distributor or the Adviser (except Conley) and no person who is an officer or director of the CB Fund is a limited partner of the Partnership.

3. Applicants propose that, prior to the offering of CB Fund shares to the public, the CB Fund would exchange shares for portfolio securities of the Partnership. After the exchange (the ''Exchange''), the Partnership would dissolve and distribute the shares of the CB Fund *pro rata*, based on the net asset value of the Partnership, to the partners of the Partnership, along with cash received, if any, from the sale of the portfolio securities of the Partnership not acquired by the CB Fund. Following the Exchange, partners of the Partnership will constitute all of the shareholders of the CB Fund. The CB Fund has been designed as a successor investment vehicle to the Partnership, with investment objectives and policies substantially the same as those of the Partnership.

4. The proposed Exchange will be effected pursuant to an agreement and plan of exchange (the ''Plan'') to be approved by the limited partners of the Partnership. Solicitation of the limited partners for approval of the Plan will be made by means of a Prospectus/Information Statement and will be accompanied by a current CB Fund prospectus. Under the Plan, the portfolio securities of the Partnership will be acquired at their independent ''current market price,'' as defined in rule 17a–7 under the Act. The CB Fund will not acquire securities that, in the opinion of the Adviser, would result in a violation of the CB Fund's investment objectives, policies, or restrictions.

5. The Company's board of directors has considered the desirability of the Exchange from the point of view of the Company and the Partnership, and a majority of the board, including a majority of the non-interested members, has concluded that (a) the Exchange is in the best interest of the CB Fund, the Partnership, and the limited partners of the Partnership; (b) the Exchange will not dilute the interests of the partners of the Partnership when their interests are converted into shares of the CB Fund; and (c) the terms of the Exchange as reflected in the Plan have been designed to meet the criteria set forth in section 17(b) of the Act that the Exchange be reasonable and fair, not involve overreaching, and be consistent with the

policies of the CB Fund and the Partnership. The board considered each aspect of the Exchange, including (i) the method of valuing the portfolio securities to be acquired from the Partnership; (ii) the net asset value of the shares to be delivered to the Partnership; (iii) the procedure for selecting among the portfolio securities of the Partnership; (iv) the possibility of incurring excessive brokerage costs as a result of redemptions of CB Fund shares by former partners of the Partnership; (v) the allocation of the costs of the Exchange; (vi) the possibility of adverse tax consequences to future shareholders of the CB Fund; and (vii) the benefits from the Exchange accruing to CIC and Conley.

6. The Exchange will not be effected unless: (a) The registration statement of the CB Fund has been declared effective; (b) the Plan has been approved by a majority in interest of the limited partners of the Partnership; (c) the requested order has been granted; and (d) the limited partners have received an opinion of counsel that (i) the distribution of CB Fund shares, which will be in liquidation of the Partnership interests in the Partnership, will not cause taxable gain or loss to be recognized by the limited partners; (ii) the basis of the limited partners in CB Fund shares will be equal to the adjusted basis of the limited partners' interests in the Partnership; and (iii) the limited partners' holding periods with respect to CB Fund shares will include the Partnership's holding period with respect to such shares.

7. The Adviser will assume the costs of the Exchange, except for registration and filing fees of the CB Fund shares, and will assume the legal fees and expenses relating to the requested order and the obtaining of the opinion of counsel on certain tax matters. No brokerage commission, fee, or other remuneration will be paid in connection with the Exchange.

8. After the Exchange is accomplished, the Adviser intends for the foreseeable future to manage the assets of the CB Fund in substantially the same manner as the Partnership's assets were managed, except as may be necessary or desirable (a) to qualify the CB Fund as a regulated investment company under the Internal Revenue Code of 1986, as amended; (b) to comply with the investment restrictions adopted by the CB Fund in accordance with the requirements of the Act or securities laws of states where CB Fund shares will be offered; or (c) in light of changed market conditions.

Applicants' Legal Conclusions

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company from selling to or purchasing from such investment company any security. The Partnership may be an affiliated person of the Company because the Partnership and the Company may be deemed under the control of CIC (and, indirectly, Conley) because of its role as general partner of the Partnership, Conley's ownership of stock in the parent of the Adviser, and Conley's position as an officer of the Adviser. Thus, the proposed Exchange may be prohibited by section 17(a). Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the registered investment company, and the transaction is consistent with the general purposes of the Act.

2. Applicants believe that the proposed transaction satisfies the criteria of section 17(b). The investment objectives of the CB Fund and the Partnership are substantially similar. In addition, the CB Fund will acquire the Partnership portfolio securities at their independent ''current market price.'' Applicants believe that the Exchange can be viewed as a change in the form in which the assets are held, rather than as a disposition giving rise to section 17(a) concerns.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–16926 Filed 7–10–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATES: July 6, 1995.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Susan Pickrel or Gemma deGuzman, Information Resource Management (IRM) Strategies Division, M–32, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–4735.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on July 6, 1995:

DOT No.: 4074.

OMB No.: 2125–New.

Administration: Federal Highway Administration (FHWA).

Title: National Highway User Customer Survey.

Need for Information: Executive Order No. 12862 requires agencies to set customer service standards.

Proposed Use of Information: This information will be used by FHWA to provide quantitative measurements that can be used in the development of National performance in an overall effort of the Federal-aid highway program.

Frequency: On occasion.

Burden Estimate: 750.

Respondents: Individuals and households.

Form(s): None.

Average Burden Hours per Response: 0.3 hours.

DOT No.: 4075.

OMB No.: 2120–0568.

Administration: Federal Aviation Administration.

Title: FAA Flight Standards Customer Survey.

Need for Information: Executive Order No. 12862 requires agencies to set customer service standards.

Proposed Use of Information: This information will be used by office managers and staff to identify areas where service performance can be improved.

Frequency: Once every 18 months.

Burden Estimate: 4200 hours.

Respondents: Users of Flight Standards services who are surveyed.

Form(s): None.

Average Burden Hours per Response: 5–7 minutes.

DOT No.: 4076.

OMB No.: 2120–0524.

Administration: Federal Aviation Administration (FAA).

Title: High Density Traffic Airports; Slot Allocation and Transfer Methods.

Need for Information: 49 U.S.C. Section 40103, authorizes FAA to develop plans for and to formulate policy with respect to the use of navigable airspace.

Proposed Use of Information: This information will be used by the FAA to allocate and withdraw takeoff and landing slots at the high density airports, and to confirm transfers of slots made among the operators.

Frequency: Semi-annually, and every other month.

Burden Estimate: 1862 hours.

Respondents: Air Carriers and commuter operators or other persons holding a slot at High Density Traffic Airports.

Form(s): None.

Average Burden Hours per Response: 1.5 hours.

DOT No.: 4077.

OMB No.: 2115–0596.

Administration: United States Coast Guard.

Title: Claims Under the Oil Pollution Act of 1990.

Need for Information: 33 U.S.C. 2713 and 2714 gives the United States Coast Guard the authority for this collection in order to ensure fair and reasonable payments to claimants and to protect the interests of the federal government.

Proposed Use of Information: This information will be used by the United States Coast Guard to determine whether claims submitted to the Oil Spill Liability Trust Fund (Fund) are compensable and to ensure the correct amount of reimbursement of costs are made from the Fund.

Frequency: Once.

Burden Estimate: 10,163 hours.

Respondents: Claimants of oil spills and responsible parties of oil spills.

Form(s): None.

Average Burden Hours per Response: 4 hours per claimant and 1.5 hours for responsible parties.

DOT No: 4078.

OMB No: 2115–0557.

Administration: United States Coast Guard.

Title: Advance Notice of Vessel Arrival, Departure and Waiver.

Need for Information: The Ports and Waterways Safety Act of 1972, as amended by the Port and Tanker Safety Act of 1978, authorizes the Coast Guards to require receipt of notice from any vessel destined for or departing from a port or place under the jurisdiction of the U.S.

Proposed Use of Information: This information will be used by the Coast Guard Captain of the Port for vessel traffic control, denying entry to unsafe vessels, targeting vessels for boarding and examination, planning for oil and hazardous substance spills, counterterrorism, and firefighting contingencies, and controlling the port entry of vessels which may constitute a threat to the safety or security of U.S. ports.

Frequency: On occasion.

Burden Estimate: 15,716 hours.

Respondents: Vessel Operators.

Form(s): None.

Average Burden Hours per Response: .0185 hours per reporting.

DOT No: 4079.

OMB No: 2115–0527.

Administration: United States Coast Guard.

Title: Appeal Process for Requirements Under Ports and Waterways Safety Control of Vessel Operations and Cargo Transfers.

Need for Information: Title 33 CFR 160.7, Coast Guard has the authority to establish ''safety zones'' and issue Captain of the Port orders in order to protect vessels, harbors, ports and waterfront facilities from destruction, loss or injury due to marine safety hazard.

Proposed Use of Information: This information will be used by the Coast Guard to give individuals affected by safety zone regulations an opportunity to appeal to the Coast Guard for relief from certain safety zone requirements without jeopardizing the safety of vessels, harbors and waterfront facilities.

Frequency: On occasion.

Burden Estimate: 150 hours.

Respondents: Businesses.

Form(s): None.

Average Burden Hours per Response: 1.5 hours reporting.

DOT No: 4080.

OMB No: 2115–0503.

Administration: United States Coast Guard.

Title: Plan Approval and Records for U.S. Vessels Carrying Oil in Bulk.

Need for Information: Title 46 U.S.C. 3703 gives the Coast Guard general authority to regulate the design, construction, alteration, repair, maintenance, operation and the equipping of U.S. vessels which carry or are adapted to carry oil in bulk. Title 46 U.S.C. 3703a, requires new tank vessels carrying oil be fitted with double hulls and that existing tank vessels be retrofitted with double hulls or be retired.

Proposed Use of Information: This information will be used by the Coast Guard to determine if a vessel's construction, arrangement and/or equipment meet the applicable standards as promulgated by the regulations.

Frequency: On occasion.

Burden Estimate: 25 hours.

Respondents: Vessel Owners.

Form(s): None.

Average Burden Hours per Response: .43 hours reporting and .32 hours recordkeeping.

DOT No: 4081.

OMB No: 2115–0056.

Administration: United States Coast Guard.

Title: Various International Agreement Safety Certificates.

Need for Information: Executive Order 12234, the Coast Guard is responsible for the issuance of certificates as required by the International Convention for Safety of Life at Sea (SOLAS), 1974.

Proposed Use of Information: This information will be used by the Coast Guard to issue certificates to vessels that meet applicable requirements of SOLAS.

Frequency: Annually or biannually.

Burden Estimate: 600 hours.

Respondents: Owners of U.S. flag ships engages in international voyages.

Form(s): CG–3347, G3347B, CG4359, CG967, CG968, CG968A, and CG969.

Average Burden Hours per Response: 41 minutes recordkeeping.

DOT No: 4082.

OMB No: 2115–0576.

Administration: United States Coast Guard.

Title: Identification and Instructional Material for Lifesaving, Fire Protection and Emergency Equipment.

Need for Information: Under 46 U.S.C. 3306, the Coast Guard is required to prescribe regulations for lifesaving, fire protection and other emergency equipment and its use on inspected vessels. These regulations will also require the equipment to have identification markings and instructional material on the proper use of this equipment.

Proposed Use of Information: This information will be used by the Coast Guard to ensure that merchant vessels of the U.S. on international voyages are equipped with lifesaving equipment and that this equipment have identification markings as required by the applicable regulations.

Frequency: On occasion.

Burden Estimate: 50,500.

Respondents: Manufacturers and vessel operators.

Form(s): None.

Average Burden Hours per Response: .35 for reporting and 2 hours for recordkeeping.

DOT No: 4083.

OMB No: 2120–0001.

Title: Notice of Proposed Construction or Alteration, Notice of Actual Construction, Project Status.

Need for Information: 49 U.S.C. 40101, et. seq. states that the Secretary of Transportation shall require by rules and regulations that all persons give adequate public notice of the construction or alteration or of the proposed construction or alteration of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and airport traffic capacity at public-use airports.

Proposed Use of Information: This information will be used by the FAA to establish minimum flight altitudes and procedures to ensure that aircraft are operated at safe distances from persons and property on the ground, to protect established minimum flight altitudes and procedures from unannounced or unknown structure that would have collision potential, to protect electronic air navigational aids from electromagnetic interference, to provide accurate charting and other notification to airmen of the construction or alteration, and to recommend appropriate obstruction marking and lighting to improve the consciousness of surface objects to help pilots see and avoid them.

Frequency: On occasion.

Burden Estimate: 16,816 hours.

Respondents: Individuals, large corporations, state institutions.

Form(s): FAA Forms 7460–1, 7460–2, and 7460–11.

Average Burden Hours per Response: 1 hour and 1 minute for FAA Form 7460–1, 13 minutes for FAA Form 7460–2, and 5 minutes for FAA Form 7460–11.

Issued in Washington, DC on July 6, 1995.

Paula R. Ewen,

Manager, Information Resource Management (IRM), Strategies Division.

[FR Doc. 95–16955 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Noise Exposure Map Notice; Boise Air Terminal; Boise, ID

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Boise Air Terminal (BOI) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the Boise Air Terminal noise exposure maps is June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, S.W., Renton, Washington, 98055–4056.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for Boise Air Terminal are in compliance with applicable requirements of Part 150, effective June 30, 1995.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (herein after referred to as ''the Act''), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by BIO. The specific maps under consideration are Exhibits 1 and 2 in the submission. The FAA has determined that these maps for Boise Air Terminal are in compliance with applicable requirements. This determination is effective on June 30, 1995. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If the questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of the FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW, Room 615, Washington, D.C.
Federal Aviation Administration, Airports Division, ANM–600, 1601 Lind Avenue, S.W., Renton, Washington, 98055–4056
Boise Air Terminal, Boise, Idaho.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Renton, Washington, June 30, 1995.

Matthew J. Cavanaugh,

Acting Manager, Airports Division, ANM–600, Northwest Mountain Region.

[FR Doc. 95–16895 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss emergency evacuation issues.

DATES: The meeting will be held on August 10, 1995 at 9 a.m. Arrange for oral presentations by August 1, 1995.

ADDRESSES: The meeting will be held at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Crystal City, Virginia.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held on August 10, 1995, at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Crystal City, Virginia. The agenda for the meeting will include:

- Opening Remarks.
- A review of the activities of the Performance Standards Working Group.
- A discussion of future activities and plans.
- A vote on a draft advisory circular on Evacuation Demonstration Procedures.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by August 1, 1995, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Emergency Evacuation Issues or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on July 5, 1995.

Daniel Salvano,

Assistant Executive Director for Emergency Evacuation Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–16894 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Eastern Oregon Regional Airport, Submitted by the City of Pendleton, Pendleton, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Eastern Oregon Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before August 10, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW; Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry Lehman, City Manager, at the following address: City of Pendleton, P.O. Box 190, Pendleton, OR 97801.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Eastern Oregon Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Don Larson, (206) 227–2652; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250; Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Eastern Oregon Regional Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 3, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Pendleton was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 5, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Actual charge effective date: December 1, 1995

Proposed charge expiration date: December 31, 2001

Total estimated PFC revenues: $153,381.00

Brief description of proposed project: Reimbursement for the following completed projects: Runway 11/29 shoulder reconstruction; Security and access improvements; Airport guidance signs; New aircraft rescue and fire fighting (ARFF) equipment improvements and acquisition of new proximity suits; Runway and taxiway marking improvements; Perimeter safety and security signage. Master plan update; Terminal building remodel and non-revenue parking lot renovation are on-going projects at this time.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Non-scheduled Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Eastern Oregon Regional Airport.

Issued in Renton, Washington on July 3, 1995.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 95–16896 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on August 3, 1995. The session is expected to focus on: (1) Federal Intelligent Transportation Systems (ITS) Reports; (2) ITS AMERICA Executive Director's Report; (3) Report of ITS AMERICA ITS Planning Committee; (4) Report on ITS AMERICA International Activities; (5) Report from the ITS AMERICA Institutional Issues Committee; (6) ITS AMERICA Committee Action Plan Discussion; (7) Report on ITS Projects in the Seattle Area; (8) Development of Requirements for a Map Data Base Spatial Data Transfer Standard for ITS Applications; (9) Report on the ITS Clearinghouse; (10) Discussion of the ITS AMERICA Coordinating Council Retreat, including ITS AMERICA's role in architecture/standards development, ITS AMERICA and Intermodalism, and ITS telecommunications strategy. ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on August 3 from 10:30 a.m. to 2 p.m., p.t.

ADDRESSES: Washington State Convention and Trade Center, 800 Convention Place, Seattle, Washington 98101, (207) 447–5000.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons desiring further information or to request to speak at this meeting should contact Mr. Chris Body at ITS AMERICA by telephone at (202) 484–4131, or by FAX at (202) 484–3483. The DOT contact is Mr. Gary Euler, FHWA, HVH–1, Washington, DC 20590, (202) 366–2201. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: June 30, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–16892 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–22–P

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on August 15, 1995. The session is expected to focus on: (1) Report of the Board of Director's Executive Committee; (2) ITS AMERICA Executive Director's Report; (3) Federal ITS Program Reports; (4) ITS AMERICA Coordinating Council Report; (5) Report of the ITS AMERICA International Liaison Committee; (6) Board of Directors' Nominating Committee Report; (7) Development of Requirements for a Map Data Base Spatial Data Transfer Standard for ITS Applications; and (8) Discussion of the Board of Directors' Retreat, including ITS AMERICA role in architecture/standards development, ITS telecommunications strategy, and strategic policy issues/actions to accelerate deployment, including possible Federal and ITS AMERICA roles. ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on August 15 from 8:30 a.m. to 2:30 p.m., c.t.

