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

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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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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AG56

Prevailing Rate Systems; Change of Lead Agency Responsibility for Birmingham, Alabama, Wage Area for Pay-Setting Purposes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to transfer lead agency responsibility for the Birmingham, Alabama, Federal Wage System (FWS) wage area from the Department of Veterans Affairs (VA) to the Department of Defense (DOD) for pay-setting purposes. This change would recognize the fact that DOD is now the major employer of FWS employees in the Birmingham, Alabama, FWS wage area and has the capability to assume the responsibility as lead agency for the next full-scale survey in January 1996.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Angela Graham Humes, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On February 1, 1995, OPM published a proposed rule (60 FR 6041) to transfer lead agency responsibility for the Birmingham, Alabama, FWS wage area from the Department of Veterans Affairs to the Department of Defense. The proposed rule provided a 30-day period for public comment. The only comment OPM received supported the proposed rule. Therefore, the proposed rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix A to Subpart B [Amended]

2. Appendix A to subpart B is amended for Birmingham, Alabama, by revising the lead agency listing from ''VA'' to ''DoD.''

[FR Doc. 95–17275 Filed 7–13–95; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AG52

Prevailing Rate Systems; Change of Lead Agency Responsibility for New York, New York, Wage Area for Pay-Setting Purposes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to transfer lead agency responsibility for the New York, New York, Federal Wage System (FWS) wage area from the Department of Defense (DOD) to the Department of Veterans Affairs (VA) for pay-setting purposes. FWS employment at Picatinny Arsenal, as well as employment within the entire wage area, has declined drastically since 1978. Further, the Picatinny Arsenal is slated for realignment in 1997 under the recommendations of the Defense Base Closure and Realignment Commission. The VA Medical Center is now the largest single employer of FWS employees in the wage area, has the resources to carry out local wage surveys in the area, and is willing to assume responsibility as lead agency for the next full-scale wage survey in January 1996.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Angela Graham Humes, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On February 1, 1995, OPM published a proposed rule (60 FR 6041) to transfer lead agency responsibility for the New York, New York, FWS wage area from the Department of Defense to the Department of Veterans Affairs. The proposed rule provided a 30-day period for public comment. The only comment OPM received supported the proposed rule. Therefore, the proposed rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix A to Subpart B [Amended]

2. Appendix A to subpart B is amended for New York, New York, by revising the lead agency listing from ''DoD'' to ''VA.''

[FR Doc. 95–17276 Filed 7–13–95; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 532

RIN 3206–AG74

Prevailing Rate Systems; Abolishment of Clinton, NY, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to abolish the Clinton, NY, nonappropriated fund (NAF) Federal Wage System wage area and add Clinton County, NY, as an area of application to the Oneida, NY, NAF wage area for paysetting purposes.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On March 30, 1995, the Office of Personnel Management (OPM) published an interim rule to abolish the Clinton, NY, nonappropriated fund (NAF) Federal Wage System wage area and add Clinton County, NY, as an area of application to the Oneida, NY, NAF wage area for pay-setting purposes. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on March 30, 1995 (60 FR 16363), is adopted as final without any changes.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–17277 Filed 7–13–95; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 921

[Docket No. FV94–921–1FR]

Termination of Marketing Order 921; Fresh Peaches Grown in Designated Counties in Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This document terminates the Federal marketing order for peaches grown in designated counties in Washington and the rules and regulations issued thereunder. The Secretary of Agriculture has determined that the marketing order no longer tends to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937 (Act). Results of a producer referendum, held to determine the level of support for the marketing order, indicate that continuance is favored by only 14 percent of the producers voting, representing 1.5 percent of the volume voted. The vote demonstrates a lack of producer support necessary to accomplish the objectives of the Act.

EFFECTIVE DATE: August 14, 1995.

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 720–1755, or Robert Curry, Northwest Marketing Field Office, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204, telephone (503) 326–2724.

SUPPLEMENTARY INFORMATION: This rule is governed by the provisions of section 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

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

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

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

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

There are approximately 65 Washington peach handlers who were subject to regulation under the marketing order and approximately 260 producers within the production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of the Washington peach handlers and producers may be classified as small entities.

Prior to its suspension on March 31, 1993, Marketing Order No. 921 had been in effect since 1960. The marketing order provided for the establishment of grade, size, quality, maturity, pack, container and inspection requirements. In addition, the order authorized marketing research and development projects.

The Washington Fresh Peach Marketing Committee (committee) met on May 12, 1992, and by an 11 to 1 vote recommended that the marketing order be suspended at the end of the 1992–93 fiscal period. The recommendation was made to eliminate the continued expense of administering the order. Since that time, handling requirements similar to those under the Federal order

have been promulgated through the Washington State Department of Agriculture (State) for intrastate shipments of fresh peaches. Thus, the committee determined that continued funding through the Federal order was an unnecessary expense.

On January 5, 1993, the Department issued an order published in the **Federal Register** [58 FR 220, January 5, 1993] suspending all of the provisions of Marketing Order No. 921 effective March 31, 1993. The action also directed that a referendum be conducted during the period November 13 through December 10, 1993, to determine if affected producers favored continuation of the order. The referendum order provided that the Secretary would consider terminating the order if less than two-thirds of the number of producers voting, and producers of less than two-thirds of the volume of peaches represented in the referendum, favored continuance.

Of the 260 ballots mailed to producers of record, 21 valid votes were cast, representing approximately 8 percent of producers. The results of the referendum indicate that only 14 percent of the growers who voted, representing 1.5 percent of the volume voted, favored continuance of the order. Thus, the vote failed to meet the approval criteria by both number and volume.

Given the level of producer participation, as well as the demonstrated lack of producer support for the order, these results are a reliable indicator of industry sentiment, and clearly demonstrate that a significant portion of the producers do not favor continuation of the order.

Therefore, based on the foregoing considerations, pursuant to section 608c(16)(A) of the Act and section 9231.64 of the order, it is found that Marketing Order No. 921, covering peaches grown in designated counties in Washington, does not tend to effectuate the declared policy of the Act and is hereby terminated.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on March 1, 1994.

List of Subjects in 7 CFR Part 921

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

PART 921—[REMOVED]

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, 7 CFR Part 921 is removed.

Dated: July 10, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–17281 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 998

[Docket No. FV95–998–2IFR]

Amendment of Requirements Established Under Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts for 1995 and Subsequent Crop Years

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends for the 1995 peanut crop and subsequent crop years several provisions of the incoming, outgoing, and indemnification regulations established under Marketing Agreement No. 146. The changes are intended to recognize industry operating practices and reduce the burden on handlers without compromising the agreement's objective. The objective of the agreement is to ensure that only wholesome peanuts enter edible market channels. This rule was unanimously recommended by the Peanut Administrative Committee (Committee), the administrative agency for this wholesomeness assurance program.

DATES: Effective July 14, 1995. Comments received by August 14, 1995 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administrative Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, D.C. 20090–6456; FAX: (202) 720–5698. Comments should reference the docket number, the date, and page number of this issue of the **Federal Register**. Comments received will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (941) 299–4770, or FAX: (941) 299–5169; or Jim Wendland, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 720–2170, or FAX: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (7 CFR part 998) regulating the quality of domestically produced peanuts, hereinafter referred to as the agreement. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

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

There are about 75 handlers of peanuts subject to regulation under the agreement, and about 47,000 peanut producers in the 16 States covered under the program. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. Some of the handlers signatory to the agreement are small entities, and a majority of the producers may be classified as small entities.

In 1994, the reported U.S. production, mostly covered under the agreement, was approximately 4.25 billion pounds of peanuts, a 25 percent increase from the short 1993 crop. The preliminary 1994 peanut crop value is $1.23 billion, up 19 percent from the 1993 crop value.

The objective of the agreement, in place since 1965, is to ensure that only wholesome peanuts enter edible market

channels. About 70 percent of U.S. shellers (handlers), handling approximately 95 percent of the crop, have voluntarily signed the agreement. Under the agreement, farmers' stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) are required to be diverted to non-edible uses. Each lot of milled peanuts must be sampled and the samples chemically analyzed for aflatoxin contamination. Signatory handlers who comply with these requirements may be eligible for indemnification of losses for individual lots of their peanuts which test positive to aflatoxin. Indemnification and administrative costs are paid by assessments levied on handlers signatory to the agreement.

The Committee, which is composed of producers and handlers of peanuts, meets to review the rules and regulations effective on a continuous basis for peanuts regulated under the agreement. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

The Committee met on March 22 and 23, 1995, and unanimously recommended several changes to incoming, outgoing, and indemnification regulations for 1995 and subsequent crop peanuts.

The Committee recommended amending *§ 998.100 Incoming quality regulation* by revising paragraph (c) to provide that commercially acquired lots be designated as Segregation 2 peanuts (rather than Segregation 1) by the Federal or Federal-State Inspection Service (Inspection Service) when exceeding .50 percent freeze damage and/or 14.49 percent loose shelled kernels (LSK's) when the Inspection Service is notified that a contract between the producer and the handler specifies these more restrictive tolerances.

Currently, § 998.100 (b) defines Segregation 1 peanuts as farmers' stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*. Section 998.100 (c) defines Segregation 2 peanuts as farmers' stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

The recommendation is not being adopted by the Department. The current standards are rules of general applicability which apply to all peanuts without regard to any contractual agreements between individuals. Buyers and sellers are free to agree to a variety of contractual terms. However, such agreements should not have the effect of determining whether peanuts are Segregation 1 or 2 as those terms are defined in the regulations.

Currently, § 998.100 (i) *Shelled peanuts* reads ''Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts (which originated from ''Segregation 1 peanuts'') that fail to meet the requirements specified for human consumption in paragraph (a) of the Outgoing Quality Regulation (§ 998.200). Any lot of such peanuts must be accompanied by a valid inspection certificate for the grade factors and must be positive lot identified . . . Peanuts acquired pursuant to this paragraph shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler, and further disposition shall be regulated by paragraph (h)(1) of the Outgoing Quality Regulation (§ 998.200)''.

This rule revises paragraph (i) of § 998.100 to allow movement of shelled peanuts, which originated from Segregation 1 peanuts, without inspection and positive lot identification (PLI), from one handler to another and does not require the receiving handler to hold and mill such peanuts separate from other receipts and acquisitions. The high degree of control currently in place for such transactions is no longer needed because the peanut industry has changed from small locally owned plants to large corporations. The Committee believes that relaxing the requirements will enable handlers to reduce processing and storage costs and increase movement of peanuts without jeopardizing the objective of the agreement.