ADDRESSES: Indian Lakes Resort, 250 West Schick Road, Bloomingdale, Illinois 60108, (708) 529–0200.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, DC 20024. Persons desiring further information or to request to speak at this meeting should contact Mr. Chris Body at ITS AMERICA by telephone at (202) 484–4131 or by FAX at (202) 484–3483. The DOT contact is Mr. Gary Euler, FHWA, HVH–1, Washington, DC 20590, (202) 366–2201. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: June 30, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–16893 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–22–P

National Highway Traffic Safety Administration

[Docket No. 95–33, Notice 2; Docket No. 95–34, Notice 2; Docket No. 95–35, Notice 2; Docket No. 95–36, Notice 2; Docket No. 95–37, Notice 2; Docket No. 95–38, Notice 2]

Decision that Nonconforming 1993 Moto Guzzi Daytona Motorcycles and 1985 Alfa Romeo GTV, 1992 Mercedes-Benz 190E, 1992 Porsche 911 Turbo, 1992 Mercedes-Benz 300SEL, and 1993 Mercedes-Benz 230E Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1993 Moto Guzzi Daytona Motorcycles and 1985 Alfa Romeo GTV, 1992 Mercedes-Benz 190E, 1992 Porsche 911 Turbo. 1992 Mercedes-Benz 300SEL, and 1993 Mercedes-Benz 230E Passenger Cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1993 Moto Guzzi Daytona motorcycles and 1985 Alfa Romeo GTV, 1992 Mercedes-Benz 190E, 1992 Porsche 911 Turbo, 1992 Mercedes-Benz 300SEL, and 1993 Mercedes-Benz 230E passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their

manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective as of July 11, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes a notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland (Registered Importer R–90–006) petitioned NHTSA to decide whether 1993 Moto Guzzi Daytona motorcycles and 1985 Alfa Romeo GTV, 1992 Mercedes-Benz 190E, 1992 Porsche 911 Turbo, 1992 Mercedes-Benz 300SEL, and 1993 Mercedes-Benz 230E passenger cars are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notices of these petitions as follows:

Vehicle	Notice date and cite
1993 Moto Guzzi Daytona	May 9, 1995 (60 FR 24668).
1985 Alfa Romeo GTV	May 9, 1995 (60 FR 24669).
1992 Mercedes-Benz 190E	May 16, 1995 (60 FR 26071).
1992 Porsche 911 Turbo ..	May 16, 1995 (60 FR 26074).
1992 Mercedes-Benz 300SEL.	May 16, 1995 (60 FR 26072).
1993 Mercedes-Benz 230E	May 16, 1995 (60 FR 26073).

The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are as follows:

Vehicle	Vehicle eligibility No.
1993 Moto Guzzi Daytona	VSP–118
1985 Alfa Romeo GTV	VSP–124
1992 Mercedes-Benz 190E ..	VSP–126
1992 Porsche 911 Turbo	VSP–125
1992 Mercedes-Benz 300SEL	VSP–123
1993 Mercedes-Benz 230E ..	VSP–127

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that:

1. A 1993 Moto Guzzi Daytona motorcycle not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1993 Moto Guzzi Daytona motorcycle originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards;

2. A 1985 Alfa Romeo GTV passenger car not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1985 Alfa Romeo GTV passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards;

3. A 1992 Mercedes-Benz 190E (Model ID 201.018) passenger car not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Mercedes-Benz 190E passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards;

4. A 1992 Porsche 911 Turbo passenger car not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Porsche 911 Turbo passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards;

5. A 1992 Mercedes-Benz 300SEL (Model ID 140.033) passenger car not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Mercedes-Benz 500SEL passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards; and

6. A 1993 Mercedes-Benz 230E (Model ID 124.023) passenger car not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1993 Mercedes-Benz 300E passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on July 6, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–16957 Filed 7–10–95; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

June 30, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, D.C. 20220.

Bureau of Engraving and Printing (BEP)

OMB Number: 1520–0001
Form Number: BEP 5283
Type of Review: Extension
Title: Owner's Affidavit of Partial Destruction of Mutilated Currency
Description: The Office of Currency Redemption and Destruction Standards, Bureau of Engraving and Printing, requests owners of partially destroyed U.S. currency to complete a notarized affidavit (Form 5283) for each claim submitted when substantial portions of notes are missing
Respondents: Individuals or households
Estimated Number of Respondents: 300
Estimated Burden Hours Per Response: 36 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 180 hours
Clearance Officer: Ed Little, (202) 874–2647, Bureau of Engraving and Printing, Room 317A, Engraving and Printing Annex, 14th and C Streets SW., Washington, DC 20228
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–16857 Filed 7–10–95; 8:45 am]

BILLING CODE 4840–01–M

Public Information Collection Requirements Submitted to OMB for Review

June 30, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0112
Form Number: IRS Form 1099–INT
Type of Review: Extension
Title: Interest Income
Description: This form is used for reporting interest income paid, as required by sections 6049 and 6041 of the Internal Revenue Code. It is used to verify that payees are correctly reporting their income
Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, Federal Government
Estimated Number of Respondents: 790,000
Estimated Burden Hours Per Respondent: 12 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 64,400,000 hours

OMB Number: 1545–0190
Form Number: IRS Form 4876–A
Type of Review: Extension
Title: Election To Be Treated as an Interest Charge DISC
Description: A domestic corporation and its shareholders must elect to be an interest charge domestic international sales corporations (IC DISC). Form 4876–A is used to make the election. IRS uses the information to determine if the corporation qualifies to be an IC-DISC
Respondents: Business or other for-profit
Estimated Number of Respondents/Recordkeepers: 1,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—4 hr., 4 min.
Learning about the law or the form—1 hr., 5 min.
Preparing and sending to the form to the IRS—1 hr., 13 min.
Frequency of Response: Other
Estimated Total Reporting/Recordkeeping Burden: 6,360 hours

OMB Number: 1545–1153
Regulation ID Number: PS–73–89 Final (T.D. 8370)
Type of Review: Extension
Title: Excise Tax on Chemicals That Deplete the Ozone Layer and on Products Containing Such Chemicals
Description: Section 6881 of the Internal Revenue Code imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof and imported taxable products sold or used by an importer thereof. A floor stocks tax is also imposed. This regulation provides reporting and recordkeeping rules
Respondents: Business or other for-profit
Estimated Number of Respondents/Recordkeepers: 300
Estimated Burden Hours Per Respondent/Recordkeeper: 24 minutes
Frequency of Response: On occasion
Estimated Total Reporting/Recordkeeping Burden: 75,142 hours

OMB Number: 1545–1287
Regulation ID Number: FI–3–91 Final
Type of Review: Extension
Title: Capitalization of Certain Policy Acquisition Expenses
Description: Insurance companies that enter into reinsurance agreements must determine the amounts to be capitalized under those agreements consistently. The regulations provide elections to permit companies to shift the burden of capitalization for their mutual benefit
Respondents: Business or other for-profit
Estimated Number of Respondents: 2,070
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: Annually
Estimated Total Reporting Burden: 2,070 hours

OMB Number: 1545–1354
Form Number: IRS Form 8833
Type of Review: Extension
Title: Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)
Description: Taxpayers that are required by section 6114 to disclose a treaty-based return position will use Form 8833 to disclose that position. The form may also be used to make the treaty-based return position disclosure required by Regulations section 301.7701(b)-7(b) for ''dual resident'' taxpayers
Respondents: Business or other for-profit, Individuals or households
Estimated Number of Respondents/Recordkeepers: 6,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hr., 7 min.
Learning about the law or the form—1 hr., 29 min.
Preparing and sending the form to the IRS—1 hr., 37 min.
Frequency of Response: Annually

Estimated Total Reporting/ Recordkeeping Burden: 37,260 hours

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland

Departmental Reports Management Officer.

[FR Doc. 95–16858 Filed 7–10–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

July 3, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0085

Form Number: IRS Form 1040A and Schedules 1, 2, 3, and EIC

Type of Review: Revision

Title: U.S. Individual Income Tax Return

Description: This form is used by individuals to report their income subject to income tax and to compute their correct tax liability. The data are used to verify that the income reported on the form is correct and are also for statistics use.

Respondents: Individuals or households

Estimated Number of Respondents/ Recordkeepers: 27,930,816

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 1040A	Sch. 1	Sch. 2	Sch. 3	Sch. EIC
Recordkeeping	1 hr., 4 min	0 hr., 20 min	0 hr., 33 min	0 hr., 13 min	0 hr., 0 min.
Learning about the law or the form	2 hr., 23 min	0 hr., 4 min	0 hr., 11 min	0 hr., 14 min	0 hr., 2 min.
Preparing the form	2 hr., 58 min	0 hr., 10 min	0 hr., 40 min	0 hr., 28 min	0 hr., 4 min.
Copying, assembling, and sending the form to the IRS.	0 hr., 35 min	0 hr., 20 min	0 hr., 28 min	0 hr., 35 min	0 hr., 5 min.

Frequency of Response: Annually

Estimated Total Reporting/ Recordkeeping Burden: 234,766,033 hours

OMB Number: 1545–0200

Form Number: IRS Form 5307

Type of Review: Extension

Title: Application for Determination for Adopters of Master or Prototype, Regional Prototype or Volume Submitter Plans

Description: This form is filed by employers or plan administrators who have adopted a master or prototype plan approved by the IRS National Office or a regional prototype plan approved by the IRS District Directors to obtain a ruling that the plan adopted is qualified under IRC sections 401(a) and 501(a). It may not be used to request a letter for a multiple employer plan.

Respondents: Business or other for-profit

Estimated Number of Respondents/ Recordkeepers: 39,000

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—10 hr., 46 min.

Learning about the law or the form—6 hr., 4 min.

Preparing the form—9 hr., 18 min.

Copying, assembling, and sending the form to the IRS—13 min.

Frequency of Response: On occasion

Estimated Total Reporting/ Recordkeeping Burden: 1,050,660 hours

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–16859 Filed 7–10–95; 8:45 am]

BILLING CODE 4830–01–P

Departmental Offices; Rechartering of the Treasury Borrowing Committee of the Public Securities Association

AGENCY: Treasury Department, Departmental Offices.

ACTION: Notice of determination of necessity for renewal of the Treasury Borrowing Advisory Committee of the Public Securities Association.

SUMMARY: It is in the public interest to continue the existence of the Treasury Borrowing Advisory Committee of the Public Securities Association.

The Department of the Treasury announces that the charter of the Treasury Borrowing Advisory Committee of the Public Securities Association (the ''Committee'') has been renewed in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. I.

The Secretary of the Treasury has determined that the renewal of this Committee is necessary and in the public interest. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Purpose

The Committee provides informed advice as representatives of the financial community to the Secretary of the Treasury and Treasury staff, upon the Secretary of the Treasury's request, in carrying out Federal financing and in the management of the public debt.

Scope

The Committee meets at the request of the Secretary and is presented with a list of items on which its advice is sought. It is usually requested to consider the current midquarter refunding operation and to provide expert advice on financing options for the entire current quarter and on longer term debt management policies. In addition to the regular quarterly meetings, the Committee may be requested to hold a special meeting to discuss debt management issues that are broader in scope.

The portion of meetings at which the Treasury presents background information on the federal debt, the financial markets, and the economic conditions are open to the public. The parts at which the Committee discusses specific subjects raised in the Treasury request and makes its recommendations are closed to the public because the Committee's activities fall within the exemption covered by law for

information that would ''lead to significant financial speculation in the securities markets'' (5 U.S.C. 552b(c)(9)(A)(i)). A similar exception to the open meeting format is included in the provision in the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) that generally provides for open meetings.

The day before the Committee convenes for its regular quarterly 2-day meeting, the Treasury releases to the public an updated estimate of Treasury borrowing requirements and other background information on the Treasury debt. The Treasury releases to the public each written report of the Committee, and minutes of each meeting prepared by the Treasury employee who attends, at the press conference announcing each midquarter refunding.

Membership consists of 20–25 members who are experts in government securities markets and who are involved in senior positions in debt markets as investors, investment advisors, or as dealers in debt securities. They are appointed by the Committee in consultation with the Treasury. Members must be highly competent, experienced, and actively involved in financial markets. Effort is made to get regional representation so that Committee views are a reasonable proxy for nationwide views. As far as possible, balance between dealers and investors is sought. The membership changes from time to time, reflecting changes in their employment and interests. This provides for a rotation of membership in areas where more than one qualified candidate may be available.

Statement of Public Interest

It is in the public interest to continue the existence of the Treasury Borrowing Advisory Committee of the Public Securities Association. The Secretary of the Treasury, with the concurrence of the General Services Administration, has also approved renewal of the Committee.

Authority for this Committee will expire two years from the date the charter is filed with the appropriate Congressional committees, unless prior to the expiration of its charter, the Committee is renewed.

The Assistant Secretary (Management) has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. I), the Department of the Treasury has renewed the charter of the Treasury Borrowing Advisory Committee of the Public Securities Association. The Committee members are:

Daniel S. Ahearn, President, Capital Markets Strategies Co., 50 Congress Street, Ste. 842, Boston, MA 02109

Thomas Bennett, Partner, Miller Anderson & Sherrerd, One Tow Bridge, West Conshohocken, PA 19428

James R. Capra, Principal, Moore Capital Management, 350 Theodore Fremd Avenue, 3rd Floor, Rye, NY 10580

Jon S. Corzine, Senior Partner & Chairman, Goldman, Sachs & Company, 85 Broad Street, New York, NY 10004

Stephen C. Francis, Managing Director, Fischer, Francis, Trees & Watts, Inc., 200 Park Avenue, 46th Fl., New York, NY 10166

Richard Kelly, Chairman of the Board, Aubrey G. Lanston & Co., Inc., One Chase Manhattan Plaza, 53rd Fl., New York, NY 10005

Barbara Kenworthy, Managing Director, of Mutual Funds—Taxable, Prudential Insurance, McCarter Highway, 2 Gateway Center, 7th Floor, Newark, NJ 07102–5029

Mark F. Kessenich, Jr., President, Eastbridge Capital, Inc., 135 East 57th Street, New York, NY 10022

Bruce R. Lakefield, Managing Director, Lehman Brothers, 200 Vesey Street, 9th Fl., New York, NY 10285

Richard D. Lodge, President, Banc One Funds Management Co., 100 East Broad St., 17th Fl., Columbus, OH 43271–0133

Robert D. McKnew, Executive Vice President, Bank of America, 555 California Street,, 10th Fl., San Francisco, CA 94104

Daniel T. Napoli, Senior Vice President, Merrill Lynch & Company, 250 Vesey Street, North Tower, World Financial Ctr, 8th Fl., New York, NY 10281

William H. Pike, Managing Director, Chemical Bank, 270 Park Avenue, New York, NY 10017

Marcy Recktenwald, Managing Director, Bankers Trust Company, 1 Appold Street, Broadgate, London EC2A 2HE, England

Richard Roberts, Executive Vice President, Wachovia Bank & Trust Co., N.A., P.O. Box 3099, Winston-Salem, NC 27150

Joseph Rosenberg, President, Lawton General Corporation, 667 Madison Avenue, New York, NY 10021–8087

John C. Sites, Jr., Executive Vice President, Bear Stearns & Company, Inc., 245 Park Avenue, 4th Fl., New York, NY 10167

Morgan B. Stark, Managing Director, Granite Capital International Group, 375 Park Avenue, 18th Floor, New York, NY 10152

Stephen Thieke, Chairman, Market Risk Committee, JP Morgan & Company, Inc., 60 Wall Street, 20th Floor, New York, NY 10260

Craig M. Wardlaw, Executive Vice President, Nations Bank Corporation, Nations Bank Corporate Center, Mail Code NCI 007–0606, Charlotte, NC 28255–0001.

Dated; July 6, 1996.

John D. Hawke, Jr.,

Under Secretary of the Treasury (Domestic Finance).

[FR Doc. 95–16937 Filed 7–10–95; 8:45 am]

BILLING CODE 4810–25–P

Departmental Offices; Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, DC, on August 1 and 2, 1995, of the following debt management advisory committee:

Public Securities Association Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff on August 1, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On August 2, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on August 1 and will be open to the public. The remaining sessions on August 1 and the committee's reporting session on August 2 will be closed to the public, pursuant to 5 U.S.C. App. 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has

been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: July 6, 1995.

John D. Hawke, Jr.,

Under Secretary of the Treasury (Domestic Finance).

[FR Doc. 95–16936 Filed 7–10–95; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

Receipt of Domestic Interested Party Petition Concerning Country of Origin Marking for Safety Glasses

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition filed on behalf of domestic interested parties concerning the country of origin marking requirements for prescription safety glasses. Under current practice, imported safety glass frames are excepted from country of origin marking requirements if an employer actually purchases the completed prescription safety glasses despite the fact that the wearer of the safety glasses may have some choice in selecting the frames. Customs has ruled that the insertion of the prescription lenses into the frames in the United States to make safety glasses substantially transforms the frames into a new article of commerce. The petitioners request that Customs adopts the position that employer-purchased imported prescription safety glass frames that an employee selects be required to be marked with their country of origin. Public comment is solicited regarding the application of the marking requirements to imported prescription safety frames.