Section 998.200 Outgoing quality regulation is being amended by revising paragraphs (f) and (h)(1) to allow handlers to transfer peanuts to any handler or to domestic commercial storage without PLI and certification of meeting quality requirements when it leaves the first facility. Currently, § 998.200 (f) *Inter-plant transfer* reads ''Any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts''. Currently, § 998.200 (h) *Peanuts failing quality requirements* reads ''(1) Handlers may sell to or contract with other handlers, for further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section. Lots of peanuts disposed of in this manner must be accompanied by a valid grade inspection certificate, and must be positive lot identified. Transactions made in this manner shall be reported to the Committee by both the seller and the buyer on a form provided by the Committee. Any such peanuts acquired by handlers pursuant to paragraph (i) of the Incoming Quality Regulation (§ 998.100) shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler and further disposition shall be regulated by the requirements specified heretofore or pursuant to paragraph (h)(3) hereinafter''.

This high degree of control is no longer needed. As stated earlier, the peanut industry has changed dramatically from many small locally owned and operated plants to large or multinational corporations with operations located throughout the different production areas in the United States. Relaxing the regulation will allow freer movement of peanuts, more efficient use of facilities, and reduced numbers of inspections, resulting in lower costs and a more competitive industry, without compromising the program's objective.

Under paragraph (h) of § 998.200, peanuts failing quality requirements for disposition to human consumption outlets can be sent to blanchers for reconditioning, to domestic crushers, or exported (when peanuts meet fragmented requirements). In § 998.200 paragraph (h)(2) reads ''Handlers may blanch or cause to have blanched positive lot identified shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin: *Provided*, That such lots of peanuts contain not in excess of 8 percent damage and minor defects combined or

2 percent foreign material. Prior to movement of such peanuts to a blancher, handlers shall report to the Committee, on a form furnished by the Committee, and receive authorization from the Committee for movement and blanching of each such lot. Lots of peanuts which are moved under these provisions must be accompanied by a valid grade inspection certificate and the title shall be retained by the handler until the peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this section and be accompanied by an aflatoxin certificate determined to be negative by the Committee * * *''

Paragraph (h)(4) of § 998.200 reads ''Handlers may contract with Committee approved remillers for remilling shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of the Outgoing Quality Regulation: *Provided,* That such lot of peanuts contain not in excess of 8 percent damage and minor defects combined or 10 percent fall through or 2 percent foreign material. Prior to movement of such peanuts under these provisions to a Committee approved remiller, handlers shall report to the Committee, on a form furnished by the Committee, and receive authorization from the Committee for movement and remilling of each such lot. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and must be positive lot identified and the title of such peanuts shall be retained by the handler until the peanuts have been remilled and certified by the Federal or Federal-State Inspection Service as meeting the requirements for disposition to human consumption outlets specified in paragraph (a), and be accompanied by an aflatoxin certificate determined to be negative by the Committee. Remilling under these provisions may include composite remilling of more than one such lot of peanuts owned by the same handler. However, such peanuts owned by one handler shall be held and remilled separate and apart from all other peanuts* * *''

Paragraph (h)(2) of § 998.200 is being relaxed to allow individual handlers to move failing peanuts containing not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent foreign material to Committee approved blanchers, rather than reworking (blanching) at their own facilities. Also, paragraph (h)(4) of § 998.200 is being similarly relaxed to allow individual handlers to move failing peanuts to Committee approved remillers for remilling shelled peanuts containing not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent fall through or 10 percent foreign material.

However, before such peanuts go to human consumption outlets, the peanuts have to be certified as meeting human consumption outlet requirements (must meet minimum requirements specified in ''OTHER EDIBLE QUALITY'' (NON-INDEMNIFIABLE) GRADES—WHOLE KERNELS AND SPLITS table of § 998.200 (a) and must also be certified ''negative'' (not more than 15 parts per billion) as to aflatoxin).

The rule recognizes the current generally more efficient, higher technology processing capabilities of blanchers' and remillers' facilities and practices compared with the typical handler's facility and is intended to provide handlers more reconditioning flexibility. This rule will tend to reduce limitations on handlers by allowing them to use blanchers' and remillers' generally more efficient grading and milling facilities to rework such peanuts, improve handlers' competitive position, especially with regards to imported peanuts, by better utilizing peanut supplies and existing facilities and increase peanut movement to higher value markets.

This action also revises paragraph (j) of § 998.200 to exempt certain peanuts, including those of a lower quality than Segregation 1 for domestic crushing, from being assessed to lower the handlers' costs for these lower value peanuts, as authorized by *§§ 998.48 Assessments* and *998.31 Incoming regulation* of the agreement.

The Committee also recommended that this exemption apply to Segregation 1 peanuts for crushing. However, the recommendation was not adopted by the Department because the agreement provides no authority for such an exemption and it would require an amendment to the agreement through formal rulemaking procedures to add such authority. Segregation 1 peanuts are sometimes commingled with Segregation 2 or 3 peanuts. In such cases, the Segregation 1 peanuts take on the identity of the lower quality Segregation 2 or 3 peanuts, because it dilutes the quality of higher quality Segregation 1 peanuts. In those cases, the quantity of former Segregation 1 peanuts which were commingled will be exempt from program assessments.

Further, this action amends *§ 998.300 Terms and conditions of indemnification* by establishing reduced indemnification values specified in paragraphs (h), (i), and (x); and revising paragraph (z) by specifying a reduced ceiling and/or number of claims to ''trigger'' payments. The indemnification value of rejects and entire lots is reduced to 35 cents per pound from the current 45 cents. This action will reduce the problem encountered by the Committee and the Department on 1993 crop indemnification claims when the indemnification payment ceiling and number of claims was significantly exceeded and the Department was asked for and approved the authority for the Committee to spend up to $500,000 from the indemnification reserve fund to pay the excess claims. This action is expected to reduce by $2 million the cost to the Committee for indemnification payments, and reduce the possibility of handlers making indemnification, rather than the edible market, the primary market for peanuts when regular market prices are low. When the market is weak some handlers may send their peanuts directly to indemnification rather than incur the cost of reworking the peanuts to improve the quality of the lots enough to sell them in the edible market.

The unchanged portions of the incoming, outgoing, and indemnification regulations currently in effect for 1994 crop peanuts are left in effect, as is, for 1995 and subsequent crop years.

In accordance with the Paperwork Reduction Act of 1988 (44 U.S.C. Chapter 35), information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0067.

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

Written comments, timely received, in response to this action, will be considered before finalization of this rule.

After consideration of all relevant matter presented, the information and recommendations submitted by the Committee, and other information, it is found that the changes set forth below will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes requirements currently in effect for peanut handlers, who voluntarily signed the agreement; (2) this action should be in effect as soon as possible, because the 1995 crop year begins July 1, 1995, and handlers need to know the regulations applicable to the handling of the 1995 crop; and (3) this action provides a 30-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 998 is amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 998.100 is amended by revising the section heading and paragraph (i) to read as follows:

§ 998.100 Incoming quality regulation for 1995 and subsequent crop peanuts.

* * * * *

(i) *Shelled peanuts.* Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts which originated from ''Segregation 1 peanuts.'' Transactions made in this manner shall be reported to the Committee by both the buyer and the seller on a form provided by the Committee. Further disposition of any such peanuts acquired pursuant to this paragraph shall be regulated by paragraph (h)(1) of § 998.200 Outgoing quality regulation.

* * * * *

3. Section 998.200 is amended by revising paragraphs (f), (h)(1), the first sentence in paragraph (h)(2), the first sentence in paragraph (h)(4), and adding a new paragraph (j)(3) to read as follows:

§ 998.200 Outgoing quality regulation for 1995 and subsequent crop peanuts.

* * * * *

(f) *Transfer between plants.*

Except as otherwise provided in § 998.32 of the agreement, handlers may transfer peanuts to any handler or to domestic commercial storage without having such peanuts positive lot identified and certified as meeting quality requirements. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

* * * * *

(h) *Peanuts failing quality requirements.* (1) Handlers may sell to or contract with other handlers, for further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section. Transactions made in this manner shall be reported to the Committee by both buyer and seller on a form provided by the Committee. Further disposition of any such peanuts acquired by handlers pursuant to paragraph (i) of § 998.100. Incoming quality regulation shall be regulated by the requirements specified heretofore or pursuant to paragraph (h)(3) hereinafter.

(2) Handlers may blanch or cause to have blanched shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin: *Provided*, That such lots of peanuts contain not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent foreign material. * * *

* * * * *

(4) Handlers may contract with Committee approved remillers for remilling shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of § 998.200 Outgoing quality regulation: *Provided*, That such lots of peanuts contain not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent fall through or 10 percent foreign material. * * *

* * * * *

(j) *Segregation 2 and 3 farmers' stock disposition.*

* * * * *

(3) Peanuts handled pursuant to the provisions of paragraphs (j) (1) and (2) of this section are exempt from § 998.48 Assessments.

* * * * *

4. Section 998.300, is amended by revising the per pound indemnification value ''45 cents'' to read ''35 cents'' everywhere it appears in paragraphs (h), (j), and (x); and the number ''$9,000,000'' to read ''$7,000,000'', ''800'' to read ''461'', ''1300'' to read ''616'', ''2500'' to read ''853'', and ''6,000'' to read ''3,412'' everywhere they appear in paragraph (z) and adding a new paragraph (z)(6) to read as follows:

§ 998.300 Terms and conditions of indemnification for 1995 and subsequent crop peanuts.

* * * * *

(z) * * *

(6) Notwithstanding the limits on numbers of claims filed with the Committee by December 31 of the current crop year as specified in paragraphs (z) (2), (3), and (4) of this section; at the time of the Annual Program Meeting of the Committee and at any subsequent Committee meeting or meetings, the Committee shall evaluate claims and projections of claims' expenses occurring during the current crop year. If such projections indicate that the prescribed limit ($7,000,000 on 1995 crop) will not be exceeded, the Committee shall authorize immediate payment of claims as prescribed in paragraph (z) (2) or (3) of this paragraph.

Dated: July 11, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–17383 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–02–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Late Premium Payments and Employer Liability Underpayments and Overpayments; Interest Rate for Determining Variable Rate Premium; Amendments to Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document notifies the public of the interest rate applicable to late premium payments and employer liability underpayments and overpayments for the calendar quarter beginning July 1, 1995. This interest rate is established quarterly by the Internal Revenue Service. This document also sets forth the interest rates for valuing unfunded vested benefits for premium purposes for plan years beginning in May 1995 through July 1995. These

interest rates are established pursuant to section 4006 of the Employee Retirement Income Security Act of 1974, as amended. The effect of these amendments is to advise plan sponsors and pension practitioners of these new interest rates.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; telephone 202–326–4024 (202–326–4179 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: As part of title IV of the Employee Retirement Income Security Act of 1974, as amended, the Pension Benefit Guaranty Corporation collects premiums from ongoing plans to support the single-employer and multiemployer insurance programs. Under the single-employer program, the PBGC also collects employer liability from those persons described in ERISA section 4062(a). Under ERISA section 4007 and 29 CFR § 2610.7, the interest rate to be charged on unpaid premiums is the rate established under section 6601 of the Internal Revenue Code (''Code''). Similarly, under 29 CFR 2622.7, the interest rate to be credited or charged with respect to overpayments or underpayments of employer liability is the section 6601 rate. These interest rates are published by the PBGC in appendix A to the premium regulation and appendix A to the employer liability regulation.

The Internal Revenue Service has announced that for the quarter beginning July 1, 1995, the interest charged on the underpayment of taxes will be at a rate of 9 percent. Accordingly, the PBGC is amending appendix A to 29 CFR part 2610 and appendix A to 29 CFR part 2622 to set forth this rate for the July 1, 1995, through September 30, 1995, quarter.

Under ERISA section 4006(a)(3)(E)(iii)(II), in determining a single-employer plan's unfunded vested benefits for premium computation purposes, plans must use an interest rate equal to 80% of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid. Under § 2610.23(b)(1) of the premium regulation, this value is determined by reference to 30-year Treasury constant maturities as reported in Federal Reserve Statistical Releases G.13 and H.15. The PBGC publishes these rates in appendix B to the regulation.

The PBGC publishes these monthly interest rates in appendix B on a quarterly basis to coincide with the publication of the late payment interest rate set forth in appendix A. (The PBGC publishes the appendix A rates every quarter, regardless of whether the rate has changed.) Unlike the appendix A rate, which is determined prospectively, the appendix B rate is not know until a short time after the first of the month for which it applies. Accordingly, the PBGC is hereby amending appendix B to part 2610 to add the vested benefits valuation rates for plan years beginning in May of 1995 through July of 1995.

The appendices to 29 CFR parts 2610 and 2622 do not prescribe the interest rates under these regulations. Under both regulations, the appendix A rates are the rates determined under section 6601(a) of the Code. The interest rates in appendix B to part 2610 are prescribed by ERISA section 4006(a)(3)(E)(iii)(II) and § 2610.23(b)(1) of the regulation. These appendices merely collect and republish the interest rates in a convenient place. Thus, the interest rates in the appendices are informational only. Accordingly, the PBGC finds that notice of and public comment on these amendments would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making these amendments effective immediately.

The PBGC has determined that none of these actions is a ''significant regulatory action'' under the criteria set forth in Executive Order 12866, because they will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for these amendments, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

In consideration of the foregoing, part 2610 and part 2622 of chapter XXVI of title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307.

2. Appendix A to part 2610 is amended by adding a new entry for the quarter beginning July 1, 1995, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2610—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From—	Through—	Interest rate (percent)
* *	* *	*
July 1, 1995	September 30, 1995.	9.00

3. Appendix B to part 2610 is amended by adding to the table of interest rates new entries for premium payment years beginning in May of 1995 through July of 1995, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2610—Interest Rates for Valuing Vesting Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate [1]
* * * *	*
May 1995	5.89

For premium payment years beginning in—	Required interest rate [1]
June 1995	5.56
July 1995	5.26

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15 for the calendar month preceding the calendar month in which the premium payment year begins.

PART 2622—EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS

4. The authority citation for part 2622 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1362–1364, 1367–68.

5. Appendix A to part 2622 is amended by adding a new entry for the quarter beginning July 1, 1995, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2622—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From—	Through—	Interest rate (percent)
* *	* *	*
July 1, 1995	September 30, 1995.	9.00

Issued in Washington, DC, this 10th day of July 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–17287 Filed 7–13–95; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in August 1995, and to multiemployer plans with valuation dates in August 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: August 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the August 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the ''single-employer regulation'') and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the ''multiemployer regulation'').

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and ''benefit liabilities,'' *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intend to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during August 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during August 1995.

For annuity benefits, the interest rates will be 6.20% for the first 20 years following the valuation date and 5.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.75% for the period during which benefits are in pay status and 4.00% during the period preceding the benefit's placement in pay status. The above annuity interest assumptions represent a decrease (from those in effect for July 1995) of .10 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions are unchanged (from those in effect for July 1995).

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the **Federal Register** by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during August 1995, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during August

1995, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, Rate Set 22 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used to Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $O<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n^2+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
22	8–1–95	9–1–95	4.75	4.00	4.00	4.00	7	8

Annuity valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the value of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	*
August 1995	.0620	1–20	.0575	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 22 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used to Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_1 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_2 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
22	8–1–95	9–1–95	4.75	4.00	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_1, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	*
August 1995	.0620	1–20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 10th day of July 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–17288 Filed 7–13–95; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. This amendment adds to the appendix of that regulation a new interest rate to be effective from July 1, 1995, to September 30, 1995. The effect of the amendment is to advise the public of the new rate.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; telephone 202–326–4024 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended, the Pension Benefit Guaranty Corporation promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to be credited by plans on overpayments of withdrawal liability. The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H. 15 (''Selected Interest Rates'').

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As

a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to part 2644. This amendment adds to this appendix the interest rate of 9.00 percent, which will be effective from July 1, 1995, through September 30, 1995. This rate represents no change from the rate in effect for the second quarter of 1995. This rate is based on the prime rate in effect on June 15, 1995.

The appendix to 29 CFR part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2644 of subchapter F of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for part 2644 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(6).

2. Appendix A to part 2644 is amended by adding to the end of the table a new entry to read as follows:

Appendix A to Part 2644—Table of Interest Rates

* * * * *

From	To	Date of quotation	Rate (percent)
*	*	*	*
7/01/95	9/30/95	6/15/95	9.00

Issued in Washington, DC, on this 10th days of July 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–17289 Filed 7–13–95; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions and additional requirements, a proposed amendment to the North Dakota regulatory program (hereinafter referred to as the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). North Dakota proposed revisions pertaining to its policy document entitled ''Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.'' The amendment is intended to revise this document to be consistent with the Federal regulations and to improve operational efficiency.

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Guy Pagett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.12, 934.13, 934.15, 934.16, and 934.30.

II. Proposed Amendment

By letter dated February 17, 1994, North Dakota, submitted a proposed amendment to its program (Amendment No. XX, administrative record No. ND–U–01) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted proposed revisions to its policy document entitled ''Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments'' (hereinafter, the ''revegetation document'') in response to required program amendments at 30 CFR 934.16(b) through (i), (w), and (x), and at its own initiative.

OSM announced receipt of the proposed amendment in the March 14, 1994, **Federal Register** (49 FR 11744), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND–U–05). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 13, 1994.

During its review of the amendment, OSM identified concerns relating to certain provisions of North Dakota's revegetation document. OSM notified North Dakota of the concerns by letter dated September 9, 1994 (administrative record No. ND–U–10). On September 14, 1994, North Dakota and OSM, during a telephone conference, discussed certain provisions of OSM's September 9, 1994, issue letter (administrative record No. ND–U–13). North Dakota responded in a letter dated December 21, 1994 (administrative record No. ND–U–14), by submitting a revised amendment and additional explanatory information that addressed the concerns identified by OSM.

Based upon the revisions to and additional explanatory information for the proposed program amendment submitted by North Dakota, OSM reopened the public comment period in the January 19, 1995, **Federal Register** (60 FR 3790; administrative record No. ND–U–15). The public comment period ended on February 3, 1995.

Subsequently, North Dakota requested a meeting with OSM to discuss it's

December 21, 1994, revisions that were made in response to OSM's September 9, 1994, issue letter. OSM and North Dakota met on April 11, 1995 (administrative record No. ND–U–16). Thereafter, by letter dated May 11, 1995 (administrative record No. ND–U–17), North Dakota submitted, at its own initiative, additional revisions and explanatory information to its revegetation success document.

Based upon the revisions to and additional explanatory information for the proposed program amendment submitted by North Dakota, OSM reopened the public comment period in the May 23, 1995, **Federal Register** (60 FR 27246; administrative record No. ND–U–23). The public comment period ended on June 7, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with certain exceptions and additional requirements, that the proposed program amendment submitted by North Dakota on February 17, 1994, and as revised by it and supplemented with additional explanatory information on December 21, 1994, is no less effective than the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

1. General Substantive Revisions to North Dakota's Revegetation Document

North Dakota proposed revisions to its revegetation document that are general in nature in that the revisions are made throughout the document and/or apply to most if not all success standards and sampling techniques for all land uses. These revisions include (1) reference of technical documents used and other agencies consulted during development of the revegetation document, (2) limiting a permittee's use of revegetation success standards and sampling techniques to those approved in the revegetation document unless North Dakota and OSM approval is first obtained on a case-by-case basis, (3) use of U.S. Natural Resource Conservation Service (NRCS, formerly the Soil Conservation Service) soil mapping units and productivity indices whenever possible, rather than soil series, to develop technical productivity standards, (4) use of North Dakota agricultural annual county cropland yields to develop a correction factor for climatic variability, (5) use of a county-wide correction factor in conjunction with the NRCS yield information to adjust for climatic yield conditions on land reclaimed for use as cropland or prime farmland, (6) submission of aerial photos of areas used to develop standards, (7) submission of maps which identify either the locations of sampling transects or the sampling areas and number of randomly located sample units per area, (8) submission of cover data in tabular form showing composition by species, using absolute cover values with relative cover submitted to aid in data interpretation, (9) submission of production data by growth form, and (10) clarification that actual *sample means* must be used in formulas that determine sample size when measuring success of revegetation for bond release.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for success of revegetation and statistically valid sampling techniques for measuring success of revegetation shall be selected by the regulatory authority and included in an approved regulatory program.

Because the proposed revisions identified above clarify and generally improve North Dakota's revegetation document, the Director finds that these proposed revisions are no less effective than the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1). The Director approves the proposed revisions.

2. Substantive Revisions to North Dakota's Revegetation Document Proposed in Response to Required Amendments

a. *Chapter II, Section F, countable trees and shrubs.* At 30 CFR 934.16(b), OSM required that North Dakota revise its revegetation document or otherwise amend its program to require that at least 80 percent of the trees and shrubs counted to determine revegetation success have been in place for at least 60 percent of the 10-year period of revegetation responsibility (Finding No. 26.a, 57 FR 807, 821, January 9, 1992).

North Dakota proposed to revise Chapter II, Section F, concerning reclaimed lands developed for use as woodland, to require for fourth-stage bond release that the permittee demonstrate that 80 percent of the total number of trees and shrubs planted have been in place for 60 percent of the liability period. In addition, North Dakota recommended the use of permanent quadrats in each woodland community to document the time in place requirement and required that the permittee provide documentation to verify that not more than 20 percent of the number of trees and shrubs present at year 4 have been replanted.

The Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require, for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, that at the time of bond release, at least 80 percent of the trees and shrubs used to determine success shall have been in place for 60 percent of the applicable minimum period of responsibility.

The Director finds that North Dakota's revisions of Chapter II, Section F, concerning time in place revegetation success standards for trees and shrubs on land reclaimed for use as woodland, are no less effective than the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). The Director approves these proposed revisions and removes the required amendment at 30 CFR 934.16(b).

b. *Chapter II, Sections F and H, ground cover.* At 30 CFR 934.16(c), OSM required that North Dakota revise its revegetation document to require that evaluations of ground cover success be valid at the 90 percent confidence level (Finding No. 3, 54 FR 10141, 10142, March 10, 1989).