DATES: Comments must be received on or before September 11, 1995.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the U.S. Customs Service, Regulations Branch, Office of Regulations and Rulings, 1301 Constitution Avenue NW. (Franklin Court), Washington, D.C. 20229. Comments may be viewed at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street NW., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David Cohen, Special Classification and Marking Branch, Office of Regulations and Rulings, U.S. Customs Service, (202) 482–6980.

SUPPLEMENTARY INFORMATION

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) and Part 175, Customs Regulations (19 CFR Part 175), a domestic interested party may challenge certain decisions made by Customs regarding imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced or wholesaled by the domestic interested party. This document provides notice that domestic interested parties are challenging a marking decision made by Customs.

The petitioners are the Industrial Safety Equipment Association (ISEA) and the Optical Industry Association (OIA)—trade associations who represent their members who are domestic manufacturers of safety glasses. Both entities qualify as domestic interested parties within the meaning of 19 U.S.C. 1516(a)(2).

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin shall be marked in a conspicuous place with the English name of the country of origin. The country of origin marking requirements and exceptions of 19 U.S.C. 1304 are implemented by part 134, Customs Regulations (19 CFR part 134).

The petitioners contend that imported safety frames should be required to be marked with their country of origin notwithstanding a limited number of alternatives of frames from which to select. Customs present position excepts prescription safety glass frames from country of origin marking under the circumstances set forth in Headquarters Ruling Letter (HRL) 734258, dated January 7, 1992.

In HRL 734258, the importer proposed to mark the safety frames by affixing a hangtag or an adhesive sticker to the safety frames with the name of the country of origin printed thereon. This method of marking would inform the optical laboratory of the country of origin of the frames. The optical laboratories would remove the hangtag/sticker when they installed the prescription safety lenses. While the manufacturer of the safety frames produced a variety of frames, the employer of the safety glass wearer provided a very limited selection of frames from which the employees could select. In limited circumstances, employers would set a cap for the amount that they would spend on the safety glass frames. The employees could elect to supplement this amount with their own funds to acquire a particular style of safety frames. Based on these facts, Customs concluded that the optical laboratories that insert the safety lenses into the safety frames are the ultimate purchasers of the eyeglass frames and that the use of the hangtags or stickers to mark the frames which the laboratories remove when the lenses are attached is acceptable, provided the marking of the hangtags or stickers is conspicuous, legible, and permanent.

In reaching the conclusion set forth in HRL 734258, Customs relied on HRL 729649, dated October 27, 1986, which was a ruling in response to a request to reconsider HRL 729451, dated May 27, 1986. In HRL 729451, Customs determined that the consumer is the ultimate purchaser of prescription eyeglass frames rather than the lab that places the lenses into the frames. In that ruling, Customs noted:

> [O]nly after the initial decision is made on the frame is it sent to the lab for the addition of the particular lens. The decision to purchase a particular frame is made separate and apart from the processing involved in the addition of the prescription lens. In view of these circumstances, we find that the consumer is the ultimate purchaser of the frames and is entitled to be informed of its country of origin.

Customs reconsidered HRL 729451 due to the addition of material facts that had been omitted from the ruling request upon which HRL 729451 was based. The omitted fact was that the importer was a manufacturer of safety spectacle frames, which unlike ordinary prescription spectacle frames, consist of special frames and lenses that are manufactured to meet certain safety guidelines. In addition, the employee was given a few choices of safety frames, but it was the employer who

determined the type of safety glasses that were required for its employees. The Occupational Safety and Health Act of 1970, and regulations promulgated thereunder, required that these employers provide safety eyewear for their employees.

As a result of these additional facts, Customs ruled that the purchaser of the safety glasses was not making two purchasing decisions (frames and lenses). Rather, Customs concluded that the employer was actually purchasing one item (safety glasses). Therefore, Customs concluded that the optical laboratory that assembled the frames and lenses substantially transformed the frames into a new and different article of commerce (safety glasses).

The instant petition requests that Customs reconsider and reject the position stated in HRL 734258, and, essentially, adopt the position that prescription safety glasses are no different from prescription glasses, provided the employee exercises some degree of choice in selecting safety frames. Accordingly, the petitioner seeks to have Customs treat an employee's selection of prescription safety spectacle frames as a purchasing decision which is separate from the subsequent process of inserting the safety prescription lenses into the safety frames. Should Customs adopt this position, the safety frames at issue in HRL 734258 would be required to be marked with their country of origin for the benefit of the ultimate purchaser—the employee who receives and uses the safety frames in the workplace.

Comments

Pursuant to section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties. The petition of the domestic interested party, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:00 p.m. at the Regulations Branch, Suite 4000, Franklin Court, 1099 14th Street N.W., Washington, D.C.

Authority

This notice is published in accordance with section 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal drafter of this document was David Cohen, Special Classification and Marking Branch, United States Customs Service. Personnel from other Customs offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: May 16, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–16850 Filed 7–10–95; 8:45 am]

BILLING CODE 4820–02–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 132
Tuesday, July 11, 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).

ASSASSINATION RECORDS REVIEW BOARD

TIME AND DATE: 9:00 a.m., July 17 and 18, 1995.

PLACE: ARRB, 600 E Street, NW, 2nd Floor, Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

July 17, 9:00 a.m.: Open Meeting

1. Review and Accept Minutes of June 28 Open Meeting.
2. Schedule Next Meeting of the Board.
3. Discuss Comments on Proposed Regulations.

July 17, 11:00 a.m.: Closed Meeting

1. Review and Accept Minutes of June 6 and 7 Closed Meeting.
2. Document Review, Discussion and Decisions.
3. Designation of Assassination Records.

July 18: Continuation of Closed Meeting

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

Tracy J. Shycoff,

Associate Director for Administration.

[FR Doc. 95–17049 Filed 7–7–95; 3:39 pm]

BILLING CODE 6820–TD–M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, July 13, 1995

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 13, 1995, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network and Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board (CC Docket No. 80–286). Summary: The Commission will consider seeking comment on proposals to increase the level of subscribership to the public switched network.

2—Common Carrier—Title: Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board (CC Docket No. 80–286). Summary: The Commission will consider action concerning the DEM Weighting and Universal Service Fund rules.

3—Common Carrier—Title: Administration of the North American Numbering Plan (CC Docket No. 92–237). Summary: The Commission will consider action concerning administration of the North American Numbering Plan.

4—Common Carrier—Title: Telephone Number Portability. Summary: The Commission will consider issues pertaining to the portability of telephone numbers.

5—International—Title: Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures. Summary: The Commission will consider action to streamline application and licensing rules and procedures for satellite space and earth stations under Part 25 of the rules.

6—International—Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements. Summary: The Commission will consider action to streamline the international Section 214 authorization process and tariff requirements.

7—Wireless Telecommunications and International—Title: Rulemaking to Amend Parts 1, 2, 21 and 25 of the Commission's Rules to Redesignate 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5 to 30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services (CC Docket No. 92–297). Summary: The Commission will consider action concerning the operation of Local Multipoint Distribution Service, feeder links for certain Mobile Satellite Systems, and Fixed Satellite Service systems (both geostationary orbit and non-geostationary) in the 28 GHz frequency band. It also proposes to accommodate feeder links for certain mobile satellite systems (MSS) in this band.

Additional information concerning this meeting may be obtained from Audrey Spivack or Maureen Peratino, Office of Public Affairs, telephone number (202) 418–0500.

Dated July 6, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–17035 Filed 7–7–95; 3:39 pm]

BILLING CODE 6712–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10:00 a.m., July 17, 1995.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the June 19, 1995, Board meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. C and F Fund manager evaluation and selection criteria.
4. Review of KPMG Peat Marwick audit reports:
   (a) ''Pension and Welfare Benefits Administration Review of Thrift Savings Plan System Enhancements and Software Change Controls at the United States Department of Agriculture, National Finance Center''
   (b) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Forfeiture and Forfeiture Restoration Operations and Interfund Transfer Process at the United States Department of Agriculture, National Finance Center''
   (c) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Loan Operations at the United States Department of Agriculture, National Finance Center''

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

DATE: July 7, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 95–17077 Filed 7–7–95; 3:39 pm]

BILLING CODE 6760–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 10, 17, 24, and 31, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of July 10

Wednesday, July 12

10:00 a.m.
Briefing on Status of Watts Bar and Browns Ferry 3 (Public Meeting)
(Contact: Fred Hebdon, 301–415–1485)

Week of July 17—Tentative

There are no meetings scheduled for the Week of July 17.

Week of July 24—Tentative

Wednesday, July 26

10:00 a.m.
Briefing on Status of Maintenance Rule (Public Meeting)
(Contact: Richard Correria, 301–415–1009)
2:00 p.m.
Briefing on Reactor Inspection Program (Public Meeting)
(Contact: M.R. Johnson, 301–415–1241)

Thursday, July 27

10:00 a.m.
Meeting with Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)
(Contact: George Sege, 301–415–6593)

Week of July 31—Tentative

There are no meetings scheduled for the Week of July 31.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley A. Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb®nrc.gov. or gkt ®nrc.gov.

Dated: July 7, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–17099 Filed 7–7–95; 8:45 am]

BILLING CODE 7590–01–M

Corrections

Federal Register

Vol. 60, No. 132

Tuesday, July 11, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 436

[FRL-5223-9]

National Pollutant Discharge Elimination System and Pretreatment Programs; State and Local Assistance Programs; Effluent Limitations Guidelines and Standards; Public Water Supply and Underground Injection Control Programs: Removal of Legally Obsolete or Redundant Rules

Correction

In final rule document 95–15027 beginning on page 33926 in the issue of Thursday, June 29, 1995 make the following corrections:

§§436.22, 436.32, and 436.42 [Corrected]

1. On page 33967, in §§436.22, 436.32, and 436.42(a), the paragraph designation (a), should be inserted before ''Except''.

§§436.122, 436.132, 436.142, 436.152, 436.182, 436.192, 436.232, and 436.242 [Corrected]

2. On page 33968, in §§436.122, 436.132, 436.142, 436.152, 436.182, 436.192, 436.232, and 436.242(a), the paragraph designation (a), should be inserted before ''Except''.

§§436.252, 436.262, and 436.382 [Corrected]

3. On page 33969, in §§436.252, 436.262, and 436.382(a), the paragraph designation (a), should be inserted before ''Except''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Native American Items in the Possession of the Hood Museum of Art, Dartmouth College, Hanover, NH

Correction

In notice document 95–16402 beginning on page 35047 in the issue of Wednesday, July 5, 1995, make the following correction:

On page 35048, in the first column, in the last paragraph, beginning in the ninth line, ''[*thirty days after the publicatin date of this notice in the* **FEDERAL REGISTER**].'' should read ''August 4, 1995.''

BILLING CODE 1505–01–D

federal register

Tuesday
July 11, 1995

Part II

National Institute for Literacy

34 CFR Ch. XI and Part 1100

Literacy Leader Fellowship Program; Interim Final Rule and Notice

NATIONAL INSTITUTE FOR LITERACY

34 CFR Ch. XI and Part 1100

[CFDA No. 84.257I]

Literacy Leader Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Interim final regulations.

SUMMARY: The Director issues interim final regulations to govern the Literacy Leader Fellowship Program for Fiscal Year 1995 and for subsequent years. Under this program, the Director may award fellowships to individuals to enable them to engage in research, education, training, technical assistance, or other activities that advance the field of adult education or literacy. These regulations specify the categories of fellowships, how an individual applies for a fellowship, what conditions for eligibility must be met by an applicant, where the fellowship will be conducted, how a fellow is selected, the responsibilities of a fellow, and how the amount of a fellowship is determined.

DATES: *Effective Date:* These regulations are effective August 10, 1995.

Comment Date: Comments must be received on or before September 30, 1995.

ADDRESSES: All comments concerning these final regulations should be addressed to Susan Green, National Institute for Literacy, 800 Connecticut Avenue NW., Suite 200, Washington, DC 20006.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Susan Green, 202/632–1509.

SUPPLEMENTARY INFORMATION:

Background

The Literacy Leadership Fellowship Program is authorized under section 384 of the Adult Education Act (20 U.S.C. 1213c), as amended. Fellowships may include stipends and allowances for subsistence and travel expenses as provided under Title 5 of the United States Code.

Executive Order 12286

These interim final regulations have been reviewed in accordance with Executive Order 12286. Under the terms of the order, the Director has assessed the potential costs and benefits of this regulatory action. The potential costs associated with these regulations are those resulting from statutory requirements and those determined by the Director as necessary for administering this program effectively and efficiently. The Director has determined that the benefits of the regulations justify the costs. The Director has also determined that the regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Regulatory Flexibility Act Certification

The Director certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These provisions would affect only individuals, who are not defined as ''small entities'' in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

Sections 1100.21 and 1100.33 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing the Act, the National Institute for Literacy will submit a copy of these interim regulations to the Office of Management and Budget (OMB) for its review. Public reporting burden for this collection of information is estimated to average 15 hours per response. Organizations and individuals wishing to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Dan Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these interim final regulations. The Director will take all comments into consideration and will make those changes to the regulations that the Director deems appropriate. The final regulations will govern applications for fellowships beginning in Fiscal Year 1996.

All comments submitted in response to these interim regulations will be available for public inspection, during and after the comment period, in Suite 200, 800 Connecticut Avenue, NW., Washington, DC, between the hours of 8:30 A.M. to 4:30 P.M., Monday through Friday each week, except Federal holidays.

To assist the National Institute for Literacy in complying with the specific requirements of Executive Order 12286 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Director invites comment on whether there may be further opportunities to reduce any regulatory burdens found in the interim final regulations.

Regulations

The National Institute for Literacy is subject to the rulemaking requirements of the Administrative Procedure Act (APA). Under the APA, codified in Title 5 of the United States Code, section 553, matters relating to public property, loans, grants, benefits, or contracts are not subject to the rulemaking requirements of that section. Under ordinary circumstances, the Director would prefer not to invoke this exemption for the development of the regulations governing awards under the Literacy Leader Fellowship Program because the Director values public participation in the process. However, in order to make timely fellowship awards in Fiscal Year 1995 based on the regulations, the Director has decided to issue these regulations in final form, while at the same time taking public comment that will help the Director determine whether any changes are adivsable for future competitions.

Priorities

The Institute may establish annual priorities, as stated in 34 CFR 75.105, by publishing a notice of priorities in the **Federal Register** concurrently with, or prior to, publishing a notice inviting applications for that year.

List of Subjects in 34 CFR Part 1100

Adult education; Grant programs—education; Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.257I, National Institute for Literacy)

Dated: July 6, 1995.

Carolyn Staley,

Deputy Director, National Institute for Literacy.

The Director establishes chapter XI, consisting at this time of part 1100, in Title 34 of the Code of Federal Regulations to read as follows:

CHAPTER XI—NATIONAL INSTITUTE FOR LITERACY

PART 1100—LITERACY LEADER FELLOWSHIP PROGRAM

Subpart A—General

Sec.

1100.1 What is the Literacy Leader Fellowship Program?
1100.2 Who is eligible for a fellowship?
1100.3 What type of project may a fellow conduct under this program?
1100.4 What regulations apply?

1100.5 What definitions apply?
1100.6 What priorities may the Director establish?

Subpart B—How Does an Individual Apply for a Fellowship?

1100.10 What categories of fellowships does the Institute award?
1100.11 How does an individual apply for a fellowship?

Subpart C—How Does the Director Award a Fellowship?

1100.20 How is a fellow selected?
1100.21 What selection criteria does the Director use to rate an applicant?
1100.22 How does the Director determine the amount of a fellowship?
1100.23 What payment methods may the Director use?
1100.24 What are the procedures for payment of a fellowship award directly to the fellow?
1100.25 What are the procedures for payment of a fellowship award through the fellow's employer?

Subpart D—What Conditions Must Be Met by a Fellow?

1100.30 Where may the fellowship project be conducted?
1100.31 Who is responsible for oversight of fellowship activities?
1100.32 What is the duration of a fellowship?
1100.33 What reports are required?

Authority: 20 U.S.C. 1213c.

Subpart A—General

§ 1100.1 What is the Literacy Leader Fellowship Program?

(a) Under the Literacy Leader Fellowship Program, the Director of the National Institute for Literacy provides financial assistance to outstanding individuals who are pursuing careers in adult education or literacy.

(b) Fellowships are awarded to these individuals for the purpose of carrying out short-term, innovative projects that contribute to the knowledge base of the adult education or literacy field.

(c) Fellowships are intended to benefit the fellow, the Institute, and ultimately, the field by providing the fellow with the opportunity to interact with national leaders in the field and make contributions to federal policy initiatives that promote a fully literate adult population.

§ 1100.2 Who is eligible for a fellowship?

(a) Only individuals are eligible to be recipients of fellowships.

(b) To be eligible for a fellowship under this program, an individual must be—

(1) A citizen of the United States;

(2) Eligible for Federal assistance under the terms of 34 CFR 75.60 and 75.61; and

(3) Either a career literacy worker or an adult learner.

§ 1100.3 What type of project may a fellow conduct under this program?

Under the auspices of the Institute, and in accordance with the Fellowship Agreement, the Literacy Leader Fellow may use a fellowship awarded under this part to engage in education, training, technical assistance, or other activities that advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State or local level.

§ 1100.4 What regulations apply?