North Dakota proposed to revise Chapter II, Section F, concerning reclaimed lands developed for use as woodland, to require that ground cover must be equal to or greater than 90 percent of the approved standard with 90 percent statistical confidence. North Dakota also proposed to revise Chapter II, Section H, concerning reclaimed lands developed for use as fish and wildlife habitat/grassland, to require that ground cover must be equal to or greater than that of the approved reference area or standard with 90 percent statistical confidence.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that the sampling techniques for measuring success of revegetation shall use a 90 percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

The Director finds that North Dakota's revisions of Chapter II, Sections F and H, concerning the requirement to demonstrate success of ground cover with 90 percent statistical confidence, are no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2). The Director approves these proposed revisions and removes the required amendment at 30 CFR 934.16(c).

c. *Chapter II, Sections F and G, woody plant stocking.* At 30 CFR 934.16(d), OSM required that North Dakota revise its revegetation document or otherwise amend its program to require that evaluations of the success of woody plant stocking be valid at the 90 percent confidence level (Finding No. 4, 54 FR 10141, 10142, March 10, 1989).

North Dakota proposed to revise Chapter II, Section F, concerning reclaimed lands developed for use as woodland, to require that the number of woody plants must be equal to or greater than the stocking of live woody plants of the same life form of the approved standard with 90 percent statistical confidence. North Dakota proposed to revise Chapter II, Section G, concerning reclaimed lands developed for use as shelterbelts, to require that density and vigor must be equal to or greater than that of the approved standard. North Dakota did not revise this section to require that density be demonstrated with 90 percent statistical confidence. However, Chapter III, Section D, of North Dakota's revegetation document requires that density of woody vegetation be measured either by direct count of all vegetation or by the density quadrat sampling method. North Dakota proposed to revise Chapter III, Section D, to require that, when using the quadrat sampling method, enough samples must be taken to demonstrate that the number of woody plants established equals or exceeds the approved standard with 90 percent statistical confidence. The methods provided in Chapter III apply to all demonstrations of woody plant density, regardless of land use. Therefore, the revegetation document requires, for land reclaimed for use as shelterbelts, verification of woody plant density by direct count or by sampling with 90 percent statistical confidence.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that the sampling techniques for measuring success of revegetation shall use a 90 percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

The Director finds that North Dakota's revisions of Chapter II, Section F and Chapter III, Section D, concerning the requirement to demonstrate success of woody plant density with 90 percent statistical confidence, are no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 816.116(a)(2). The Director approves these proposed revisions and removes the required amendment at 30 CFR 934.16(d).

d. *Chapter II, Sections F and H, Revegetation success measurement period.* At 30 CFR 934.16(e), OSM required that North Dakota revise its revegetation document or otherwise amend its program to require that revegetation success standards for woodlands and fish and wildlife habitats be met for at least the last two consecutive years of the revegetation responsibility period (Finding No. 26.b, 57 FR 807, 822, January 9, 1992).

North Dakota proposed to revise Chapter II, Sections F and H, concerning reclaimed lands developed for use as, respectively, (1) woodland and (2) fish and wildlife habitat using annual crops, to require that revegetation success must be measured during the last two years, rather than the final year, of the responsibility period.

The Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require that trees and shrubs counted in determining success of revegetation shall have been in place for not less than two growing seasons.

The Director finds that North Dakota's revisions of Chapter II, Sections F and H, concerning the requirement to measure revegetation success during the last two years of the responsibility period, are no less effective than the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). The Director approves these proposed revisions and removes the required amendment at 30 CFR 934.16(e).

e. *Chapter II, Sections F and G, revegetation success standards for shelterbelts.* At 30 CFR 934.16(f), OSM required that North Dakota revise its revegetation document or otherwise amend its program to include tree and shrub stocking and vegetative ground cover success standards for all types of shelterbelts and clarify that trees and shrubs must meet time-in-place requirements no less than those established in 30 CFR 816.116(b)(3)(ii) (Finding No. 26.a, 57 FR 807, 821, January 9, 1992). As discussed below, the Director finds that North Dakota's proposed revisions to Chapter II, Sections F and G, concerning revegetation success standards for shelterbelts, are no less effective than the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3), and removes the required amendment at 30 CFR 934.16(f).

i. *Chapter II, Sections F and G, requirements for determining revegetation success on lands developed for use as shelterbelts.* North Dakota proposed to revise Chapter II, Section F, concerning reclaimed lands developed for use as woodland, to delete all discussion of shelterbelts so that Section F is applicable only to woodland. Requirements for determination of revegetation success on lands developed for use as shelterbelts are included in Chapter II, Section G.

North Dakota proposed to revise Chapter II, Section G to define shelterbelts as a strip or belt of trees or shrubs planted by man in or adjacent to a field or next to a farmstead, feedlot, or road, and synonymous with windbreak. North Dakota proposed to add the requirement that the stocking of trees and shrubs normally follow current standards and specifications developed by the NRCS for farmstead and field windbreaks in North Dakota, but also provided for allowance of stocking standards specified by the State Game and Fish Department or the State Forest Service.

North Dakota also proposed to revise Section G to specify that, prior to final bond release, the permittee must demonstrate in the last two years of the liability period that density and vigor are equal to or greater than that of the approved standard, erosion is adequately controlled, and that at least 80 percent of the trees and shrubs have been in place for at least 60 percent of the liability period. In addition, North Dakota requires an evaluation of the diversity, seasonality, and regenerative capacity of the shelterbelt based on the species stocked and planting arrangements. Regarding the time in place standard, North Dakota proposed to require that the permittee provide a worksheet of each shelterbelt which lists annual replantings of each species and that documentation may be made by tagging or marking with paint, by photographic records, or by preservation of sales receipts from nurseries.

The Federal regulations at 30 CFR 816.116(b)(3) (i) through (iii) and 817.116(b)(3) (i) through (iii) require, in part, that success of revegetation of shelterbelts be determined on the basis of tree and shrub stocking and vegetative ground cover and include the requirements that (1) permit specific or programwide minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs, (2) trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons, (3) at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility, and (4) vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

The Director finds that North Dakota's revisions of Chapter II, Sections F and G, concerning the requirements to determine revegetation success on reclaimed lands developed for use as shelterbelts, are no less effective than the Federal regulations at 30 CFR 816.116(b)(3) (i) through (iii) and 817.116(b)(3) (i) through (iii). The

Director approves these proposed revisions.

ii. *Chapter II, Section G, replacement and nonreplacement shelterbelts.* North Dakota proposed to revise Chapter II, Section G to (1) clarify that the standards in Section G apply to all shelterbelts that are specified in the reclamation plan as a postmining land use or as otherwise required as part of the approved permit, and (2) delete from Section G the discussion of ''replacement'' and ''nonreplacement'' shelterbelts and their associated success standards. North Dakota explained in the cover letter to its May 11, 1995, revisions, that the intent of the provision for shelterbelts otherwise required as part of the approved permit was to give North Dakota the flexibility to require, by permit condition, that certain shelterbelts not proposed as part of the postmining land use may be required to meet the standards in Section G.

As discussed Finding No. e.i above, North Dakota has revised Chapter II, Sections F and G to require revegetation success standards for shelterbelts that are no less effective than the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3).

The allowance for North Dakota to require, as a condition of permit approval, shelterbelts that meet the requirements proposed in Chapter II, Section G, has no counterpart in the Federal regulations. North Dakota's proposal to require shelterbelts (with the requisite performance standards for demonstrating success of revegetation) as a condition of permit approval is not inconsistent with the Federal regulations at 30 CFR 773.15(c) and 773.17, concerning permit approval and permit conditions.

Because North Dakota has proposed to require the same success standards for all areas designated with the postmining land use of shelterbelts, the Director finds that these proposed revisions in Chapter II, Section G are no less effective than the requirements for shelterbelts in the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3), and approves the proposed revisions.

f. *Chapter II, Section H, revegetation success standards for fish and wildlife habitat.* At 30 CFR 934.16(g), OSM required that North Dakota revise its revegetation document or otherwise amend its program to require that vegetative ground cover on lands reclaimed to fish and wildlife habitat equal at least 90 percent of the success standard (Finding No. 7.a, 54 FR 10141, 10142, March 10, 1989).

North Dakota proposed to revise Chapter II, Section H, concerning reclaimed lands developed for use as fish and wildlife habitat according to vegetation type, to require that (1) for woodland and shelterbelts, the permittee address the requirements specified in, respectively, Sections F and G (Section F requires that ground cover on the reclaimed area equal or exceed 90 percent of the approved standard; Section G requires that density and vigor equal or exceed the approved standard and erosion be adequately controlled); (2) for grassland, the ground cover must be equal to or greater than the approved standard; and (3) for wetland, vegetation zones and dominant species must be equal to those of the approved standard. North Dakota already required in Section H, for annual crops, a demonstration that the height of the standing grain crop or residual cover is equal to or greater than the approved standard.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that the standards for success for ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standard.

The Director finds that North Dakota's revisions of Chapter II, Section H, concerning the requirement that success standards for fish and wildlife habitat equal or exceed at least 90 percent of the approved standards for each vegetation type, are no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2). The Director approves the proposed revisions and removes the required amendment at 30 CFR 934.16(g).

g. *Chapter II, Sections F and H, consultation and approval by State forestry and wildlife agencies.* At 30 CFR 934.16(h), OSM required that North Dakota submit documentation that it has obtained the concurrence of the appropriate State forestry and wildlife agencies with the revegetation success standards for lands reclaimed to fish and wildlife habitat, recreation, shelterbelt, or woodland uses, or shall submit revisions to its revegetation document and North Dakota Administrative Code 69–05.2–22–07 or otherwise amend its program to require such concurrence on a permit specific basis (Finding No. 8, 54 FR 10141, 10143, March 10, 1989).

North Dakota submitted letters of concurrence from the North Dakota Forest Service and the North Dakota Game and Fish Department, dated, respectively, April 21, and May 19, 1989. In these letters, the State agencies concurred with the standards for woodland and fish and wildlife habitat in Chapter II, Sections F and H, of North Dakota's revegetation document. In its response to OSM's September 9, 1994, issue letter, North Dakota explained that these 1989 concurrence letters are still applicable because, although the original revegetation document included shelterbelts as part of the woodland section, the stocking and planting arrangements and success standards for woodland and fish and wildlife habitat have not been revised since the letters were obtained. North Dakota refers the permittee to standards approved by the NRCS for shelterbelts (see Finding No. 2.e.i above for a discussion of the requirements for shelterbelts).

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) require, for areas to be developed for fish and wildlife habitat, recreation, shelterbelts, or forest products, that minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs.

Based on the 1989 letters of concurrence from the North Dakota Forest Service and the North Dakota Game and Fish Department, the Director finds that North Dakota's revegetation document is no less effective than the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i), and removes the required amendment at 30 CFR 934.16(h).

h. *Appendix A, augmentation practices.* At 30 CFR 934.16(i), OSM required that North Dakota revise the definition of augmentation practices in its revegetation document to be consistent with 30 CFR 816.116(c)(4) (Finding No. 9, 54 FR 10141, 10143, March 10, 1989).

In Appendix A, North Dakota proposed to delete the existing definition of ''augmentation practices'' (which meant those practices used to reestablish or replace vegetation or make temporary improvements to obtain bond release) and replace it with a definition of ''augmentation practices'' meaning those practices which exceed the commonly used management practices on similar unmined lands in the surrounding area. North Dakota also revised Appendix A to state that the use of an augmentation practice on reclaimed lands will reinitiate the liability period and to provide examples of augmentation practices including (1) fertilization or irrigation on cropland, hayland, and pastureland, that is not used as specified in the management plan or that is used in excessive

amounts (based on soil tests and historic use), (2) fertilization or irrigation used to boost production on native grassland, or on grasslands in fish and wildlife habitat, (3) reseeding native grasslands, pasturelands, or grasslands in fish and wildlife habitat to reintroduce the desired species, (4) extensive replanting, plugging, or addition of soil containing propagules on wetlands, (5) extensive replanting in woodlands or shelterbelts, (6) any significant surface modifications which redisturb the topsoil, and (7) any change in land use that requires a seed mix modification to support the intended land use.

The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) provide for the approval of selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, that would not extend the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area.

The Director finds that North Dakota's proposed definition of augmentation practices is consistent with the Federal regulations concerning normal husbandry practices at 30 CFR 816.116(c)(4) and 817.116(c)(4). The Director approves the proposed revisions and removes the required amendment at 30 CFR 934.16(i).

i. *Chapter II, Section C, NRCS consultation regarding methods for measuring productivity on prime farmlands and approval for yield determination methods on prime farmlands.* At 30 CFR 934.16 (w) and (x), OSM required that North Dakota revise its revegetation document to submit evidence of, respectively, (1) NRCS (formerly the Soil Conservation Service) consultation regarding the approved methodologies for measuring productivity on prime farmlands and (2) NRCS concurrence regarding the approved methods for determining yield standards for prime farmlands (Finding Nos. 28.a and b, 57 FR 807, 823, January 9, 1992).

North Dakota submitted with its revised amendment a December 15, 1994, letter from the NRCS in which the NRCS stated that it had reviewed and concurred with standards and sampling procedures for proving reclamation success on prime farmlands that are outlined in North Dakota's revegetation document. The NRCS identified its Soil Tech Note 2, dated 1987, as the most current reference guideline concerning productivity indexes and agreed that the sampling designs are adequate. The NRCS also stated that the use of small grains to prove production is applicable in the area because corn or other deep rooting crops are not generally grown in west and west central North Dakota.

The Federal regulation at 30 CFR 823.15(b)(2) requires, in part, that prime farmland soil productivity shall be measured using statistically valid sampling techniques that are approved by the regulatory authority in consultation with the NRCS. The Federal regulation at 30 CFR 823.15(b)(6) requires that the reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland and that where row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as one of the reference crops. The Federal regulation at 30 CFR 823.15(b)(7) requires the NRCS concurrence regarding the approved methods for determining yield standards for prime farmlands.

Based on the December 15, 1994, NRCS letter to North Dakota, the Director finds that North Dakota's revegetation document revisions are no less effective than the Federal regulations at (1) 30 CFR 823.15(b), concerning consultation and concurrence with the NRCS for prime farmlands, and (2) 30 CFR 823.15(b)(6), concerning the use of small grains (spring wheat) rather than corn or other deep rooting crops to prove production. The Director removes the required amendments at 30 CFR 934.16 (w) and (x).

3. Substantive Revisions to North Dakota's Revegetation Document Proposed as State Initiatives

a. *Chapter II, Section C, demonstration of productivity prior to bond release on prime farmland.* North Dakota proposed to revise Chapter II, Section C, to require for third-stage (equivalent to the Federal program's phase II) bond release on prime farmland, that productivity must be equal to or greater than that of the approved reference area or standard with 90 percent statistical confidence. This is identical to the requirement for third-stage bond release on prime farmland in North Dakota's rule at North Dakota Administrative Code (NDAC) 69–05.2–22–07(3)(c). The revegetation document at Chapter 11, Section C and North Dakota's rule at NDAC 69–05.2–22–07(4)(d) require for final or fourth-stage (equivalent to the Federal program's phase III) bond release on prime farmland that productivity equal to or greater than the standard must be demonstrated in each of the last 3 consecutive growing seasons of the responsibility period. In addition, North Dakota's rule at NDAC 69–05.2–26–05(3)(c) requires that the measurement period for determining crop production is that specified in NDAC 69–05.2–22–07(4)(d) for fourth-stage bond release on prime farmland described above).

The Federal regulations at 30 CFR 800.40(c)(2) require that no part of a phase II bond shall be released until soil productivity for prime farmland has returned to the equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 507(b)(16) of the Act and 30 CFR Part 823. The Federal regulations at 30 CFR 823.15(b)(3) require that the measurement period for determining average annual crop production (yield) shall be a minimum of 3 crop years prior to release of the operator's performance bond. The Federal regulations at 30 CFR 823.15(b)(5) require that restoration of soil productivity shall be considered achieved when the average yield during the measurement period equals or exceeds the average yield of the reference crop established for the same period for nonmined soils of the same or similar texture or slope phase of the soil series in the surrounding area under equivalent management practices. Therefore, the Federal regulations at 30 CFR 800.40, concerning phase II bond release on prime farmland, and 30 CFR 823.15(b), concerning the measurement for success of productivity on prime farmland prior to bond release, clearly require a successful demonstration of productivity using 3 years of data prior to phase II bond release (equivalent to North Dakota's third-stage bond release).

North Dakota's existing rule at NDAC 69–05.2–22–07(3)(c) and proposed revision in Chapter II, Section C in its revegetation document require that a permittee demonstrate productivity on prime farmland at third-stage bond release. However, North Dakota's existing rules at NDAC 69–05.2–22–07(4)(d) and 69–05.2–26–05(3)(c) and Chapter II, Section C in its revegetation document require that the 3-year measurement period for making a demonstration of productivity occur prior to fourth-stage bond release. The

Director finds that North Dakota's rules at NDAC 69–05.2–26–05(3)(c) and 69–05.2–22–07(3)(c), and its revegetation document at Chapter II, Section C, concerning the requirement for third-stage bond release on prime farmland, to the extent that they do not require the permittee to demonstrate the success of productivity on prime farmland with 3 years of data, are less effective than the Federal regulations at 30 CFR 800.40 and 823.15. The Director approves the revision proposed in Chapter II, Section C of the revegetation document that requires prime farmland productivity to be equal to or greater than that of the approved reference area or standard with 90 percent statistical confidence prior to third-stage bond release. However, the Director also requires that North Dakota further revise Chapter II, Section C in the revegetation document and its rules at NDAC 69–05.2–26–05(3)(c) and 69–05.2–22–07(3)(c) to require that the permittee demonstrate restoration of productivity on prime farmland using 3 crop years at third-stage bond release. OSM recommends that North Dakota then revise NDAC 69–05.2–22–07(4)(d) to delete the fourth-stage bond release requirement on prime farmland for successful productivity during the last 3 consecutive growing seasons.

b. *Chapter II, Section E, demonstration of diversity, seasonality, and permanence prior to fourth-stage bond release on tame pastureland.* North Dakota proposed to revise Chapter II, Section E, to remove existing discussions concerning the evaluation of reclaimed vegetation for diversity, seasonality, and permanence on areas developed for use as tame pastureland. However, North Dakota also proposed to revise Chapter II, Section E to require that (1) all species used in determining ground cover must be perennial species not detrimental to the land use and (2) all species included in the approved seed mixture must be present at the time of final bond release.

The Federal regulations at 30 CFR 816.111(a)(1) and 817.111(a)(1) require the permittee to establish on regraded areas and on all other disturbed areas (except water areas and surface areas of roads that are approved as part of the postmining land use) a vegetative cover that is in accordance with the approved permit and reclamation plan and that is diverse, effective, and permanent. Additionally, the Federal regulations at 30 CFR 816.111(b)(2) and 817.111(b)(2) require that the reestablished plant species have the same seasonal characteristics of growth as the original vegetation. Finally, the Federal regulations at 30 CFR 816.116(a) and 817.116(a) require that the success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of Section 816.111.

Because North Dakota proposed that only perennial species can be used in determining the success of ground cover, North Dakota has proposed in its revegetation document, in effect, to require an evaluation of permanence. North Dakota also proposed that all species included in the approved seed mixture must be present at the time of final bond release. Because the approved seed mix is designed to attain the diversity and seasonality required to support the approved postmining land use, North Dakota has proposed in its revegetation document, in effect, to require an evaluation of diversity and seasonality on land reclaimed for use as tame pastureland. Therefore, although North Dakota proposed deletion of existing discussions concerning diversity, seasonality, and permanence on tame pastureland, it also proposed to include requirements for evaluation of diversity, seasonality, and permanence that are consistent with the Federal regulations at 30 CFR 816.111(a)(1) and (b)(2), 817.111(a)(1) and (b)(2), 816.116(a), and 817.116(a).

Therefore, the Director finds that North Dakota's proposed revisions in Chapter II, Section E of the revegetation document, concerning the evaluation of diversity, seasonality, and permanence on land reclaimed for use as tame pastureland, are no less effective than the Federal regulations at 30 CFR 816.111 (a)(1) and (b)(2), 817.111 (a)(1) and (b)(2), 816.116(a), and 817.116(a), and approves the proposed revisions.

c. *Chapter II, Section E, development of a productivity standard on tame pastureland using 50 percent of the yield of a suitability group or soil series most similar to an unrated soil series.* North Dakota proposed to revise Chapter II, Section E to allow estimated yield values to be used for those soil groups that are not suited for pasture or hayland. North Dakota proposed that these yield values be derived using 50 percent of the yield of the suitability group or soil series most similar to them. Fifty percent of the yield was selected, based on NRCS recommendations, since these soils are rated non-suitable due to machinery limitations and erosion rather than productivity potential.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that revegetation success standards include criteria representative of unmined lands to evaluate the appropriate vegetation parameters of ground cover, production, or stocking.

In response to OSM's September 9, 1994, issue letter, North Dakota submitted a December 15, 1994, NRCS letter in which the NRCS stated that it has recommended estimating productivity values for soil groups not suited for pasture or hayland by using 50 percent of the yield of the suitability group or soil series most similar to the unrated one. The NRCS further stated that most of these areas are steep, shallow to bedrock, or strongly saline and that there are minimal acreage of these areas in the coal mining region. Finally, the NRCS stated that although it has not compiled data to support using the 50 percent productivity level, it believes that using 50 percent of the productivity level of similar nonrated soils adequately describes production on these sites.