This program is governed by the regulations in this part and the following additional regulations:

34 CFR 75.60, Individuals ineligible to receive assistance;

34 CFR 75.61, Certification of eligibility; effect of eligibility; and

34 CFR part 85, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

§ 1100.5 What definitions apply?

(a) The definitions in 34 CFR 77.1, except that the definitions of ''Applicant'', ''Application'', ''Award'', and ''Project'' do not apply to this part.

(b) Other definitions. The following definitions also apply to this part:

Adult learner means an individual over 16 years old who is pursuing or has completed some form of literacy or basic skills training, including preparation for the G.E.D.

Applicant means an individual requesting a fellowship under this program.

Application means a written request for a fellowship under this program.

Award means an amount of funds provided for fellowship activities.

Career literacy worker means an individual who is pursuing a career in literacy or adult education or a related field and who has relevant academic or professional experience. Relevant experience includes teaching, policymaking, administration, or research.

Director means the Director of the National Institute for Literacy.

Fellow means a recipient of a fellowship.

Fellowship means an award of financial assistance made by the Institute to an individual pursuant to section 384 of the Adult Education Act (20 U.S.C. 1213c) to enable that individual to conduct research or other authorized literacy activities under the auspices of the Institute.

Fellowship agreement means a written agreement entered into between the Institute and a fellow, which, when executed, has the legal effect of obligating the fellowship award, and which states the rights and obligations of the parties.

Institute means the National Institute for Literacy.

Project means the work to be engaged in by the Fellow during the period of fellowship.

Research means one or more of the following activities in literacy or education or education related fields: basic and applied research, planning, surveys, assessments, evaluations, investigations, experiments, development and demonstrations.

§ 1100.6 What priorities may the Director establish?

The Director may, through a notice published in the **Federal Register**, select annually one or more priorities for funding. These priorities may be chosen from the areas of greatest immediate concern to the Institute and may include, but are not limited to, the following areas:

(a) *Workforce and Workplace literacy.* Millions of American adults need educational services either to enter the work force or to upgrade their work-related skills. Increasingly literacy programs are offered in the context of the workplace. Workforce education and development is a top national priority and a critical focus in the literacy field.

(b) *Family Literacy.* Educational research and practice continue to demonstrate the fundamental importance of the family in creating both the motivation and conditions for a child's readiness for school and continued learning throughout life. This intergenerational literacy connection is having an increasingly significant effect on the funding, design, and operation of Federal, State, and local programs for children as well as adults.

(c) *English as a Second Language/ Immigration and Literacy.* Recent studies confirm that adults with limited English proficiency (LEP) experience a variety of social and economic disadvantages: lower wages, limited employment opportunities, limited access to public services, and barriers to becoming active members of their communities and neighborhoods. ESL instruction is currently the largest and fastest growing component of the Adult Education Act, and the demand continues to increase dramatically. About two-thirds of all recent immigrants to America are LEP, and about 76% of the 12 to 14 million LEP adults in America are immigrants. Issues related to the education of immigrants and ESL services are of

increasing importance to the literacy and adult education field.

(d) *Assessing Progress toward National Educational Goal 6.* Goal 6, the adult literacy and lifelong learning goal, states that: *''By the year 2000, 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.''* Gauging progress toward this goal is a primary concern of the Institute and a complex undertaking that challenges all sectors of the literacy field. As a result, there is growing interest in development of innovative approaches for measuring and documenting this progress in a variety of service settings.

(e) *The Role of Adult Learners in Literacy and Adult Education Programs.* As the primary consumers of literacy and adult education services, adult learners have the greatest personal stake in the quality of these services, and unique contributions to make in setting policy for, planning, and implementing programs. The Institute is interested in learning more about how current and former adult learners can play meaningful roles at every level of the literacy field nationwide.

Subpart B—How Does an Individual Apply for a Fellowship?

§ 1100.10 What categories of fellowship does the Institute award?

(a) The Institute awards two categories of Literacy Leadership Fellowships:

(1) Career Literacy Worker Fellowships; and

(2) Adult Learner Fellowships.

(b) [Reserved]

§ 1100.11 How does an individual apply for a fellowship?

An individual shall apply to the Director for a fellowship award in response to an application notice published by the Director in the **Federal Register.** The application must describe a plan for one or more of the activities stated in § 1100.3 that the applicant proposes to conduct under the fellowship. The application must also indicate which category of fellowship, as described in § 1100.10(b), most accurately describes the applicant.

Subpart C—How Does the Director Award a Fellowship?

§ 1100.20 How is a fellow selected?

(a) The Director rates applications using the selection criteria in § 1100.21 and then determines the order in which applications in each category will be ranked. The Director may consider the following in making this determination:

(1) The rating of the applications based on the criteria in § 1100.21, plus any bonus points an applicant may have been awarded for addressing an Institute priority or priorities, as established annually.

(2) Whether the selection of an application would increase the diversity of fellowship projects awarded under this program.

(b) The Director determines the number of awards to be made in each category and chooses the corresponding number of top-ranked applications for each category.

§ 1100.21 What selection criteria does the Director use to rate an applicant?

The Director uses 34 CFR 75.217 and the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of the plan for the proposed activity.* (40 points) The Director reviews the quality of each proposed project to ensure that—

(1) The design of the project is of high quality;

(2) The applicant's project is feasible;

(3) The project addresses critical questions in innovative ways;

(4) The applicant's project relates to the purposes of the fellowship program and the work of the Institute; and

(5) If the proposed activities include research, the likely validity of the research hypothesis proposed, the usefulness of the objectives to be achieved, and the effectiveness of the methodology to be followed.

(b) *Significance of the proposed project.* (30 points) The Director assesses the significance of the proposed project to ensure that—

(1) The project addresses important issues in literacy or adult education;

(2) Project results are likely to contribute to the knowledge base in literacy or adult education, and to federal policy initiatives in these or related areas;

(3) The project will enhance literacy or adult education practice;

(4) The project will complement or enhance related activities of value to the field; and

(5) The project builds research capacity within the field.

(c) *Qualifications of the applicant.* (30 points) The Director reviews the qualifications of each applicant to ensure—

(1) The appropriateness and quality of the applicant's background, education, and work experiences as they relate to the proposed project, as shown in documentation that may include recommendations of present or former supervisors or colleagues;

(2) Demonstrated ability to produce a final product that is comprehensive and useful;

(3) If relevant, demonstrations of motivation and the ability to overcome obstacles in pursuing educational or career goals; and

(4) If relevant, evidence of the availability of additional support to carry out the proposed activity.

§ 1100.22 How does the Director determine the amount of a fellowship?

The amount of a fellowship includes—

(a) A stipend, based on—

(1) The fellow's current annual salary; prorated for the length of the fellowship not to exceed $30,000 salary reimbursement; or

(2) If a fellow has no current salary, the fellow's education and experience; and

(b) A subsistence allowance and necessary travel expenses related to the fellowship, consistent with 5 U.S.C. chapter 57.

§ 1100.23 What payment methods may the Director use?

(a) The Director will pay a fellowship award directly to the fellow or through the fellow's employer.

(b) The Director considers the preferences of the fellow in determining whether to pay a fellowship award directly to the fellow or through the fellow's employer; however, the Director pays a fellowship award through the fellow's employer only if the employer enters into an agreement with the Director to comply with the provisions of § 1100.24.

§ 1100.24 What are the procedures for payment of a fellowship award directly to the fellow?

(a) If the Director pays a fellowship award directly to the fellow after the Director determines the amount of a fellowship award, the fellowship recipient shall submit a payment schedule to the Director for approval. The Director advises the recipient of the approved schedule.

(b) If a fellow does not complete the fellowship, or if the Institute terminates the fellowship, the fellow shall return to the Director a prorated portion of the stipend and any unused subsistence allowance and travel funds at the time and in the manner required by the Director.

§ 1100.25 What are the procedures for payment of a fellowship award through the fellow's employer?

(a) If the Director pays a fellowship award through the fellow's employer, the employer shall submit a payment schedule to the Director for approval.

(b) The employer shall pay the fellow the stipend and subsistence allowance according to the payment schedule approved by the Director. If the fellow does not complete the fellowship, the fellow shall return to the employer a prorated portion of the stipend and any unused subsistence allowance and travel funds. The employer shall return the funds to the Director at the time and in the amount required by the Director. The employer shall also return to the Director any portion of the stipend and subsistence allowance and travel funds not yet paid by the employer to the fellow.

Subpart D—What Conditions Must Be Met by a Fellow?

§ 1100.30 Where may the fellowship project be conducted?

(a) A fellow carries out a project at the National Institute for Literacy in Washington, DC, unless the Director determines that unusual circumstances exist and authorizes the fellow to carry out all or part of the project elsewhere.

(b) Office space and logistics will be provided by the Institute.

(c) The Fellow may also be required to participate in meetings, conferences and other activities at the Departments of Education, Labor, or Health and Human Services, in Washington, DC, or in site visits to other locations, if deemed appropriate for the project being conducted.

§ 1100.31 Who is responsible for oversight of fellowship activities?

(a) All fellowship activities are conducted under the direct or general oversight of the Institute. The Institute may arrange through written agreement for another Federal agency, or another public or private nonprofit agency or organization that is substantially involved in literacy research or services, to assume direct supervision of the fellowship activities.

(b) Fellows may be assigned a peer mentor to orient them to the Federal system and Institute procedures.

§ 1100.32 What is the duration of a fellowship?

(a) The Institute awards Fellowships for a period of at least three and not more than 12 months of full-time or part-time activity. An award may not exceed 12 months in duration. The actual period of the fellowship will be determined at the time of award based on proposed activities.

(b) In order to continue the fellowship to completion, the fellow must be making satisfactory progress as determined periodically by the Director.

§ 1100.33 What reports are required?

(a) A Fellow shall submit fellowship results to the Institute in formats suitable for wide dissemination to policymakers and the public. These formats should include, as appropriate to the topic of the fellowship and the intended audience, articles for academic journals, newspapers, and magazines.

(b) Each fellowship agreement will contain specific provisions for how, when, and in what format the Fellow will report on results, and how and to whom the results will be disseminated.

(c) A Fellow shall submit a final performance report to the Director and the Chairperson of the National Institute for Literacy Advisory Board no later than 90 days after the completion of the Fellowship. The report must contain a description of the activities conducted by the Fellow and a thorough analysis of the extent to which, in the opinion of the fellow, the objectives of the project have been achieved. In addition, the report must include a detailed discussion of how the activities performed and results achieved could be used to enhance literacy practice in the United States.

[FR Doc. 95–16938 Filed 7–10–95; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL INSTITUTE FOR LITERACY

[CFDA No. 84.257I]

Grants and Cooperative Agreements; Availability, etc.: Literacy Leader Fellowship Program

AGENCY: The National Institute for Literacy.

ACTION: Notice Inviting Applications for the Literacy Leader Fellowship Program.

PURPOSE: To establish the Literacy Leader Fellows Program to provide Federal financial assistance to individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation and adult new learners. Under the program, career literacy workers and adult learners are applicants for fellowships.

Deadline for Transmittal of Applications: Applications must be submitted by August 14, 1995.

Available Funds: $120,000.

Estimated Range of Awards: $20,000–$30,000.

Estimated Average Size of Awards: $24,000.

Estimated Number of Awards: 5.

Note: The National Institute for Literacy is not bound by any estimates in this Notice.

Project Period: Projects will be no less than three nor more than 12 months of full-time activity or the equivalent in less than full-time participation.

Applicable Regulations: Interim final regulations governing the National Institute for Literacy's Literacy Leader Fellows Program are published elsewhere in this issue of the **Federal Register.** Applications for Fiscal Year 1995 are being accepted on the basis of these regulations as published.

Interested persons are invited to submit comments and recommendations regarding these interim final regulations. The Director will take all comments into consideration and will make those changes to the regulations that the Director deems appropriate. The final regulations will govern applications for fellowships beginning in Fiscal Year 1996.

While the Institute is associated with the U.S. Departments of Education, Labor, and Health and Human Services, the specific policies and procedures of these agencies regarding rulemaking and administration of grants are not adopted by the Institute except as expressly stated in this Notice.

Transmittal of Applications: Five (5) copies of applications for award must be mailed or hand-delivered on or before the deadline date of August 14, 1995.

Applications delivered by mail. Applications sent by mail must be addressed to: National Institute for Literacy, 800 Connecticut Avenue NW., Suite 200, Washington, DC 20006, Attention: (CFDA #84.257I).

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

If an application is mailed through the U.S. Postal Service, the Institute does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or certified mail or at least first-class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand. Applications that are hand-delivered must be taken to the National Institute for Literacy, 800 Connecticut Avenue, NW., Suite 200, Washington, DC.

The Institute will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted by the Institute after 4:30 p.m. on the due date.

The Institute will mail an Applicant Receipt Acknowledgment to each applicant within 15 days from the due date. If an applicant fails to receive the application acknowledgment, call the National Institute for Literacy at (202) 632–1525.

The applicant must indicate on the outside of the envelope the CFDA number of the competition under which the application is being submitted.

Application Forms: The National Institute for Literacy has no application forms or prescribed format for the Literacy Leader Fellowship Program. Applicants must submit a detailed budget, curriculum vitae or resume, and sufficient information to allow the Institute to determine the merits of the proposed activities and rate the application according to the criteria and any applicable priorities. Applicants are also required to submit the following assurances and certifications:

(a) Assurances—Non-Construction Programs (Standard Form 424B).

(b) Certification Regarding Lobbying; Debarment, Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements (ED 90–0013).

(c) Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions.

The assurances, and certifications must each have an original signature. No award can be made unless these forms are submitted.

Priorities: (a) The Director invites applications for Literacy Leader Fellowships that meet the following priorities for 1995.

(b) The priorities for 1995 are major areas of concern in the literacy field that are currently being addressed in the Institute's work.

(c) An application may be awarded up to 5 bonus points for addressing a priority or priorities, depending on how well the application meets the priority or priorities.

(d) The publication of these priorities does not bind the Institute to fund only applications addressing priorities. The Director is especially interested in fellowship applications that address one or more of the priorities, but not to the exclusion of other significant issues that may be proposed by applicants.

(e) The priorities selected from the regulations for 1995 are as follows:

(1) *Work force and Workplace literacy.* Millions of American adults need educational services either to enter to work force or to upgrade their work-related skills. Increasingly literacy programs are offered in the context of the workplace. Workforce education and development is a top national priority and a critical focus in the literacy field.

(2) *Family Literacy.* Educational research and practice continue to demonstrate the fundamental importance of the family in creating both the motivation and conditions for a child's readiness for school and continued learning throughout life. This intergenerational literacy connection is having an increasingly significant effect on the funding, design, and operation of Federal, State, and local programs for children as well as adults.

(3) *English as a Second Language/ Immigration and Literacy.* Recent studies confirm that adults with limited English proficiency (LEP) experience a variety of social and economic disadvantages: lower wages, limited employment opportunities, limited access to public services, and barriers to becoming active members of their communities and neighborhoods. ESL instruction is currently the largest and fastest growing component of the Adult

Education Act, and the demand continues to increase dramatically. About two-thirds of all recent immigrants to America are LEP, and about 76% of the 12 to 14 million LEP adults in America are immigrants. Issues related to the education of immigrants and ESL services are of increasing importance to the literacy and adult education field.

(4) *Assessing Progress toward National Educational Goal 6*. Goal 6, the adult literacy and lifelong learning goal, states that: ''By the year 2000, 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.'' Gauging progress toward this goal is a primary concern of the Institute and a complex undertaking that challenges all sectors of the literacy field.

As a result, there is growing interest in the development of innovative approaches for measuring and documenting this progress in a variety of service settings.

(5) *The Role of Adult Learners in Literacy and Adult Education Programs*. As the primary consumers of literacy and adult education services, adult learners have the greatest personal stake in the quality of these services, and unique contributions to make in setting policy for, planning, and implementating programs. The Institute is interested in learning more about how current and former adult learners can play meaningful roles at every level of the literacy field nationwide.

SUPPLEMENTARY INFORMATION: National Institute for Literacy: National Educational Goal 6, which is now included in the Goals 2000 Educate America Act, puts forward an ambitious agenda for adult literacy and lifelong learning in America. To further this goal, the Congress passed Public Law 102–73, the National Literacy Act of 1991, which is the first piece of national legislation to focus exclusively on literacy. The overall intent of the Act, as stated, is:

> To enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives and to strengthen and coordinate adult literacy programs.

In designing the Act, among the primary concerns shared by the Congress and literacy stakeholders was the fragmentation and lack of coordination among the many efforts in the field. To address these concerns, the Act created the National Institute for Literacy to:

(A) Provide a national focal point for research, technical assistance and research dissemination, policy analysis and program evaluation in the area of literacy; and

(B) Facilitate a pooling of ideas and expertise across fragmented programs and research efforts.

Among the Institute's authorized activities is the awarding of fellowships to outstanding individuals who are pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. These fellowships are to be awarded for activities that advance the field of adult education and literacy.

FOR FURTHER INFORMATION CONTACT: Susan Green, National Institute for Literacy, 800 Connecticut Avenue NW., Suite 200, Washington, DC 20006. Telephone: 202/632–1509, FAX: 202/632–1512.

Instructions for Estimated Public Reporting Burden: Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing the Act, the National Institute for Literacy invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and disseminating the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the National Institute for Literacy, and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503. (Information collection approved under OMB control number 3200–0030, Expiration date: June 30, 1998.)

Program Authority: (20 U.S.C. 1213c).

Dated: July 6, 1995.

Carolyn Stately,

Deputy Director, National Institute for Literacy.

BILLING CODE 6055–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 6055–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—''New''means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Names of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contract (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, but the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16

U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with the P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, ''New Restrictions on Lobbying,'' and 34 CFR Part 85, ''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 Education determines to award the transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the application certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other that Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, SW, (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the

requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Drug-Free Workplace (Grantees Who Are Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. As condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, to: Director, Grants and Contract Services, U.S. Department of Education, 400 Maryland Avenue, SW, (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

_____

Name of Applicant

_____

PR/Award Number and or Project Name

_____

Printed Name and Title of Authorized Representative

_____

Signature

Date _____

BILLING CODE 6055–01–M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

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[FR Doc. 95–16956 Filed 7–10–95; 8:45 am]
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federal register

Tuesday
July 11, 1995

Part III

Department of Health and Human Services

Public Health Service

Office of the Secretary

National Science Foundation

42 CFR Part 50

45 CFR Part 64

Objectivity in Research; Investigatory Financial Disclosure Policy; Final Rule and Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 50

Office of the Secretary

45 CFR Part 94

RIN 0905–AE01

Objectivity in Research

AGENCY: Public Health Service and Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Public Health Service (PHS) and the Office of the Secretary, HHS, are promulgating regulations establishing standards and procedures to be followed by institutions that apply for research funding from the PHS to ensure that the design, conduct, or reporting of research funded under PHS grants, cooperative agreements or contracts will not be biased by any conflicting financial interest of those investigators responsible for the research.

Under the rules, investigators are required to disclose to an official(s) designated by the institution a listing of Significant Financial Interests (and those of his/her spouse and dependent children) that would reasonably appear to be affected by the research proposed for funding by the PHS. The institutional official(s) will review those disclosures and determine whether any of the reported financial interests could directly and significantly affect the design, conduct, or reporting of the research and, if so, the institution must, prior to any expenditure of awarded funds, report the existence of such conflicting interests to the PHS Awarding Component and act to protect PHS-funded research from bias due to the conflict of interest.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. George J. Galasso, Associate Director for Extramural Affairs, National Institutes of Health, Building 1, Room 552, 9000 Rockville Pike, MSC 0154, Bethesda, MD 20892–0154. The telephone number is (301) 496–5356 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On June 28, 1994 the Department of Health and Human Services (HHS) published proposed regulations (59 FR 33242) to ensure that PHS-funded research would not be compromised by financial interests of investigators that could be reasonably expected to bias the design, conduct or reporting of the research. In addition to setting forth proposed rules requiring institutional procedures for the disclosure and management, reduction or elimination of Significant Financial Interests that would reasonably appear to be directly and significantly affected by the research funded by PHS, or proposed for funding, the Notice of Proposed Rulemaking (NPRM) raised several specific questions about alternatives for implementing the pertinent statutes and for ensuring that PHS-funded research is not compromised by any financial conflicts of interest.

The NPRM was published in the **Federal Register** at the same time the National Science Foundation (NSF) published its Investigator Financial Disclosure Policy and reflected coordination between the two agencies. Since that time, we have continued to work closely with the NSF to ensure that the NSF policy and our regulations do not impose disparate requirements upon the many institutions that receive funding from both agencies. Elsewhere in this separate part in this **Federal Register,** the NSF is issuing changes in its policy necessary to maintain consistency with this final rule, and the changes we have made to conform to the NSF policy are referenced in the discussion that follows. The agencies intend to continue their cooperation by working together to develop common guidance, including a set of questions and answers, to help institutions implement conflict of interest policies that comply with both HHS and NSF requirements.

During the 60 day comment period that ended on August 28, 1994, the PHS received 102 comments on the NPRM. Most of the comments were generally supportive of giving the applicant institutions primary responsibility for identifying and resolving financial conflicts of interest that could directly and significantly affect the PHS-funded research. The comments are summarized below under the headings: Changes in the NPRM; Comments Not Resulting in Any Changes; and Responses to Questions on Alternatives.

Changes in the NPRM

A summary of the changes made in the regulations as proposed on June 28, 1994, follows.

1. In the section titles, §§ 50.601, 50.602, 50.605 and several other sections,[1] references to ''Significant Financial Interests'' or ''Significant Financial Interests of the type described in § 50.605,'' have been changed to refer to a conflict of interest or conflicting financial interests. This change has been made in response to many of the comments. It was pointed out that this change will make the HHS regulations consistent with the NSF regulations and that the institutions can only manage the conflict, not the financial interests.

2. In response to several comments, the ''Purpose'' sections in the grants and the contracts regulations have been rewritten to make them more concise and parallel.

3. A reference to § 50.604(a) has been added to the ''Applicability'' section. As explained more fully in paragraph 6 below, this change and the change in § 50.604(a) clarify that the regulations apply to Investigators carrying out the PHS-funded research for subgrantees or contractors of the awardee institution.

4. In response to several comments, the definition of ''Investigator,'' has been amended to delete the phrase ''at the Institution.''

5. The definition of ''Significant Financial Interest'' in § 50.603 has been changed in several respects. Clause (i) has been split so that ownership interests are now referenced in a new clause (ii). Some commenters felt that it was not clear whether the requirement that an institution be an applicant under the SBIR program modified both ownership interest and salary, royalties or other remuneration.

The exception for financial interests in business enterprises has been split to clarify that the per annum measurement applies only to salary, royalties or other payments not reasonably expected to exceed $10,000 per annum. In addition, the dollar limits have been changed from $5,000 to $10,000 and the applicability of the alternative measures of $10,000 in value or five percent ownership interest, has been clarified. These changes have been made in response to a large number of comments stating that the $5,000 limit was too low. A majority of those comments indicated that $10,000 would be an appropriate figure, particularly since the experience of state universities in California, and some other universities, is that interests up to this amount do not raise conflict of interest concerns.

The reference to determining the value of equity interests on the basis of public prices or other reasonable measures of fair market value was adapted from a similar provision in the proposed FDA rule on conflict of interest (59 FR 48708 *et seq.*, September 22, 1994).

6. Section 50.604(a) has been revised to clarify that the Institution must

[1] Only the sections in 42 CFR part 50 are referenced. Similar changes have been made in the regulations at 45 CFR part 94 which will apply to contracts.

maintain an appropriate written, enforced conflict of interest policy (this parallels NSF language) and that the Institution must make reasonable efforts to ensure compliance with the regulations by Investigators working for subgrantees and contractors, either by including those Investigators in the Institution's policy or by receiving appropriate assurances from their employers. This latter change was recommended in several comments and is consistent with current regulations and policies on the applicability of grant terms and conditions to subgrantees and contractors.

7. In response to many comments, paragraph (a)(3) (redesignated as paragraph (c)) of § 50.604 has been changed from requiring the institution to ''ensure'' that investigators have disclosed all Significant Financial Interest to simply ''require'' disclosures by each investigator. In addition, in response to several comments and for uniformity with the NSF guidelines, this paragraph has been revised to require disclosure, by the time an application is submitted to PHS, of those Significant Financial Interests attributable to the Investigator that would reasonably appear to be affected by the research, including interests in entities whose financial interests would reasonably appear to be affected by the research. This change eliminates the need to cross-reference the description of a conflict interest in § 50.605(a). Also, the changes in this section and in §§ 50.604(c) and 50.605(a) will result in a slightly broader disclosure by the Investigator than under the NPRM. The institutional official(s) will review the disclosures and determine which disclosed interests could directly and significantly affect the design, conduct or reporting of the research, necessitating the management, reduction or elimination of the conflict of interest. In addition, in response to a significant number of comments, the reference to ''pendency'' of the award has been changed to ''period'' of the award.

Paragraph (a)(5) of § 50.604 (redesignated as paragraph (e)) has been changed to delete the requirement that records be identifiable to each award, and to refer to the applicable retention requirements in the HHS grants administration regulations. The former change has been made for conformity with the NSF policy, and the latter change clarifies that the recordkeeping requirements of these regulations are intended to be consistent with the HHS grants administration regulations. The change in paragraph (f) of § 50.604 (formerly paragraph (a)(6)) has also been made for conformity with the NSF policy.

8. In response to many comments, § 50.604(a)(7)(ii), now redesignated as (g)(2), has been revised to reduce the burden on institutions and ensure that the application does not have to state whether a conflict of interest has been found. Rather, the provision now requires the applicant to certify that action will be taken, prior to the institution's expenditure of any funds under the award, to report to the PHS awarding component the existence of a conflicting interest and assure that the interest has been managed, reduced or eliminated in accordance with the regulations. The commentors felt that review of an application would be biased if the application indicated there was a conflict of interest and that, in any case, it would not be feasible for an institution to review the disclosed financial interests and determine whether a conflict of interest was present in the limited time available prior to submission of the application.

In addition, the previous § 50.604(a)(8)(i) has been incorporated into § 50.604(g)(2) with minor changes. Many commentors felt that the 60 day period for management of a conflict of interest found after the award should be doubled. However, the 60 day period does not seem unreasonable, since we have clarified that it is measured from the time the institution identifies the conflict of interest and that only interim action is required by the end of the 60 day period. As stated in the NPRM, section 493A of the PHS Act imposes a continuing obligation on awardees to identify conflicts of interest in clinical research projects and report their management, reduction or elimination. This and other statutory requirements for clinical research have been applied to all PHS-funded research in order to avoid confusion and provide for uniform PHS reporting requirements. We would not expect this reporting requirement to be burdensome, as only a few conflicts of interest are likely to be identified after the award.

Section 50.604(a)(8)(ii) has been incorporated into § 50.606(b), because the review of records referenced in the former section is directly related to the inquiry into actions regarding conflicts of interest addressed in the latter section. Section 50.604(a)(8)(iii) has been deleted as duplicative of the statement in the definition of ''Significant Financial Interest'' (§ 50.603), that salary, royalties or other remuneration from the institution is not considered a Significant Financial Interest. Under current regulations and policies governing applications for PHS research grants, if the applicant receives non-PHS grant support for the same project to be supported by the PHS award, the grant must be listed in the ''Other Support'' section of the application for PHS support.

9. Section 50.605(a) has been revised to clarify that the institutional official(s) must identify and manage, reduce or eliminate any conflicts of interest. Consistent with the language in the NSF guidelines, this provision states that a conflict of interest exists when the designated official(s) reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the PHS-funded research. As noted above in the discussion of the changes to § 50.604(c), Investigators must disclose those Significant Financial Interests that would reasonably appear to be affected by the research and the institutional official must decide which of those interests are conflicting under the standard prescribed in § 50.605(a). This change is intended to more clearly define and limit the types of financial interests that must be managed, reduced or eliminated because they are considered to be conflicting interests.

In response to a few comments, the clause introducing the examples of methods for managing, reducing or eliminating conflicts has been clarified by adding after ''include,'' the phrase ''but are not limited to.''

10. In § 50.606, the first sentence has been deleted because it essentially duplicated the provision in proposed § 50.604(a)(6). In the next sentence, the term ''employee'' has been changed to the defined term ''Investigator'' and, in response to a comment, the phrase ''or to be taken'' has been added at the end of the sentence. In addition, paragraph (b) has been rewritten to incorporate § 50.604(b), because the two provisions were somewhat duplicative.

11. Many commentors were concerned about what they considered to be a significant underestimation of the annual reporting and recordkeeping burden. In response, burdens have been further reduced by raising the dollar threshold for financial interests that are considered Significant Financial Interests subject to the regulations, and by amending § 50.604(g)(2) to require the reporting of a conflict of interest and its management, reduction or elimination only after an award has been made (but before any expenditure of funds). In addition, the estimated annual reporting and record keeping burden has been recalculated in light of these changes and the public comments.

12. Many commentors urged uniformity with the NSF guidelines, but

indicated the pursuit of that end should not interfere with necessary changes to the NPRM . As noted above, many of the changes result in greater uniformity between these regulations and the NSF guidelines. The few remaining differences between these regulations and the NSF guidelines are based upon requirements in section 493A of the PHS Act, 42 U.S.C. 289b–1, and differences between the grant programs and experiences under those programs.

The effective date for these regulations, October 1, 1995, is the same as the effective date for the NSF guidelines. Although some commentors felt that a longer lead time would be necessary to enable institutions to prepare for implementation of the regulations, we believe the time period provided is ample, particularly because institutions have had since June 28, 1994, to prepare for implementation of the similar provisions of the NSF guidelines and because many institutions already have conflict of interest procedures.

Comments Not Resulting in Any Changes

1. Title

Two commentors felt that the title of the regulations should be changed to focus upon investigator financial disclosure or conflict of interest. These are not inappropriate titles, but we have chosen to focus the title upon the desired outcome of the review of investigator financial disclosures, that is, objectivity in the design, conduct and reporting of the research.

2. Section 50.602 Applicability

Several commentors recommended that the regulations be limited to clinical research. As explained in the preamble to the NPRM, experience indicates that financial conflicts of interest can arise in all types of research. It is expected that the risk of a conflict of interest will be higher in clinical research than in other types of research, but we have concluded that the latter risk is sufficiently likely that pertinent financial interests should be disclosed and reviewed.

In response to a specific request for comments on the NSF exemption from its conflict of interest policy for grantees employing fifty persons or less, it was generally agreed by those responding that PHS-funded investigators working for small entities may be just as subject to conflicts of interest as investigators working at large institutions. This view is consistent with the PHS experience referred to in the preamble of the NPRM. The NSF experience has differed, apparently because of the differences between the research funding that is provided to small entities by HHS and NSF.

3. Section 50.603 Definitions

Investigator. There were diverse comments on the definition of the term, ''Investigator.'' Although one commentor supported the approach of the NPRM of leaving it to the institutions to determine who are persons ''responsible for the design, conduct, or reporting'' of the PHS funded research, others felt that the definition should offer more guidance on who would fall within that category. It was recommended that the term be limited to Principal Investigators, Co-Principal Investigators, and faculty collaborators and that students and technical staff be excluded. It was also recommended that administrators be excluded by limiting the definition to the ''scientific design'' of the research. The definition of Investigator has not been changed, except for deleting the phrase ''at the institution,'' as explained above. The degree to which individuals are responsible for the design, conduct, or reporting of the PHS-funded research will vary. In some circumstances students, technical personnel and administrators may not be ''responsible,'' but in other circumstances, they may be, in that they are given responsibility for a task that could have a significant effect on the design, conduct or reporting of the research. Based on their knowledge of the specific circumstances, we believe the institutions are in the best position to determine who is responsible for the design, conduct or reporting of the research to such a degree that his/her financial interests should be reviewed.

Significant Financial Interest. As noted above, the public comments led to several changes in this definition. There were a number of other detailed comments that were not adopted, primarily because they would have: Complicated the definition and its application (e.g., have different threshold levels for publicly traded equity interests and those not so traded, differentiate between large and small companies, and adopt criteria for determining reasonably anticipated future value); led to a long, cumbersome list of additional exclusions (e.g., exclude copyright that is not licensable, mutual funds, pensions, and reimbursement for expenses); or were based upon a misunderstanding of the definition and its effect (some apparently did not understand that any remuneration an investigator receives from the applicant institution was excluded). Some commentors questioned the exclusion of ownership interests in SBIR applicants. No change has been made in response to that comment because we believe such ownership interests are apparent to PHS funding agencies based on the application. Furthermore, the exclusion does not prohibit institutions from adopting more rigorous standards, if they wish to do so.

The definition of Significant Financial Interest alone does not delineate what the investigator must disclose or what the institution must manage, reduce or eliminate. The Investigator must consider all Significant Financial Interests, but need disclose only those that would reasonably appear to be affected by the research proposed for funding by the PHS, including the Investigator's financial interest in entities whose interests would be affected. Following this disclosure, the institutional official must determine, on the basis of the regulatory standard, whether there are conflicting interests that need to be managed, reduced, or eliminated. We think it is appropriate to have a relatively broad range of financial interests considered by the Investigator in making his/her determination of those that must be disclosed. In this manner, broad consideration of possibly conflicting interests is assured with minimal burdens, since only a limited number of interests need to be disclosed and an even smaller number will need to be managed, reduced or eliminated.

There were a number of comments recommending different thresholds than those that were adopted, including a threshold adjusted for inflation. The threshold amounts adopted were recommended in many comments and seem to represent a reasonable balance between the need to consider a broad range of financial interests and the burdens imposed upon the investigators and the institutions.

4. Section 50.604

Many commented that the requirement for updating financial disclosures (in § 50.604(c) of these regulations) needed to be clarified. The provision, which has not been changed, except for a minor word change, states that financial disclosures must be updated during the period of the award, either on an annual basis or as new reportable Significant Financial Interests are obtained. We believe this language is reasonably clear in conveying that the institutions have the option of adopting either of two methods for investigators to report changes in financial interests during the

period of the PHS award: reporting on an annual basis any changes in the previously reported financial interests; or requiring investigators to update disclosures as new reportable Significant Financial Interests are obtained. An annual reporting requirement would serve as a reminder for investigators to review their prior disclosures, but it might be burdensome if in fact there are no changes and it could result in delayed reporting as compared to the alternative. This burden would be eliminated by the other reporting alternative, but there would be no annual reminder to investigators to review and update their disclosures. The weighing of these factors and the decision are left to the institutions. The reference to ''new reportable Significant Financial Interests'' is intended to include financial interests that become reportable due to an increase in value that meets the reporting threshold, as well as the acquisition of new interests that are reportable. Of course, both types of interests are subject to disclosure by the investigator only if they meet the criteria in § 50.604(c).