Based on the December 15, 1994, NRCS letter to North Dakota, the Director finds that North Dakota's proposed method for estimating yields on unrated soils reclaimed for use as tame pastureland is no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) and approves the proposed revision.

d. *Chapter II, Section H, classification of wetland vegetation on reclaimed lands developed for use as fish and wildlife habitat.* North Dakota proposed to revise Chapter II, Section H, concerning wetlands on land reclaimed for use as fish and wildlife habitat, to delete the State wetland classification system of temporary, seasonal, semi-permanent, and permanent, and to add the classification system for premining assessments described by Stewart and Kantrud (Classes I through VI). In addition, North Dakota proposed to add the requirement that the total acreage of postmine wetland, including Class I and II's, prior to final bond release for the mine must equal the total premine acreage. North Dakota did not propose to revise any of the standards applicable to evaluating the success of reclaimed wetland vegetation.

The Federal regulations at 30 CFR 816.111, 816.116, 817.111, and 817.116, concerning requirements for success of revegetation, including requirements for revegetation success on land reclaimed for use as fish and wildlife habitat, do not include requirements specific to wetland vegetation. North Dakota's proposed revisions concerning wetland classification and replacement go beyond the requirements of, and are not inconsistent with, the Federal

regulations at 30 CFR 816.111, 816.116, 817.111, and 817.116.

Therefore, the Director finds that North Dakota's proposed revisions in Chapter II, Section H of the revegetation document, concerning wetlands on land reclaimed for use as fish and wildlife habitat, are no less effective than the Federal regulations at 30 CFR 816.111, 816.116, 817.111, and 817.116, and approves the proposed revisions.

e. *Chapter II, Section I, requirements for revegetation success on reclaimed lands developed for use as recreation, residential, industrial, and commercial.* North Dakota proposed to revise its revegatation document by creating a new Section I in Chapter II. Proposed Section I includes the requirements for success of revegatation on lands reclaimed for use as recreation, residential, and industrial and commercial. North Dakota proposed to require on areas developed for recreation, residential, and industrial and commercial land uses, for both third and fourth-stage bond release, establishment of vegetation sufficient to control erosion and documentation showing that the areas are not contributing suspended solids to streamflow or runoff outside the permit area. North Dakota proposed (1) a technical standard for establishment of revegetation, measured with a point frame, of either 73 percent total cover based on basal hits or 83 percent total cover based on first hits, (2) the requirement that live cover included in the standard must be perennial species not detrimental to the land use, and (3) that either standard must be achieved with 90 percent statistical confidence. North Dakota's rules at NDAC 69–05.2–22–07(4)(j) require that within 2 years after completion of grading or soil replacement, the ground cover of living plants must not be less than required to control erosion on areas to be developed for recreation, water areas, residential, or industrial and commercial uses.

For areas developed for residential, or industrial and commercial land uses, the Federal regulations at 30 CFR 816.116(b)(4) and 817.116(b)(4) require that the vegetative ground cover shall not be less than that required to control erosion.

For areas developed for use as recreation, the Federal regulations at 30 CFR 816.116(b)(3) (i) through (iii) and 817.116(b)(3) (i) through (iii) require, in part, that success of revegetation be determined on the basis of tree and shrub stocking and vegetative ground cover and include the requirements that (1) permit specific or programwide minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs, (2) trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons, (3) at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility, and (4) vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

The Director finds that proposed Chapter II, Section I in North Dakota's revegetation document, with respect to areas developed for residential or industrial and commercial land uses, is no less affective than the Federal regulations at 30 CFR 816.116(b)(4) and 817.116(b)(4).

However, on areas developed for a recreation land use, neither the North Dakota rule nor its revegetation document require revegetation success standards for tree and shrub stocking and vegetative ground cover based on consultation with and approval from the State agencies responsible for the administration of forestry and wildlife programs. Therefore, with respect to areas developed for a recreation land use, the Director finds that the North Dakota rules at NDAC 69–05.2–22–07(4)(j) and Chapter II, Section I in the revegetation document are less effective than the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3). With the exception that Chapter II, Section I does not include complete requirements for measuring the success of revegetation on land reclaimed for use as recreation, the Director approves the revegetation success standards and sampling techniques proposed by North Dakota in Chapter II, Section I of its revegetation document for areas developed for recreation, residential, or industrial and commercial land uses. With respect to areas developed for a recreation land use, the Director requires that North Dakota (1) revise its rule at NDAC 69–05.2–22–07(4)(j) and Chapter II, Section I in its revegetation document to require tree and shrub stocking standards that (a) have been approved by the State agencies responsible for forestry and wildlife programs and (b) meet all other requirements for tree and shrub standards included in 30 CFR 816.116(b)(3), and (2) provide evidence of consultation with and approval from the State agencies responsible for forestry and wildlife programs for the ground cover standard, concerning a recreation land use, proposed in Chapter II, Section I.

f. *Chapter III, Section C, sample design and sample size adequacy.* North Dakota proposed to revise Chapter III, Section C, to (1) require that the determination of an adequate sample size include an initial sampling to obtain estimates of the mean and variance of each site type or reference area; (2) specify a minimum number of samples when hand sampling to determine (a) total production and cover on native grassland and tame pastureland, (b) production on cropland, or (c) total cover; and (3) require that the mean and variance derived from the initial sampling be used to calculate adequate sample size using (a) a two-stage sampling procedure, (b) a procedure using the standard error as a percentage of the mean, or (c) a procedure described for comparing two different populations (e.g., reference area and reclaimed area). Each of these procedures for determining sample size are based on either a normal or binomial distribution of the population when parametric statistics are used to evaluate the revegetation data collected from the reclaimed area.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that the sampling techniques for measuring revegetation success shall use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

North Dakota's proposed revisions of Chapter III, Section C, concerning sample design, are consistent with the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) in that North Dakota has clearly required that all sampling techniques shall use a 90 percent statistical confidence level.

North Dakota also proposed to revise Chapter III, Section C, concerning sample design to state that, in some cases, the sample size derived from a formula may appear to be unreasonably large due to non-parametric or non-normal distributions and that North Dakota will evaluate such cases and establish a maximum sample size.

The distribution of (1) vegetative cover in the arid west and (2) shrub density throughout the west often do not exhibit normal or binomial characteristics, and the use of non-parametric statistics may be appropriate for evaluation of the revegetation data collected from these reclaimed environment. Because North Dakota's proposed requirement that all sampling techniques use a 90 percent statistical confidence level applies whether

parametric or non-parametric statistics are used to evaluate the data collected, North Dakota's provision concerning non-parametric statistics is consistent with the requirements for measuring for success of revegetation with 90 percent statistical confidence in the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2).

Therefore, the Director finds that North Dakota's proposed revisions of Chapter III, Section C in its revegetation document, concerning sampling design, are no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2), and approves the proposed revisions.

g. *Chapter III, Section D, the sampling procedures allowed for demonstration of productivity of annual crops on cropland and prime farmland.* North Dakota proposed to revise Chapter III, Section D, to provide methods for the demonstration of production on areas reclaimed for production of annual crops (cropland and prime farmland). North Dakota proposed to allow the use of (1) entire field harvest; (2) combined sampling, where sampling units or strips must be distributed throughout the entire field and the number of strips needed must be determined using a sample adequacy formula that reflects 90 percent statistical confidence; (3) hand sampling, which are limited to areas where the cropland reference area standard or the NRCS cropland technical standard with a control area used for climatic correction is used, and where both the reclaimed and the reference or control areas are hand sampled in the same manner (the number of samples needed must be determined using a sample adequacy formula that reflects 90 percent statistical confidence); or (4) representative strips.

With respect to the use of representative strips, North Dakota proposed to require at least three representative strips of adequate size must be established which must reflect the variability in soil redistribution thickness, landscape forms, and reclamation age occurring in the larger reclaimed areas they represent. In addition, each strip must extend across the entire tract they represent and, to the extent possible considering the above factors, should be equally spaced across the entire tract. The total acreage of the representative strips which must be cropped each year must, at a minimum, equal ten percent of the entire reclaimed tract they represent. Separate representative strips must be established for each landowner, unless the landowner agrees that other representative strips having the same characteristics are adequate to represent his or her reclaimed land. A map showing the location of the strips must be approved by North Dakota prior to final selection. North Dakota required that the methods used to harvest the representative areas must reflect a 90 percent statistical confidence interval and recommended that the representative strips be entirely harvested to obtain a single yield value. North Dakota also submitted a NRCS letter, dated December 15, 1994, which documented NRCS consultation regarding the proposed sampling techniques. The NRCS stated that it agreed that the sampling designs were adequate, but recommended whole-field harvest to eliminate any question of accuracy.

The Federal regulations at 30 CFR 816.116(a) (1) and (2) and 817.116(a) (1) and (2) require that statistically valid sampling techniques be included in the approved program and that the sampling techniques for measuring success shall use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error). For prime farmland, the Federal regulations at 30 CFR 823.15(b)(2) require that soil productivity be measured on a representative sample or on all of the mined and reclaimed area and that a statistically valid sampling technique at a 90-percent or greater statistical confidence level shall be used as approved by the regulatory authority in consultation with the NRCS (formerly the Soil Conservation Service).

The Director finds that North Dakota's proposed methods for the demonstration of production on areas reclaimed for production of annual crops (cropland and prime farmland), including entire field harvest, combined sampling, and hand sampling, Chapter III, Section D are no less effective than the requirements of 30 CFR 816.116(a)(2) and 817.116(a)(2).

Because North Dakota (1) proposed criteria for establishment of representative strips within the reclaimed area that should ensure that the strips will be representative at a 90-percent statistical confidence level of the total reclaimed prime farmland bond release area (cropland and prime farmland), and (2) submitted evidence of consultation with the NRCS regarding the demonstration of productivity on prime farmland, the Director finds that the representative strips method for the demonstration of production on areas reclaimed for production of annual crops (cropland and prime farmland) is no less effective than the requirements of 30 CFR 816.116(a)(2), 817.116(a)(2), and 823.15(b)(2).

Based on the above discussion, the Director approves the proposed sampling procedures allowed for demonstration of productivity of annual crops on cropland and prime farmland in Chapter III, Section D of North Dakota's revegetation document.

h. *Chapter III, Section D, sample adequacy requirements for demonstration of woody plant density.* North Dakota proposed to revise Chapter III, Section D in its revegetation document to require, when using the quadrat sampling method to measure success of woody plant density, that randomly placed quadrats be used to obtain density counts and to recommend that permanent sampling plots be established within each planting. North Dakota proposed to delete the requirement that sampling of total density proceed until the coefficient of variation is less than or equal to 20 percent, and add the requirements that enough samples must be taken to (1) reflect the population mean with 90 percent statistical confidence and (2) demonstrate that the number of woody plants established equals or exceeds the approved standard with 90 percent statistical confidence.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require, in part, that the sampling techniques for measuring success of stocking shall use a 90-percent statistical confidence interval.