It was recommended that the requirement in § 50.604(g)(2) for the reporting to the PHS Awarding Component of the existence of a conflicting interest be changed to conform with the NSF approach that requires such reporting only ''if the institution finds that it is unable to satisfactorily manage an actual or potential conflict of interest.'' As stated in the NPRM, section 493A of the Public Health Service Act requires that institutions report conflicting interests for clinical research projects. To avoid disparate requirements for clinical and nonclinical research, the regulations apply this reporting requirement to all PHS-funded research.

5. Section 50.606

One commentor felt that the notification required in paragraph (a) should go to HHS, rather than to the PHS Awarding Component. Because PHS Awarding Components are responsible for the award and have delegated authority, it is appropriate for those components to receive notifications and to act on them. On the other hand, paragraph (b) refers to HHS inquiries into institutional procedures and actions because such audit type activities may be conducted by HHS components other than the awarding agencies. As is made clear in the definitions, the term HHS encompasses all components of the Department, including the PHS Awarding Components.

A number of commentors objected to the requirement for submission of records to the HHS, fearing that the confidentiality of such records could not be assured. 45 CFR 74.53 already gives the HHS a right of access to all records pertinent to grants, which would include the records relating to financial conflicts of interest of investigators carrying out the PHS-funded research. It is expected that the PHS funding agencies will not often require the submission of records or retain copies from audits at the institution, but when that occurs the records will be maintained confidentially. In addition, although a few commentors objected to the reference to suspension of funding pending the resolution of a conflicting interest determined by the PHS awarding agency as biasing the objectivity of the research, that provision has been retained and a reference to the regulatory authority for the suspension has been added. Such suspension action would be necessary to protect Federal funds only in unusual situations, but we believe awardees subject to the regulations should be notified of the potential for such action.

Responses to Questions on Alternatives

The NPRM requested specific comments on the following issues: (1) Whether the regulations should address institutional conflicts of interest, as well as individual conflicting interests and, if so, how; (2) what types of financial interests should be disclosed; (3) whether the disclosed financial interests should include financial interests in products that would compete with the product or potential product of the PHS-funded research; (4) whether an employee's equity or other nonsalary financial interests in an applicant institution should be excluded from the definition of Significant Financial Interest; and (5) whether there should be an exemption for all compensation other than that tied to the outcome of the research. Most of the commentors addressed at least some of these issues. Those comments are summarized below.

Institutional Conflicts

Those addressing this issue were nearly unanimous in concluding that the regulations should not address the institutional conflict of interest issue because of the need to carefully consider that issue through a separate process. We agree with that conclusion. The comments on the alternatives for addressing institutional conflicts of interest will be considered separately from this rulemaking.

Competing Products

Over 30 commentors opposed any requirement for disclosing financial interests in entities or products that would compete with the PHS-funded research. Twelve commentors supported investigator disclosure of such competing entities or products, but some felt that the disclosure should be limited to those financial interests in competitors or competing products known to the investigator. As revised, the regulation would not specifically require the disclosure of such interests, but, depending upon the circumstances, those interests might come within the definition of the financial interests that must be disclosed. In clinical research, it is probable that a financial interest in a product that competes with the product being evaluated could reasonably appear to be affected by the PHS-funded research. Such a relationship is much less probable where the PHS funding is for basic research.

Types of Financial Interests Disclosed

Most of the comments on this issue are summarized above in the discussion of comments on the definition of Significant Financial Interests and on the financial interest that must be disclosed. The financial interests to be disclosed must be known to the investigator and determined by him/her to be a financial interest that would reasonably appear to be affected by the PHS-funded research or to be a financial interest in an entity whose financial interest would reasonably appear to be affected by the research. This criterion would, in most cases, require that the financial disclosure be relevant to biomedical research or health care, as was recommended by one commentor, but the disclosure would not necessarily be limited to those fields, because other types of financial interests could reasonably appear to be affected by the PHS-funded research.

Exclusion of Financial Interests

There were few specific comments on the questions relating to the exclusion from the definition of Significant Financial Interest of equity interests in, or compensation from, the applicant institution. The general comments on the definition emphasized the need for limiting disclosures to financial interests related to the research proposed for PHS funding. We are retaining the exclusion for all remuneration paid to an investigator by an applicant institution and the exclusion of any ownership interest in the applicant institution if it is an

applicant under the SBIR or STTR program. We have not expanded the exclusion for ownership interests to encompass all institutions, because we believe there may be situations in which an ownership interest in a for-profit applicant could be in conflict with the investigator's responsibility for the conduct of the PHS-funded research and that ownership interest should be subject to appropriate institutional review. Experience under the regulations may prove this reasoning to be incorrect. If so, we will consider appropriate amendments to the regulations.

Regulatory Impact

The Department has concluded that this rule is not economically significant under Executive Order 12866 and that it thus does not require the development of a comprehensive benefit-cost analysis. While we agree with comments received that the initial estimate of implementation costs was low, none of these comments indicated that the costs would exceed $100 million annually; in addition, changes made in the final regulations will reduce implementation costs. Commentors did not provide any evidence that the rule will hamper desirable research or otherwise have an adverse effect on the conduct of research under PHS-funded grants or on the consequent technological progress that is so important to the Nation's economy.

Executive Order 12866 requires that the Office of Management and Budget (OMB) review all regulations that may create a serious inconsistency with or otherwise interfere with an action taken or planned by another Federal agency. This rule was thus reviewed by OMB and coordinated with the policy of the NSF on this subject (see the notice of technical changes in NSF policy published elsewhere in this separate part of this **Federal Register**.

The Department prepares a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6), if a rule is expected to have a significant impact on a substantial number of small entities. Although we have not followed the NSF approach of exempting entities with 50 or fewer employees, we have concluded that the regulation will not have a significant impact on small entities. Any such effect is mitigated by the provisions of the regulations and the fact that the regulations impose obligations primarily on those receiving grants that can be used, in part (amounts for indirect costs), to offset the costs of compliance with the regulatory requirements. The regulations do not apply to SBIR and STTR Phase I applications. These programs are for small businesses and the Phase I grants are for limited amounts. Phase II grants are for larger amounts and thus more funds would be available for meeting the costs of compliance. Furthermore, we have changed the regulations to reduce burdens and costs of compliance for all entities subject to the regulations by eliminating more financial interests from consideration and by reducing burdens upon institutions through changes in the certification requirements. Institutions do not have to take action to identify, report and manage conflicting interests until after being notified by the PHS Awarding Agency of its decision to award funds.

For the same reasons, this rule will not create an unfunded mandate on State-owned institutions and thus would not trigger the requirements of Executive Order 12875 on ''Enhancing the Intergovernmental Partnership.'' The proposed rule has been changed to significantly reduce burdens on institutions and, as noted above, institutions will be able to use amounts awarded for indirect costs to meet the costs of implementing the regulations.

Paperwork Reduction Act

The final rules contain information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1980. The title, description, and respondent description applicable to the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. These estimates have been revised in light of the comments on the proposed rules and the changes in the regulations. Consistent with the comments and a thorough consideration of the potential burdens imposed by the reporting, recordkeeping and disclosure requirements of the regulations, the statement of the burden has been reduced from that stated in the NPRM, based upon changes in the regulations that will significantly reduce the burdens on institutions and upon more accurate estimates of the burdens imposed by specific requirements.

The mean hours per response for initial reports of conflicts of interest have been significantly increased to account for the review by the institution of all the financial disclosures relating to an award. Although not more than 200 reports of conflicts of interest are expected, the institutions will need to review all financial disclosures associated with PHS funding awards to determine whether or not any conflicts of interest exist. Thus, the total burden of 16,000 hours is based on estimates that it will take, on the average, four-fifths of an hour to review each of the 20,000 financial disclosures associated with PHS funding awards. If the number of disclosures is reduced because of the increase in the amount of the threshold for significance, the burden may be an overestimate.

The burden for subsequent reports of conflicts (made during the twelve month period after the initial report) is significantly less, because we do not expect many additional reportable conflicts and there will be only a limited number of disclosures to review.

We have significantly reduced the respondent number for reporting that failure of an investigator to comply with the institution's conflict of interest policy has biased the design, conduct or reporting of the research (§ 50.606(a)). We have estimated there will be no more than five such instances and we think that is a generous estimate.

For recordkeeping, we have listed the number of files expected to be necessary, rather than the number of institutions, because it will result in a more accurate estimation. The 20,000 figure is based upon 35,000 awards annually, reduced to account for those investigators who will not have any disclosures (no files are required to be established) and those investigators with more than one award. We have estimated it will take four hours, on the average, for the establishment and maintenance of each file. Although we believe this to be a very generous estimate, we note that it will include the time of both administrative and clerical personnel.

The burden figures for informing each investigator of the institution's policy are based upon 2,000 recipient institutions and 20 hours for the performance of this function. This time burden could be reduced even further if institutions choose to inform investigators through a notice in the grant application procedures. This method of notification would be acceptable because the regulations do not specify the method of notification.

The financial disclosures burden estimate (§ 50.604(c)) is based upon an investigator figure of 35,000 with an average response time of one hour. We believe experience may show that the number of disclosures will be significantly less because of the increases in the reporting threshold. Note that we have not attempted to calculate the overall hours spent by the institution to establish the necessary administrative mechanisms to comply with the regulations. The estimates are for burdens imposed by disclosure,

reporting and recordkeeping requirements, not all activities of an institution that may result from the regulations.

Title: Responsibility of Applicants for Promoting Objectivity in Research for which Public Health Service (PHS) Funding is Sought.

Description: The regulations would require each applicant/offeror Institution to establish procedures to identify and manage, reduce, or eliminate any conflicting financial interest of an Investigator involved in the design, conduct or reporting of the research for which PHS funding is sought.

Description of Respondents: Public and private non-profit institutions, small business, and other for-profit organizations and investigators working for such institutions, businesses and organizations.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Applicable section of regulation 42 CFR	Applicable section of regulation 45 CFR	Total number of respondents	Mean hours per response	Total hours 42 CFR	Total hours 45 CFR	Total hours
Reporting:						
50.604(g)(2) (initial report of conflict of interest)	94.4(g)(2)	200	80.0	14,000	2,000	16,000
50.604(g)(2) (subsequent reports of conflict of interest).	94.4(g)(2)	30	2.0	54	6	60
50.606(a)	94.6(a)	5	10.0	40	10	50
Total						16,110
Recordkeeping:						
50.604(e)	94.4(e)	20,000	4	72,000	8,000	80,000
Total						80,000
Disclosure:						
50.604(a)	94.4(a)	2,000	20.0	36,000	4,000	40,000
50.604(c)	94.4(c)	35,000	1	31,600	3,400	35,500
Total						75,000
Total Burden						171,110

In accordance with the requirements of the Paperwork Reduction Act of 1980, the Department of Health and Human Services has submitted the information collection requirements cited above to OMB for review and approval. Organizations and individuals desiring to submit comments on the information collection requirements and the estimated burden should direct such comments to the information address cited above and to: NIH/PHS Desk Officer, Office of Information and Regulatory Affairs, OMB, New Executive Office Building, room 10235, 725 17th Street NW., Washington, DC 20503.

Catalogue of Federal Domestic Assistance

The rule will affect all extramural research, research and development, and research and development support funded by the Public Health Service. Questions about the rule should be directed to Dr. George J. Galasso, Associated Director for Extramural Affairs, National Institutes of Health, Building 1, Room 552, 9000 Rockville Pike, MSC 0154, Bethesda, MD 20892–0154. The telephone number is (301) 496–5356 (this is not a toll-free number).

List of Subjects

42 CFR Part 50

Grant programs—health; Conflict of interest; Medical research; Behavioral, biological, biochemical, psychological and psychiatric research.

45 CFR Part 94

Government procurement.

Dated: March 13, 1995.

Philip R. Lee,

Assistant Secretary for Health.

Approved: May 17, 1995.

Donna E. Shalala,

Secretary.

Accordingly, 42 CFR part 50 and 45 CFR subtitle A are amended as set forth below:

1. Subpart F is added to 42 CFR part 50 to read as follows:

Subpart F—Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding Is Sought

Sec.
50.601 Purpose.
50.602 Applicability.
50.603 Definitions.
50.604 Institutional responsibility regarding conflicting interests of investigators.
50.605 Management of conflicting interests.
50.606 Remedies.
50.607 Other HHS regulations that apply.

Authority: 42 U.S.C. 216, 289b–1, 299c–3.

Subpart F—Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding Is Sought

§ 50.601 Purpose.

This subpart promotes objectivity in research by establishing standards to ensure there is no reasonable expectation that the design, conduct, or reporting of research funded under PHS grants or cooperative agreements will be biased by any conflicting financial interest of an Investigator.

§ 50.602 Applicability.

This subpart is applicable to each Institution that applies for PHS grants or cooperative agreements for research and, through the implementation of this subpart by each Institution, to each Investigator participating in such research (see § 50.604(a)); provided, that this subpart does not apply to SBIR Program Phase I applications. In those few cases where an individual, rather than an institution, is an applicant for PHS grants or cooperative agreements for research, PHS Awarding Components will make case-by-case determinations on the steps to be taken to ensure that the design, conduct, and reporting of the research will not be biased by any conflicting financial interest of the individual.

§ 50.603 Definitions.

As used in this subpart:

HHS means the United States Department of Health and Human Services, and any components of the Department to which the authority involved may be delegated.

Institution means any domestic or foreign, public or private, entity or organization (excluding a Federal agency).

Investigator means the principal investigator and any other person who is responsible for the design, conduct, or reporting of research funded by PHS, or proposed for such funding. For purposes of the requirements of this subpart relating to financial interests, ''Investigator'' includes the Investigator's spouse and dependent children.

PHS means the Public Health Service, an operating division of the U.S. Department of Health and Human Services, and any components of the PHS to which the authority involved may be delegated.

PHS Awarding Component means the organizational unit of the PHS that funds the research that is subject to this subpart.

Public Health Service Act or *PHS Act* means the statute codified at 42 U.S.C. 201 *et seq.*

Research means a systematic investigation designed to develop or contribute to generalizable knowledge relating broadly to public health, including behavioral and social-sciences research. The term encompasses basic and applied research and product development. As used in this subpart, the term includes any such activity for which research funding is available from a PHS Awarding Component through a grant or cooperative agreement, whether authorized under the PHS Act or other statutory authority.

Significant Financial Interest means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include:

(1) Salary, royalties, or other remuneration from the applicant institution;

(2) Any ownership interests in the institution, if the institution is an applicant under the SBIR Program;

(3) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;

(4) Income from service on advisory committees or review panels for public or nonprofit entities;

(5) An equity interest that when aggregated for the Investigator and the Investigator's spouse and dependent children, meets both of the following tests: Does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent ownership interest in any single entity; or

(6) Salary, royalties or other payments that when aggregated for the Investigator and the Investigator's spouse and dependent children over the next twelve months, are not expected to exceed $10,000.

Small Business Innovation Research (SBIR) Program means the extramural research program for small business that is established by the Awarding Components of the Public Health Service and certain other Federal agencies under Pub. L. 97–219, the Small Business Innovation Development Act, as amended. For purposes of this subpart, the term SBIR Program includes the Small Business Technology Transfer (STTR) Program, which was established by Pub. L. 102–564.

§ 50.604 Institutional responsibility regarding conflicting interests of investigators.

Each Institution must:

(a) Maintain an appropriate written, enforced policy on conflict of interest that complies with this subpart and inform each Investigator of that policy, the Investigator's reporting responsibilities, and of these regulations. If the Institution carries out the PHS-funded research through subgrantees, contractors, or collaborators, the Institution must take reasonable steps to ensure that Investigators working for such entities comply with this subpart, either by requiring those Investigators to comply with the Institution's policy or by requiring the entities to provide assurances to the Institution that will enable the Institution to comply with this subpart.

(b) Designate an institutional official(s) to solicit and review financial disclosure statements from each Investigator who is planning to participate in PHS-funded research.

(c)(1) Require that by the time an application is submitted to PHS each Investigator who is planning to participate in the PHS-funded research has submitted to the designated official(s) a listing of his/her known Significant Financial Interests (and those of his/her spouse and dependent children):

(i) That would reasonably appear to be affected by the research for which PHS funding is sought; and

(ii) In entities whose financial interests would reasonably appear to be affected by the research.

(2) All financial disclosures must be updated during the period of the award, either on an annual basis or as new reportable Significant Financial Interests are obtained.

(d) Provide guidelines consistent with this subpart for the designated official(s) to identify conflicting interests and take such actions as necessary to ensure that such conflicting interests will be managed, reduced, or eliminated.

(e) Maintain records of all financial disclosures and all actions taken by the Institution with respect to each conflicting interest for at least three years from the date of submission of the final expenditures report or, where applicable, from other dates specified in 45 CFR 74.53(b) for different situations.

(f) Establish adequate enforcement mechanisms and provide for sanctions where appropriate.

(g) Certify, in each application for the funding to which this subpart applies, that:

(1) There is an effect at that Institution a written and enforced administrative process to identify and manage, reduce or eliminate conflicting interests with respect to all research projects for which funding is sought from the PHS,

(2) Prior to the Institution's expenditure of any funds under the award, the Institution will report to the PHS Awarding Component the existence of a conflicting interest (but not the nature of the interest or other details) found by the institution and assure that the interest has been managed, reduced or eliminated in accordance with this subpart; and, for any interest that the Institution identifies as conflicting subsequent to the Institution's initial report under the award, the report will be made and the conflicting interest managed, reduced, or eliminated, at least on an interim basis, within sixty days of that identification;

(3) The Institution agrees to make information available, upon request, to the HHS regarding all conflicting interests identified by the Institution and how those interests have been managed, reduced, or eliminated to protect the research from bias; and

(4) The Institution will otherwise comply with this subpart.

§ 50.605 Management of conflicting interests.

(a) The designated official(s) must: Review all financial disclosures; and determine whether a conflict of interest exists and, if so, determine what actions should be taken by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the designated official(s) reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the PHS-funded research. Examples of conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

(1) Public disclosure of significant financial interests;

(2) Monitoring of research by independent reviewers;

(3) Modification of the research plan;

(4) Disqualification from participation in all or a portion of the research funded by the PHS;

(5) Divestiture of significant financial interests; or

(6) Severance of relationships that create actual or potential conflicts.

(b) In addition to the types of conflicting financial interests described in this paragraph that must be managed, reduced, or eliminated, an Institution may require the management of other conflicting financial interests, as the Institution deems appropriate.

§ 50.606 Remedies.

(a) If the failure of an Investigator to comply with the conflict of interest policy of the Institution has biased the design, conduct, or reporting of the PHS-funded research, the Institution must promptly notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and, as necessary, take appropriate action, or refer the matter to the Institution for further action, which may include directions to the Institution on how to maintain appropriate objectivity in the funded project.

(b) The HHS may at any time inquire into the Institutional procedures and actions regarding conflicting financial interests in PHS-funded research, including a requirement for submission of, or review on site, all records pertinent to compliance with this subpart. To the extent permitted by law, HHS will maintain the confidentiality of all records of financial interests. On the basis of its review of records and/or other information that may be available, the PHS Awarding Component may decide that a particular conflict of interest will bias the objectivity of the PHS-funded research to such an extent that further corrective action is needed or that the Institution has not managed, reduced, or eliminated the conflict of interest in accordance with this subpart. The PHS Awarding Component may determine that suspension of funding under 45 CFR 74.62 is necessary until the matter is resolved.

(c) In any case in which the HHS determines that a PHS-funded project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a conflicting interest that was not disclosed or managed as required by this subpart, the Institution must require the Investigator(s) involved to disclose the conflicting interest in each public presentation of the results of the research.

§ 50.607 Other HHS regulations that apply.

Several other regulations and policies apply to this subpart.

They include, but are not necessarily limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board
45 CFR Part 74—Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations; and Certain Grants and Agreements with States, Local Governments and Indian Tribal Governments
45 CFR Part 76—Government-wide debarment and suspension (non-procurement)
45 CFR Part 79—Program Fraud Civil Remedies
45 CFR Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

2. A new part 94 is added to 45 CFR, subtitle A, to read as follows:

PART 94—RESPONSIBLE PROSPECTIVE CONTRACTORS

Sec.
94.1 Purpose.
94.2 Applicability.
94.3 Definitions.
94.4 Institutional Responsibility Regarding Conflicting Interests of Investigators.
94.5 Management of Conflicting Interests.
94.6 Remedies.

Authority: 42 U.S.C. 216, 289b–1, 299c–3.

§ 94.1 Purpose.

This part promotes objectivity in research by establishing standards to ensure there is no reasonable expectation that the design, conduct, or reporting of research to be performed under PHS contracts will be biased by any conflicting financial interest of an Investigator.

§ 94.2 Applicability.

This part is applicable to each Institution that seeks PHS funding for research and, through the implementation of this part, to each Investigator who participates in such research (see § 94.4(a)); provided that this part does not apply to SBIR Program Phase I applications.

§ 94.3 Definitions.

As used in this part:

Contractor means an entity that provides property or services for the direct benefit or use of the Federal Government.

HHS means the United States Department of Health and Human Services, and any components of the Department to which the authority involved may be delegated.

Institution means any public or private entity or organization (excluding a Federal agency)

(1) That submits a proposal for a research contract whether in response to a solicitation from the PHS or otherwise, or

(2) That assumes the legal obligation to carry out the research required under the contract.

Investigator means the principal investigator and any other person who is responsible for the design, conduct, or reporting of a research project funded by PHS, or proposed for such funding. For purposes of the requirements of this part relating to financial interests, ''Investigator'' includes the Investigator's spouse and dependent children.

PHS means the Public Health Service, an operating division of the U.S. Department of Health and Human Services, and any components of the PHS to which the authority involved may be delegated.

Public Health Service Act or *PHS Act* mean the statute codified at 42 U.S.C. 201 *et seq.*

PHS Awarding Component means an organizational unit of the PHS that funds research that is subject to this part.

Research means a systematic investigation designed to develop or contribute to generalizable knowledge relating broadly to public health, including behavioral and social-sciences research. The term encompasses basic and applied research and product development. As used in this part, the term includes any such activity for which funding is available from a PHS Awarding Component, whether

authorized under the PHS Act or other statutory authority.

Significant Financial Interest means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents copyrights and royalties from such rights). The term does not include:

(1) Salary, royalties, or other remuneration from the applicant institution;

(2) Any ownership interests in the institution, if the institution is an applicant under the SBIR program;

(3) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;

(4) Income from service on advisory committees or review panels for public or nonprofit entities;

(5) An equity interest that when aggregated for the Investigator and the Investigator's spouse and dependent children, meets both of the following tests: Does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent ownership interest in any single entity; or

(6) Salary, royalties or other payments that when aggregated for the investigator and the investigator's spouse and dependent children over the next twelve months, are not reasonably expected to exceed $10,000.

Small Business Innovation Research (SBIR) Program means the extramural research program for small business that is established by the awarding components of the Public Health Service and certain other Federal agencies under Public Law 97–219, the Small Business Innovation Development Act, as amended. For purposes of this part, the term SBIR Program includes the Small Business Technology Transfer (STTR) Program, which was established by Public Law 102–564.

§ 94.4 Institutional responsibility regarding conflicting interests of investigators.

Each Institution must:

(a) Maintain an appropriate written, enforced policy on conflict of interest that complies with this part and inform each Investigator of that policy, the Investigator's reporting responsibilities, and of these regulations. If the Institution carries out the PHS-funded research through subcontractors, or collaborators, the Institution must take reasonable steps to ensure that Investigators working for such entities comply with this part, either by requiring those Investigators to comply with the Institution's policy or by requiring the entities to provide assurances to the Institution that will enable the Institution to comply with this part.

(b) Designate an institutional official(s) to solicit and review financial disclosure statements from each Investigator who is planning to participate in PHS-funded research.

(c)(1) Require that by the time an application is submitted to PHS, each Investigator who is planning to participate in the PHS-funded research has submitted to the designated official(s) a listing of his/her known Significant Financial Interests (and those of his/her spouse and dependent children):

(i) that would reasonably appear to be affected by the research for which PHS funding is sought; and

(ii) in entities whose financial interests would reasonably appear to be affected by the research.

(2) All financial disclosures must be updated during the period of the award, either on an annual basis or as new reportable Significant Financial Interests are obtained.

(d) Provide guidelines consistent with this part for the designated official(s) to identify conflicting interests and take such actions as necessary to ensure that such conflicting interests will be managed, reduced, or eliminated.

(e) Maintain records of all financial disclosures and all actions taken by the Institution with respect to each conflicting interest for three years after final payment or, where applicable, for the other time periods specified in 48 CFR part 4, subpart 4.7.

(f) Establish adequate enforcement mechanisms and provide for sanctions where appropriate.

(g) Certify, in each contract proposal, that:

(1) there is in effect at that Institution a written and enforced administrative process to identify and manage, reduce or eliminate conflicting interests with respect to all research projects for which funding is sought from the PHS;

(2) prior to the Institution's expenditure of any funds under the award, the Institution will report to the PHS Awarding Component the existence of any conflicting interest (but not the nature of the interest or other details) found by the Institution and assure that the interest has been managed, reduced or eliminated in accordance with this part; and, for any interest that the Institution identifies as conflicting subsequent to the Institution's initial report under the award, the report will be made and the conflicting interest managed, reduced, or eliminated, at least on an interim basis, within sixty days of that identification.

(3) the Institution agrees to make information available, upon request, to the HHS regarding all conflicting interests identified by the Institution and how those interests have been managed, reduced, or eliminated to protect the research from bias; and

(4) the Institution will otherwise comply with this part.

§ 94.5 Management of conflicting interests.

(a) The designated official(s) must: Review all financial disclosures; and determine whether a conflict of interest exists, and is so, what actions should be taken by the institution to manage, reduce, or eliminate such conflict of interest. A conflict of interest exists when the designated official(s) reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the PHS-funded research. Examples of conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

(1) Public disclosure of significant financial interests;
(2) Monitoring of the research by independent reviewers;
(3) Modification of the research plan;
(4) Disqualification from participation in all or a portion of the research funded by the PHS;
(5) Divestiture of significant financial interests, or;
(6) Severance of relationships that create actual or potential conflicts.

(b) In addition to the types of conflicting financial interests described in this paragraph that must be managed, reduced, or eliminated, an Institution may require the management of other conflicting financial interests, as the Institution deems appropriate.

§ 94.6 Remedies.

(a) If the failure of an Investigator to comply with the conflict of interest policy of the Institution has biased the design, conduct, or reporting of the PHS-funded research, the Institution must promptly notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and, as necessary, take appropriate action or refer the matter to the institution for further action, which may include directions to the Institution on how to maintain appropriate objectivity in the funded project.

(b) The HHS may at any time inquire into the Institutional procedures and actions regarding conflicting financial interests in PHS-funded research, including a review of all records pertinent to compliance with this part. HHS may require submission of the records or review them on site. To the extent permitted by law HHS will maintain the confidentiality of all records of financial interests. On the basis of its review of records and/or other information that may be available, the PHS Awarding Component may decide that a particular conflict of interest will bias the objectivity of the PHS-funded research to such an extent that further corrective action is needed or that the Institution has not managed, reduced, or eliminated the conflict of interest in accordance with this part. The issuance of a Stop Work Order by the Contracting Officer may be necessary until the matter is resolved.

(c) In any case in which the HHS determines that a PHS-funded project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a conflicting interest that was not disclosed or managed as required by this part, the Institution must require disclosure of the conflicting interest in each public presentation of the results of the research.

[FR Doc. 95–16799 Filed 7–10–95; 8:45 am]

BILLING CODE 4140–01–M

NATIONAL SCIENCE FOUNDATION

Investigator Financial Disclosure Policy

AGENCY: National Science Foundation.

ACTION: Notice of technical changes to investigator financial disclosure policy.

SUMMARY: The National Science Foundation (NSF) is making certain technical changes and clarifications to its Investigator Financial Disclosure Policy in order to make the Policy more consistent with the provisions of the final Department of Health and Human Services (HHS) rule on this subject.

EFFECTIVE DATE: The effective date of the Investigator Financial Disclosure Policy and these technical changes is October 1, 1995. Proposals submitted on or after October 1, 1995 must contain the new certifications set forth in the Policy.

EFFECTIVE DATES: Christopher L. Ashley, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, VA 22230, (703) 306–1060.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Control Number 3145–0149

On June 28, 1994 NSF published in the **Federal Register** a final Policy announcing revised award conditions relating to investigator financial disclosure. Those revised conditions require grantee institutions to maintain written and enforced policies on investigator conflict of interest. 59 FR 33308 (June 28, 1994).

NSF has been coordinating its Investigator Financial Disclosure Policy with the Public Health Service and the Office of the Secretary of the Department of Health and Human Services (HHS). At the same time NSF published its final policy, HHS published a notice of proposed rulemaking also dealing with investigator conflicts. HHS received and reviewed public comments on that proposed rule, and is issuing in this **Federal Register** its final rule regarding investigator conflicts that will be effective on October 1, 1995. In cooperation with HHS, NSF is now making certain corresponding technical changes and clarifications to its Investigator Financial Disclosure Policy in order to maintain consistency with the final HHS rule. In addition, NSF and HHS will be working together to develop common guidance, including a set of questions and answers, to help institutions implement conflict of interest policies that comply with both HHS and NSF requirements.

The following summarizes the changes and clarifications to NSF's Investigator Financial Disclosure Policy:

Grant Policy Manual References: All references to GPM 310 will be changed to GPM 510.

Disclosures by Investigators: Subparagraph b of GPM 510 will be revised to require disclosure to the institution's representative of significant financial interests that ''would reasonably appear to be affected'' by the activities funded or proposed for funding by NSF. Previously, the provision had required disclosure of interests that ''reasonably appear to be directly and significantly affected'' by such activities. This change will result in a slightly broader disclosure by the investigator. As explained below, the institutional representative(s) will be responsible for reviewing the disclosures to determine which disclosed interests could directly and significantly affect the design, conduct or reporting of the research.

Definition of ''Significant Financial Interest''—Exclusions: For greater clarity, the exclusion set out in subparagraph b.5 of GPM 510 will be split into two separate exclusions—one for equity interests and one for other types of payments. Also, the dollar threshold increased from $5,000 to $10,000. To be excluded from the definition of ''significant financial interest,'' an equity interest, when aggregated for the Investigator and his or her spouse and dependent children, must be under both the $10,000 and five percent ownership thresholds. For example, an investigator who owns an equity interest which is worth $20,000 (with reference to public prices or other reasonable measures of fair market value), but which represents only one percent ownership in the entity, would nevertheless be required to disclose that interest if it would reasonably appear to be affected by the research or educational activities funded or proposed for funding by NSF.

Conflicts of Interest: In subparagraph d of GPM 510, the definition of a conflict of interest will be revised. As revised, a conflict of interest exists if the reviewer(s) of disclosures determines that a significant financial interest ''could directly and significantly affect the design, conduct, or reporting of'' NSF-funded activities. Thus, contrary to the previous definition, the reviewer(s) rather than the investigator determines whether a significant financial interest directly and significantly affects the design, conduct or reporting of NSF-funded activities.

Timing of Conflict of Interest Review and Resolution; In order to conform with the HHS final rule, the Certification for Authorized Institutional Representative or Individual Applicant (in the Section WHAT WOULD BE REQUIRED IN PROPOSALS) will be changed to require the institutional representative to certify that any identified conflicts of interests will be managed, reduced or eliminated ''prior to the institution's expenditure of any funds under the award.'' The certification previously required resolution of conflicts ''prior to funding the award.'' This technical change will enable institutions to refrain from reviewing and resolving identified conflicts until after the award is funded, thereby eliminating the need to review and resolve conflicts in proposals that do not get funded. Also, the last sentence of the certification has been separated into two sentences to clarify that conflicts of interest that cannot be satisfactorily managed, reduced or eliminated must be reported to NSF. Accordingly, the certification will now read as follows:

> In addition, if the applicant institution employs more than fifty persons, the authorized official of the applicant institution is certifying that the institution has implemented a written and enforced conflict of interest policy that is consistent with the provisions of Grant Policy Manual Section 510; that to the best of his/her knowledge, all financial disclosures required by that conflict of interest policy have been made; and that all identified conflicts of interest will have been satisfactorily managed, reduced or eliminated prior to the institution's expenditure of any funds under the award, in accordance with the institution's conflict of interest policy. Conflicts which cannot be satisfactorily managed, reduced or eliminated must be disclosed to NSF.

Deletion of Additional Certification for Principal Investigators and Co-Principal Investigators: In order to conform with the HHS final rule, NSF's policy will be revised to delete the additional Certification for Principal Investigators and Co-Principal Investigators that was previously to be included in Section C–1 of Part II of the Grant Proposal Guide and on Page 2 of the NSF Form 1207, Cover Sheet for Proposal to NSF. Although submission of the additional certification to NSF is no longer required, NSF believes that most institutions' policies will have principal and co-principal investigators certify to the institution that the investigator has read and understands the institution's policy, that all required disclosures were made and that the investigator will comply with any conditions or restrictions imposed by the institution to manage, reduce or eliminate conflicts of interest.

Other Clarifications

1. *Application of Policy to Increments of Major Awards*: In addition to new NSF proposals, the Policy will apply to certain large ongoing projects such as centers and other activities that are currently being funded by NSF on an incremental basis through cooperative agreements or other agreements for which new proposals may not be submitted for several years. NSF will require that institutions and investigators involved in such projects, at the time of their first funding increment which occurs after October 1, 1995, provide the certifications required by the Policy for all cooperative agreements and for all continuing grant increments exceeding $1,000,000. Such awardees will be advised in advance in writing by the Grants Officer that they will be required to have a policy in place and submit the required certifications as a condition of future funding increments.

2. In addition to the technical changes and clarifications announced above, NSF has made a small number of word changes to resolve minor inconsistencies between its policy and the final HHS rule. These changes are not intended to alter the meaning of any provision of NSF's final policy. The changes are as follows:

a. In subparagraph b.1 of GPM 510, the word ''applicant'' will be added before the word ''institution.'' The exclusion from the definition of ''significant financial interest'' will now read ''salary, royalties or other remuneration from the applicant institution.''

b. In subparagraph c of GPM 510, the word ''pendency'' will be replaced with the word ''period''. An institutional policy must require financial disclosures to be updated during the period the award is in effect.

c. In subparagraph d of GPM 510, immediately before the list of examples of conditions or restrictions to manage, reduce or limit conflicts of interest, the words ''but are not limited to'' will be added after ''include.''

d. In the second sentence of subparagraph d of GPM 510, the phrase ''research or educational activities funded or proposed for funding by NSF'' will be replaced with the phrase ''NSF-funded research or educational activities.''

e. Subparagraph g of GPM 510 will be revised to require institutions to maintain records ''for at least three years beyond the termination or completion of the grant to which they relate, or until the resolution of any NSF action involving those records, whichever is longer.''

f. The words ''actual or potential'' will be deleted in all places where they are used to modify ''conflict of interest.''