As discussed in Finding No. 2.c above, OSM is approving North Dakota's proposed requirement that enough samples must be taken to demonstrate that the number of woody plants established equals or exceeds the approved standard with 90 percent statistical confidence.

The Director finds that the revisions proposed in Chapter III, Section D, concerning the sampling procedure used to demonstrate the success of woody plant density, are no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) and approves the proposed revisions.

i. *Appendix A, reinforcement interseeding on native grassland as a normal conservation practice.* North Dakota proposed to revise Appendix A, concerning normal conservation practices on lands reclaimed for use as native grassland, to allow restricted reinforcement interseeding, described below, to modify species composition or reestablish certain species during establishment of the revegetated stand. North Dakota referenced the NRCS July 14, 1989, Technical Note, ND–12 Rev., entitled ''Guidelines for Grass/Legume Stand Evaluation,'' and used this guideline to develop the requirements

for an evaluation of species establishment and the need for reinforcement interseeding.

North Dakota proposed to require a record of the frequency measurement of the established plants and that the frequency of species seeded must indicate that at least 50 percent of the seeded species are becoming established. A single reinforcement interseeding may be made prior to year 4 of the bond liability period. At year 4, the permittee may evaluate the establishment of species. If the permittee can demonstrate that the revegetated stand has not become established, one more reinforcement interseeding would be allowed in the spring of year 5. North Dakota proposed to require that any interseeding after year 5 would restart the liability period.

The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) allows the regulatory authority to select normal husbandry practices if such practices are expected to continue as part of the postmining land use or if discontinance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Such practices must be normal husbandry practices within the region.

In response to OSM's September 9, 1994, issue letter, North Dakota submitted a copy of the NRCS July 14, 1989, Technical Note, ND–12 Rev. This document states that, in the case of weak or spotty stands, reinforcement seeding or spot seeding should be considered during evaluation of stand establishment. As set forth in Chapter II, Section D of North Dakota's revegetation document, the revegetation stand would have to meet the revegetation success standards for production, cover, diversity, seasonality, and performance during the last 2 consecutive years of the liability period. Therefore, the permittee would have to demonstrate prior to bond release that discontinuance of interseeding would not reduce the probability of permanent revegetation success.

Based on the NRCS document and North Dakota's proposal that only one interseeding prior to year 4 of the 10 year liability period and one conditional interseeding in year of the liability period would be allowed, the Director finds that North Dakota's proposal for reinforcement interseeding on reclaimed native grasslands is consistent with the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) and approves it.

j. *Appendix A, plantings of trees and shrubs on agricultural land as a normal conservation practice.* North Dakota proposed to revise the discussion of normal conservation practices in Appendix A to include the voluntary plantings of trees and shrubs on agricultural land at the request of the landowner or to enhance fish and wildlife habitat as a normal conservation practice.

There is no provision in the Federal program for the planting of trees and shrubs on agricultural land at the request of the landowner, as proposed by North Dakota. The Federal regulations at 30 CFR 816.97(h) and 817.97(h) and North Dakota's rule at NDAC 69–052–13–08(5)(j) require that a permittee, when the postmining land use is cropland, and where appropriate for crop-management practices, intersperse the fields with trees, hedges, or fence rows throughout the harvested area. The provision for voluntary planting of trees and shrubs on agricultural land either at the landowner's request or to enhance fish and wildlife habitat is not inconsistent with the Federal regulations at 30 CFR 816.97(h) and 817.97(h) and North Dakota's rule at NDAC 69–052–13–08(5)(j).

The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) provide for the approval of selective husbandry practices that would not extend the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. The term ''normal conservation practice'' used by North Dakota in its revegetation document means the same thing as the term ''normal husbandry practice'' used in the Federal regulations.

The use of field windbreaks, or plantings of trees and shrubs on agricultural land, is a common agricultural practice in North Dakota. As discussed above, the planting of trees and shrubs to enhance fish and wildlife habitat where appropriate for crop management on areas with a postmining land use of cropland is recognized in the Federal program as a desirable enhancement of an agricultural land use.

For these reasons, the Director finds that North Dakota's proposed allowance in Appendix A for the planting of trees and shrubs on agricultural land as a normal conservation practice is consistent with the Federal regulations at 30 CFR 816.97(h), 816.116(c)(4), 817.97(h), and 817.116(c)(4), and approves it.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the North Dakota program.

a. *NRCS.* On April 14, 1994, the U.S. NRCS responded with the following comments (administrative record No. ND–U–09).

With respect to reference areas used to demonstrate success of land reclaimed for use as native grassland, the NRCS commented that

> [l]ong term ungrazed reference areas eventually may lose integrity in representing characteristic native plant communities. Such areas eventually tend to become invaded by Kentucky Blue grass, excess litter accumulates, wood or other dominating overstory may increase, and species diversity decreases. Grazing and/or fire historically influenced the character of native prairie ecosystems.

North Dakota's rules at NDAC 69–05.2–01–02 define a ''reference area'' to mean, in part, a land unit maintained under appropriate management. North Dakota's revegetation document at Chapter II, Section D includes the requirements for measuring success of revegetation on areas reclaimed for use as native grassland. North Dakota requires that the range condition of the reference area be similar to that of the corresponding premine range site. North Dakota also recommends that, because prior to mining disturbance a rancher may have used the land more intensively than if the goal had been sustained yields for several years, management practices which will maintain or improve the condition of the reference area be used during the liability area and that management of the reference area should be equivalent to that required for the approved postmining land use of the permit area. Therefore, because North Dakota's rules and revegetation document require proper management of the reference area used to demonstrate success of revegetation on lands reclaimed for use as native grassland, the Director is not requiring that North Dakota further

revise the revegetation document in response to this comment.

With respect to production on land reclaimed for use as native grazingland, the NRCS commented that

> [NRCS] production values represent potential for given range sites and may not be representative of the actual pre-mined yields. Range condition would influence yields on both the reference area and pre-mined area.

North Dakota's revegetation document at Chapter II, Section D requires an evaluation of the range condition, for all range sites and the reference area, according to the methodology specified by the NRCS. And as discussed above, North Dakota requires proper management of the reference area for attainment of the postmining land use; in addition, the reference area must be representative of the geology, soil, slope, and vegetation in the permit area. While the permittee may elect to use either NRCS estimated yield values or actual yield values from the reference area to determine a productivity standard, North Dakota requires that the permittee demonstrate restoration of the production potential of the soils in the permit area. For these reasons, the Director is not requiring that North Dakota further revise its revegetation document in response to these comments.

With respect to NRCS pasture and hayland yields, NRCS commented that

> [c]urrently, pasture and hayland yields are under evaluation for revision. Some yields are apparently too high. Revisions will be based on available research data.

North Dakota's revegetation document at Chapter II, Section E requires the use of NRCS estimates yield figures for setting a technical productivity standard by which the success of revegetation will be measured on land reclaimed for use as pastureland. North Dakota also states in its revegetation document at Chapter II, Section B, concerning data sources, that when new data are published by the NRCS, updated tables will be forwarded to the mining companies and OSM. The permittee will therefore be using the most current NRCS estimated yields to determine any technical standards used in demonstrating the success of productivity on lands reclaimed for use as tame pastureland. Where the permittee elects to use a reference area to determine the productivity standard, the actual yield measurements will be used. For these reasons, the Director is not requiring that North Dakota further revise the revegetation document in response to this comment.

On May 22, 1995, the U.S. NRCS responded that it had no comments on the revised proposed amendment (administrative record No. ND–U–19).

b. *Other Federal agencies.* The U.S. Mine Safety and Health Administration (MSHA) responded on March 16, 1994, that the proposed amendment did not conflict MSHA regulations (administrative record No. ND–U–04).

The U.S. Fish and Wildlife Service responded on March 29, 1994, and June 1, 1995, that (1) the proposed amendment was logical and reasonable and (2) it did not anticipate any significant impacts to fish and wildlife resources as a result of the proposed amendment (administrative record Nos. ND–U–07 and ND–U–21).

The U.S. Bureau of Mines responded on April 11, 1994, that it had no comments on the proposed amendment (administrative record No. ND–U–08).

The U.S. Rural Economic and Community Development responded on May 23, 1994, that it had no comments on the proposed amendment (administrative record No. ND–U–20).

The U.S. Agricultural Research Service, Northern Great Plains Research Laboratory, responded on May 30, 1994, that it had no comments on the proposed amendment (administrative record No. ND–U–22).

The U.S. Army Corps of Engineers responded on June 5, 1995, that it found the proposed amendment to be satisfactory (administrative record No. ND–U–24).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of 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 North Dakota proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. ND–U–03. EPA responded on March 21, 1994, that it had no comments on the proposed amendment (administrative record No. ND–U–06).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. ND–U–03). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves, with certain exceptions and additional requirements, North Dakota's proposed amendment as submitted on February 17, 1994, and as revised and supplemental with additional explanatory information on December 21, 1994, and May 11, 1995.

With the requirement that North Dakota further revise its rules and/or the revegetation document, the Director approves, as discussed in Finding No. 3.a, Chapter II, Section C, the requirements to demonstrate the success of productivity prior to third-stage bond release on land reclaimed for use as prime farmland, and Finding No. 3.e, Chapter II, Section I, the requirements to demonstrate the success of revegetation on areas developed for recreation, residential, or industrial and commercial land uses.

The Director approves, as discussed in: Finding No. 1, the proposed revisions in the revegetation document not otherwise specifically discussed, Finding Nos. 2.a. through 2.i, various revisions in the revegetation document made in response to required amendments; Finding No. 3.b, Chapter II, Section E, the required evaluation of reclaimed vegetation for diversity, seasonality, and permanence on areas developed for use as tame pastureland; Finding No. 3.c, Chapter II, Section E, the use of estimated yields to develop a productivity standard for soils that are not rated for use as pastureland on land reclaimed for use as tame pastureland; Finding No. 3.d, Chapter II, Section H, wetland classification and replacement requirements; Finding No. 3.f, Chapter III, Section C, sample design and sample size adequacy; Finding No. 3.g, Chapter III, Section D, the use of entire field harvest, combined sampling, hand sampling, or representative strips as procedures for demonstrating productivity on land reclaimed for use as cropland or prime farmland; Finding No. 3.h, Appendix A, the use of restricted interseeding as a normal conservation practice on land reclaimed for use as native grassland; and Finding No. 3.i, Appendix A, the voluntary plantings of trees and shrubs on agricultural land at the request of the landowner or to enhance fish and wildlife habitat as a normal conservation practice.

The Federal regulations at 30 CFR Part 934, codifying decisions concerning the North Dakota 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.

In accordance with 30 CFR 732.17(f)(1), the Director is also taking this opportunity to clarify in the required amendment section at 30 CFR 934.16 that, within 60 days of the publication of this final rule, North Dakota must either submit a proposed written amendment, or a description of an amendment to the proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with North Dakota's established administrative or legislative procedures.