3. *Paperwork and Recordkeeping Burden*: In cooperation with HHS, NSF has revised its estimate of the paperwork burden associated with the Policy in order to make its estimate consistent with HHS' and to conform to certain changes in the law since NSF issued the final Policy. NSF and HHS have used the same methodology in estimating respective paperwork burdens for their rules.

NSF's revised estimates are as follows:

REPORTING AND RECORDKEEPING

	Number of respondents	Hours per response	Total
Files*	2,300	4	9,200
Reports of conflict to NSF**	50	80	4,000
Subsequent reports of conflict of interest	7	2	14

*Consistent with HHS methodology, NSF is now using the number of files expected to be necessary as a basis for estimating the Policy's recordkeeping burden. NSF estimates that the Policy will apply to approximately 10,000 awards annually and that 23% of all investigators will have disclosures which will require the creation of a file. NSF estimates that 77% of investigators will not have disclosures requiring the creation of a file. NSF estimates that it will require four hours for the establishment and maintenance of a file.

**HHS has estimated that it will receive 200 reports of conflicts of interest. NSF believes that it will receive significantly fewer reports of conflicts because NSF makes fewer awards annually than HHS and because, on average, activities funded by NSF are less likely to affect the financial interests of investigators.

DISCLOSURE BY INVESTIGATORS

Number of respondents	Hours per response	Total
38,000	1.0	38,000

INSTITUTIONAL DISCLOSURE OF POLICY TO INVESTIGATORS***

Number of Institutions	Hours per response	Total
2,000	20	40,000

***NSF did not initially include an estimate for this aspect of the paperwork burden. However, in light of revisions to the Paperwork Reduction Act, effective October 1, 1995, which will require this element to be estimated, NSF is including such an estimate. NSF's estimate is consistent with that of HHS.

Total hours for reporting, recordkeeping and disclosure: 91,214.

In accordance with the requirements of the Paperwork Reduction Act of 1980, the National Science Foundation has submitted the information collection requirements cited above to OMB for review and approval. Organizations and individuals desiring to submit comments on the information collection requirements and the estimated burden should direct such comments to the information address cited above and to: NSF Desk Officer, Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Accordingly, NSF's Investigator Financial Disclosure Policy now reads as follows:

The Investigator Financial Disclosure Policy

NSF's Investigator Financial Disclosure Policy has the following primary features:

A. A requirement that any NSF grantee employing more than fifty persons maintain ''an appropriate written and enforced policy on conflict of interest.''

B. Minimum requirements for what must be in an institution's policy. These include (a) limited and targeted financial disclosure, (b) designation of a person(s) to review the disclosures and resolve actual or potential problems revealed, (c) enforcement mechanisms, and (d) arrangements for informing NSF of conflicts issues that are not resolved to the satisfaction of the institution.

Changes made to NSF issuances to establish and communicate the Policy are described below. Copies of the NSF Grant General Conditions and the NSF Grant Proposal Guide referenced in the Policy may be obtained from the National Science Foundation, Forms and Publications Unit, 4201 Wilson Blvd., Rm. P–15, Arlington, Virginia 22230, (703) 306–1130, Internet: pubs@nsf.gov. Copies of the NSF Grant Policy Manual may be obtained from the Government Printing Office.

What Would be Required in Institutional Policies

Grant General Conditions

Insert a new subparagraph b. to Article 23:

Records of investigator financial disclosures and of actions taken to manage conflicts of interest (see Grant Policy Manual Section 510), shall be retained until 3 years after the later of the termination or completion of the award to which they relate, or the resolution of any government action involving those records.

Renumber subsequent subparagraphs accordingly.

Insert a new Article 33:

For proposals submitted on or after October 1, 1995, if the grantee employs more than fifty persons, the grantee shall maintain an appropriate written and enforced policy on conflict of interest consistent with the provisions of *Grant Policy Manual* Section 510.

Renumber subsequent articles accordingly.

Grant Policy Manual

Add a new GPM 510 ''Conflict of Interest Policies'':

a. NSF requires each grantee institution employing more than fifty persons to maintain an appropriate written and enforced policy on conflict of interest. Guidance for such policies has been issued by university associations and scientific societies.[1]

b. An institutional conflict of interest policy should require that each investigator disclose to a responsible representative of the institution all significant financial interests of the investigator (including those of the investigator's spouse and dependent children) (i) that would reasonably appear to be affected by the research or educational activities funded or proposed for funding by NSF; or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.

The term *investigator* means the principal investigator, co-principal investigators, and any other person at the institution who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by NSF.

The term *significant financial interest* means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include:

1. Salary, royalties or other remuneration from the applicant institution;

2. Any ownership interests in the institution, if the institution is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;

3. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;

4. Income from service on advisory committees or review panels for public or nonprofit entities;

5. An equity interest that, when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests: does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or

6. Salary, royalties or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed $10,000 during the next twelve month period.

c. An institutional policy must ensure that investigators have provided all required financial disclosures at the time the proposal is submitted to NSF. It must also require that those financial disclosures are updated during the period of the award, either on an annual basis, or as new reportable significant financial interests are obtained.

d. An institutional policy must designate one or more persons to review financial disclosures, determine whether a conflict of interest exists, and determine what conditions or restrictions, if any, should be imposed by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the reviewer(s) reasonably determine that a significant financial interest could directly and significantly affect the design, conduct, or reporting of NSF-funded research or educational activities.

Examples of conditions or restrictions that might be imposed to manage, reduce or eliminate conflicts of interest include, but are not limited to:

1. Public disclosure of significant financial interests;

2. Monitoring of research by independent reviewers;

3. Modification of the research plan;

4. Disqualification from participation in the portion of the NSF-funded research that would be affected by the significant financial interests;

5. Divestiture of significant financial interests; or

6. Severance of relationships that create conflicts.

If the reviewer(s) determines that imposing conditions or restrictions would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare, then the reviewer(s) may allow the research to go forward without imposing such conditions or restrictions.

e. The institutional policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.

f. The institutional policy must include arrangements for keeping NSF's Office of General Counsel appropriately

[1] See On Preventing Conflicts of Interests in Government-Sponsored Research at Universities, a Joint Statement of the Council of the American Association of University Professors and the American Council on Education (1964); Managing Externally Funded Programs at Colleges and Universities, especially ''Principle X. Research Ethics and Conflicts'', issued by the Council on Government Relations (1989); Guidelines for Dealing with Faculty Conflicts of commitment and Conflicts of Interest in Research, issued by the Association of American Medical Colleges (1990); and Framework Document for Managing Financial Conflicts of Interest, issued by the Association of American Universities (1993).

informed if the institution finds that it is unable to satisfactorily manage a conflict of interest.

g. Institutions must maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or completion of the grant to which they relate, or until the resolution of any NSF action involving those records, whichever is longer.

What Would Be Required in Proposals

Grant Proposal Guide

Section II.C.1, INSTRUCTIONS FOR PROPOSAL PREPARATION, at the end of the *Certification for Authorized Institutional Representative or Individual Applicant,* will be revised to add:

A new certification will be added that requires an institutional representative to certify that the institution has implemented a written and enforced policy on conflicts of interest consistent with the provisions of *Grant Policy Manual* Section 510; that to the best of his/her knowledge, all financial disclosures required by that conflict of interest policy have been made; and that all identified conflicts of interests will have been satisfactorily managed, reduced or eliminated prior to the institution's expenditure of any funds under the award, in accordance with the institution's conflict of interest policy. Conflicts which cannot be satisfactorily managed, reduced or eliminated must be disclosed to NSF.

Page 2 of the NSF Form 1207, *Cover Sheet for Proposal to the NSF,* will be revised to add the following to the end of the section on Certification for Authorized Institutional Representative or Individual Applicant:

In addition, if the applicant institution employs more than fifty persons, the authorized official of the applicant institution is certifying that the institution has implemented a written and enforced conflict of interest policy that is consistent with the provisions of *Grant Policy Manual* Section 510; that to the best of his/her knowledge, all financial disclosures required by that conflict of interest policy have been made; and that all identified conflicts of interest will have been satisfactorily managed, reduced or eliminated prior to the institution's expenditure of any funds under the award, in accordance with the institution's conflict of interest policy. Conflicts which cannot be satisfactorily managed, reduced or eliminated must be disclosed to NSF.

Dated: May 17, 1995.

Lawrence Rudolph,

General Counsel.

[FR Doc. 95–16800 Filed 7–10–95; 8:45 am]

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federal register

Tuesday
July 11, 1995

Part IV

The President

Presidential Determination No. 95–31 of July 2, 1995

Federal Register
Vol. 60, No. 132
Tuesday, July 11, 1995

Presidential Documents

Title 3—

The President

Presidential Determination No. 95–31 of July 2, 1995

Suspending Restrictions on U.S. Relations With the Palestine Liberation Organization

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Middle East Peace Facilitation Act of 1994, part E of title V, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236, (''the Act''), I hereby:

(1) certify that it is in the national interest to suspend the application of the following provisions of law until August 15, 1995:

(A) Section 307 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

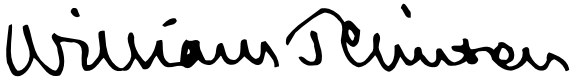
(B) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(C) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2502); and

(D) Section 37, Bretton Woods Agreement Act (22 U.S.C. 286w), as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund.

(2) certify that the Palestine Liberation Organization continues to abide by the commitments described in section 583(b)(4) of the Act.

You are authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 2, 1995.

[FR Doc. 95–17157
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Billing code 4710–10–M]

Reader Aids

Federal Register

Vol. 60, No. 132

Tuesday, July 11, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	**202–523–5227**
Public inspection announcement line	**523–5215**
Corrections to published documents	**523–5237**
Document drafting information	**523–3187**
Machine readable documents	**523–4534**

Code of Federal Regulations

Index, finding aids & general information	**523–5227**
Printing schedules	**523–3419**

Laws

Public Laws Update Service (numbers, dates, etc.)	**523–6641**
Additional information	**523–5230**

Presidential Documents

Executive orders and proclamations	**523–5230**
Public Papers of the Presidents	**523–5230**
Weekly Compilation of Presidential Documents	**523–5230**

The United States Government Manual

General information	**523–5230**

Other Services

Data base and machine readable specifications	**523–4534**
Guide to Record Retention Requirements	**523–3187**
Legal staff	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (PLUS)	**523–6641**
TDD for the hearing impaired	**523–5229**

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FEDERAL REGISTER PAGES AND DATES, JULY

34453–34842 3
34843–35112 5
35113–35320 6
35321–35460 7
35461–35690 10
35691–35828 11

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
June 29, 1995 35113

Presidential Determinations:
No. 95–27 of June 23, 1995 35461
No. 95–28 of June 23, 1995 35463
No. 95–29 of June 28, 1995 35465
No. 95–31 of July 2, 1995 35827

4 CFR

28 35115
29 35115

5 CFR

213 35119
316 35119
532 35467
575 35601
581 35468

Proposed Rules:

550 35342

7 CFR

956 34843
958 34453
1955 34454
2812 34456

Proposed Rules:

1 34474
47 34474
319 .....34832, 35712

9 CFR

Proposed Rules:

82 35343
145 35343
147 35343

10 CFR

515 35321

11 CFR

100 35292
106 35292
109 35292
114 35292

12 CFR

22 35286
30 35674
208 .....35286, 35674
225 35120
263 35674
303 35674
308 35674
339 35286
360 35487
364 35674
563 35286
570 35674
614 35286
760 35286

Proposed Rules:

20 34907
21 34476
28 34907
30 35688
34 35353
208 .....34481, 35688
211 34481
225 34481
309 35148
364 35688
570 35688

14 CFR

39 .....34844, 35322, 35323, 35324, 35326, 35328, 35452
71 .....34845, 35330, 35331, 35332, 35333

Proposed Rules:

234 35158

16 CFR

Proposed Rules:

436 34485
1500 34922
1507 34922

17 CFR

30 34458
231 35663

Proposed Rules:

210 35656
228 .....35604, 35633, 35656
229 .....35604, 35633
230 .....35604, 35638, 35642, 35645, 35648
232 35648
239 .....35604, 35656
240 .....35604, 35633, 35642
249 .....35604, 35633, 35642, 35656
260 35642

18 CFR

Proposed Rules:

284 35522

19 CFR

141 to 199 35122

21 CFR

102 34459
510 35122
522 .....35122, 35123
558 34460
1309 35264

1313 35264
1316 35264
Proposed Rules:
314 34486
872 35713

23 CFR

645 34846

24 CFR

200 35691
791 35123
882 34660
887 34660
905 35691
941 35691
968 35691
982 34660
983 34660

25 CFR

Proposed Rules:
Ch. I 34488

28 CFR

0 35334

29 CFR

1960 34851
Proposed Rules:
2628 35308

30 CFR

18 35692
19 35692
20 35692
22 35692
27 35692
28 35692
35 35692
36 35692
50 35692
56 35692
57 35692
70 35692
71 35692
74 35692
77 35692
90 35692
913 ..... 35696, 35697
Proposed Rules:
944 35158
948 34934

31 CFR

321 35126

32 CFR

290 35699

33 CFR

100 35699
162 35701
165 35702

34 CFR

Ch. XI 35798
200 34800
201 34800
203 34800
205 34800
212 34800
263 35111
1100 35798

36 CFR

701 34852

37 CFR

Proposed Rules:
201 35522
202 35522

39 CFR

111 34854

40 CFR

9 ..... 34582, 35452
52 ..... 34856, 34859, 34867
60 35452
70 35335
80 35488
81 ..... 34461, 34859
90 34582
180 ..... 34868, 34869, 34871, 34874, 34876
185 34876
186 34876
260 35452
262 35452
264 ..... 35452, 35703
265 ..... 35452, 35703
270 35452
271 ..... 35452, 35703
281 34879
302 35492
436 35796
704 34462
707 34462
712 ..... 34462, 34879
716 ..... 34462, 34879
720 34462
721 34462
723 34462
761 34462
763 34462
766 34462
790 34462
795 34462
796 34462
799 34462
Proposed Rules:
52 ..... 34488, 34938, 35361, 35531, 35535
63 34938
70 ..... 34488, 34493, 35538
80 34940
140 34940
180 ..... 34943, 34945, 35365
264 35718
265 35718
300 35160
430 34938
439 35367

41 CFR

101–47 35706

42 CFR

50 35810
414 35492
417 34885
433 35498
Proposed Rules:
52b 35266
405 35544

44 CFR

65 ..... 34888, 34889, 35276
67 34891
Proposed Rules:
67 34947
Proposed Rules:
1160 35162

45 CFR

94 35810

47 CFR

0 ..... 34901, 35503
1 34902
2 35507
63 35507
73 ..... 35338, 35339, 35340, 35512
80 35507
90 35507
Proposed Rules:
2 35166
15 35166
25 35166
32 35548
36 35548
64 35368
73 ..... 34959, 35369, 35372, 35548
87 35166
90 35719

48 CFR

1 ..... 34732, 34733, 34735
2 ..... 34732, 34735, 34741
3 ..... 34732, 34741
4 ..... 34732, 34735, 34741
5 ..... 34732, 34735, 34741
6 ..... 34732, 34741
7 ..... 34732, 34735
8 ..... 34732, 34735, 34741
9 ..... 34732, 34735, 34741
12 ..... 34732, 34735
13 ..... 34732, 34741
14 ..... 34732, 34735
15 ..... 34732, 34735, 34741
16 ..... 34732, 34735, 34741
19 ..... 34732, 34735, 34741
20 ..... 34732, 34735, 34741
22 ..... 34732, 34741
23 ..... 34732, 34741
25 ..... 34732, 34735, 34741
27 ..... 34732, 34741
28 ..... 34732, 34735, 34741
29 34741
32 ..... 34732, 34735, 34741
33 34732
36 ..... 34732, 34735, 34741
41 ..... 34732, 34741
42 ..... 34732, 34741
43 ..... 34732, 34741
44 ..... 34732, 34741
45 ..... 34732, 34735, 34741
46 ..... 34732, 34741
47 ..... 34732, 34741
49 ..... 34732, 34741
52 ..... 34732, 34735, 34741
53 ..... 34732, 34735, 34741
204 34467
215 34467
217 34467
219 35668
225 ..... 34470, 34471
243 34467
252 ..... 34471, 35668
Proposed Rules:
32 35454
52 35454
206 34497
207 34497
225 34497
1552 35719
5446 35720
5452 35720

49 CFR

571 35126
573 35458
576 35458
577 35458
Proposed Rules:
195 35549
225 34498
571 ..... 35169, 35373
573 35459
575 34961
576 35459
577 35459

50 CFR

301 34472
630 35340
644 35340
645 35340
650 35513
651 35513
653 35340
663 34472
669 35340
672 ..... 35146, 35711
675 34904
677 34904
678 35340
Proposed Rules:
17 35374
635 34965