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the North Dakota program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by North Dakota of only such provisions.

VI. Procedural Determinations

1. 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).

2. Executive Order 12778

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

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

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

5. Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 6, 1995.

Richard J. Seibel,

Regional Director, Western 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 934—North Dakota

1. The authority citation for Part 934 continues to read as follows:

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

2. Section 934.15 is amended by adding paragraph (u) to read as follows:

§ 934.15 Approval of amendments to the North Dakota regulatory program.

* * * * *

(u) With the exceptions of Chapter II, Section C, to the extent that it allows the demonstration of productivity with less than 3 years of crop data prior to third-stage bond release on lands reclaimed for use as prime farmland; and Chapter II, Section I, to the extent that it does not include complete requirements for measuring the success of revegetation on land reclaimed for use as recreation; revisions to North Dakota's policy document entitled ''Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments,'' as submitted to OSM on February 17, 1994, and as revised and supplemented with explanatory information on December 21, 1994, and May 11, 1995, are approved effective July 14, 1995.

3. Section 934.16 is amended by revising the introductory paragraph, removing and reserving paragraphs (b) through (i), (w), and (x), and adding paragraphs (aa) and (bb) to read as follows:

§ 934.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), North Dakota is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with North Dakota's established administrative or legislative procedures.

* * * * *

(aa) By September 12, 1995, North Dakota shall revise Chapter II, Section C in its revegatation document and its rules at NDAC 69–05.2–22–07(3)(c) and 69–05.2–26–05(3)(c) to require that, prior to third-stage bond release on land reclaimed for use as prime farmland, the permittee demonstrate restoration of productivity using 3 crop years.

(bb) By September 12, 1995, North Dakota shall revise Chapter II, Section I it its revegetation document and its rule at NDAC 69–05.2–22–07(4)(j) to require tree and shrub stocking standards that meet all requirements in 30 CFR 816.116(b)(3), including approval by the appropriate State agencies, on land reclaimed for use as recreation. North

Dakota shall also provide documentation of consultation with and approval from the appropriate State agencies for the ground cover standard in chapter II, Section I on land reclaimed for use as recreation.

[FR Doc. 95–17166 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 37–132]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is deleting an exemption rule. The rule was for the system of records notice F030 AF LE A, entitled Equal Opportunity in Off-Base Housing. The notice has already been amended to reflect this change.

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Turner at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR Part 806b

Privacy.

Accordingly, 32 CFR part 806b is amended as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

Appendix C to Part 806b [Amended]

2. Appendix C to part 806b is amended by removing and reserving paragraph (b)(8).

Dated: June 27, 1995.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–17110 Filed 7–13–95; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC36

Appalachian National Scenic Trail; Revisions to Special Regulations

AGENCY: National Park Service, Interior.

ACTION: Interim rule.

SUMMARY: The National Park Service (NPS) is adopting this interim rule to allow the continuation of an existing hang gliding activity on the Appalachian Trail while the agency develops a special regulation to address the activity through public notice and comment rulemaking. The interim rule will allow the Appalachian Trail Project Manager (Project Manager) to renew the Special Use Permit (SUP) of the Water Gap Hang Gliding Club. The Water Gap Hang Gliding Club (WGHGC) has been undertaking this activity at Kirkridge on the AT for over twenty years and the WGHGC's SUP recently expired.

EFFECTIVE DATE: This rule is effective July 14, 1995 and will expire on December 31, 1995. Written comments will be accepted through September 12, 1995.

ADDRESSES: Comments should be addressed to: Project Manager, Appalachian Trail Project Office, National Park Service, c/o Harpers Ferry Center, Harpers Ferry, WV 25425.

FOR FURTHER INFORMATION CONTACT: Donald T. King, Project Manager, Appalachian Trail Project Office, National Park Service, c/o Harpers Ferry Center, Harpers Ferry, WV 25425.

SUPPLEMENTARY INFORMATION:

Background

The Appalachian National Scenic Trail (AT) is a north-south hiking trail that stretches nearly 2,200 miles from Maine to Georgia along the crest of the Appalachian Mountains. The AT is administered by the Secretary of the Interior, National Park Service, as part of the National Trails System.

At its inception, the AT traversed mostly private lands. Use of the private lands was enjoyed not only by hikers, but also by other types of outdoor enthusiasts. In the late 1970's, hang gliders in the area of Fox Gap, Pennsylvania, with the permission of the landowner, were launching from the ridgetop known as Kirkridge, along the Appalachian Mountains. The hang gliders formally organized and established the WGHGC for the purpose of promoting the safety of hang gliding and addressing liability issues.

Originally, the WGHGC used the area with the expressed permission of the landowner and, after the area was acquired by the NPS, the WGHGC requested permission from the NPS and was issued a SUP to continue using the AT area as a launch site. The WGHGC has proven by past conduct to be a good steward of these public lands. The WGHGC has assumed shared responsibility for maintenance of this popular section of the AT along with the local trail club. The WGHGC has a published maintenance schedule for its individual club members to provide trash pick-up in the general area. The WGHGC works with the local trail club to protect the resource qualities of the area and to ensure the area is safe for public use by other outdoor enthusiasts. The private landowners adjacent to the site have endorsed the continued use of the area by the WGHGC. Based upon a review of the past years of use by WGHGC and the experience of others (including the landowners and local hiking club) in the area, the NPS has determined that there are no known adverse impacts caused by the WGHGC activities.

During the review process conducted by the NPS for the renewal of the SUP for the WGHGC, the NPS discovered that a 1983 revision to the general regulations found at 36 CFR 2.17 had created the requirement of a special regulation before the NPS could renew the WGHGC permit. A review of the 1983 rulemaking indicates one of the reasons for requiring the special regulation process was to have a full review of potential conflicts before making a decision to authorize hang gliding in a particular area. This interim rule will allow the activity to continue while the agency undertakes the required rulemaking to adopt a special regulation for the AT.

The NPS is adopting this interim rule pursuant to the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) from general notice and comment rulemaking. As discussed above, the NPS believes that this exception is warranted because of the past conduct of the WGHGC while operating under NPS SUPs and the demonstrated lack of adverse conflicts with other users of the AT. These being the principal reasons for the general regulation requirement of special regulations to allow the designation of locations for this activity, the NPS finds that notice and comment are unnecessary and contrary to the public interest for this interim rule. The interim rule is limited to allowing the issuance of a SUP to WGHGC for the site known as Kirkridge, near Fox Gap, Pennsylvania, effective until December 31, 1995. Furthermore, the NPS is developing and will be publishing soon in the **Federal Register** a proposed rule requesting public comment on a special regulation to allow the use of powerless flight devices (hang gliding) on the AT.

The NPS has also determined, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), that the publishing of this interim rule 30 days prior to the rule becoming effective would be counterproductive and unnecessary for the reasons discussed above. A 30-day delay would be contrary to the public interest.

Therefore, under the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), it has been determined that this interim rulemaking is excepted from the 30-day delay in the effective date and shall therefore become effective on the date published in the **Federal Register** and will expire on December 1, 1995.

Drafting Information

The principal authors of this interim rulemaking are Acting Project Manager Donald T. King, Appalachian Trail Project Office and Michael M. Tiernan, Office of the Solicitor, Washington, D.C.

Paperwork Reduction Act

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

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

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

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses which compromise the nature and characteristics of the area or cause physical damage to it;

(c) Conflict with adjacent ownership or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

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

List of Subjects in 36 CFR Part 7

National parks; Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Section 7.100 is amended by adding paragraph (c) to read as follows:

§ 7.100 Appalachian National Scenic Trail.

* * * * *

(c) *Powerless flight.* The use of devices designed to carry persons through the air in powerless flight is allowed at Kirkridge, located near Fox Gap, Pennsylvania, pursuant to a permit issued by the project manager. This authority shall expire on December 31, 1995.

Dated: July 11, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17369 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–5–7100c; FRL–5256–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Interim Final Determination That State Has Corrected the Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA published a direct final rule fully approving revisions to the California State Implementation Plan (SIP). The revisions concern South Coast Air Quality Management District's (SCAQMD) Rules 1106, 1107, 1115 and 1171 and Santa Barbara County Air Pollution Control District's (SBAPCD) Rules 323 and 339. On that date, EPA also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's proposed action within 30 days of publication of the proposed and direct final actions, EPA will withdraw its direct final action and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on January 20, 1994. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's proposed approval of the State's submittal, the direct final action published in today's **Federal Register** will also finalize EPA's determination that the State has

corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: This interim final determination is effective on July 14, 1995. Comments must be received by August 14, 1995.

ADDRESSES: Comments should be sent to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

Environmental Protection Agency, Air Docket (6102) 401 ''M'' Street, S.W., Washington 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812–2815

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4812

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 1993, the State submitted SCAQMD's Rule 1106, Marine Coating Operations and Rule 1107, Coating of Metal Parts and Products; on June 19, 1992 the State submitted SCAQMD's Rule 1171, Solvent Cleaning Operations and SBAPCD's Rule 339, Motor Vehicle and Mobile Equipment Coating Operations; on December 31, 1990 the State submitted SBCAPCD's Rule 323, Architectural Coatings and on September 14, 1992 the State submitted SCAQMD's Rule 1115, Motor Vehicle Assembly Line Coating Operations. EPA published a limited disapproval for these rules in the **Federal Register** on December 20, 1993; 58 FR 66282 and 58 FR 66285 respectively. EPA's disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (Act) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP) under section 110(c) of the Act. The State subsequently submitted a revised SCAQMD Rule 1106 on February 24, 1995, a revised SBAPCD Rule 339 on April 13, 1995, a revised SBAPCD Rule 323 on May 24, 1995 and SCAQMD Rules 1107, 1115 and 1171 on June 16, 1995. EPA has taken direct final action on these submittals pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's **Federal Register**, EPA issued a direct final full approval of the State of California's submittal of SCAQMD's Rule 1106, Marine Coating Operations; SCAQMD's Rule 1107, Coating of Metal Parts and Products; SCAQMD's Rule 1115, Motor Vehicle Assembly Line Coating Operations; SCAQMD's Rule 1171, Solvent Cleaning Operations and SBAPCD's Rule 323, Architectural Coatings and SBAPCD's Rule 339, Motor Vehicle and Mobile Equipment Coating Operations. In addition, in the Proposed Rules section of today's **Federal Register**, EPA proposed full approval of the State's submittal.

Based on the proposed and direct final approval, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiency. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred and/or stayed.

This action does not stop the sanctions clock that started for these areas on January 20, 1993. However, this action will defer the application of the offsets sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994). If EPA's direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanctions clock and will permanently lift any applied, stayed or deferred sanctions. If EPA must withdraw the direct final action based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiency, EPA will also determine that the State did not correct the deficiency and the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiency that started the sanctions clock. Based on this action, application of the offset sanction will be deferred and application of the highway sanction will be deferred until EPA's direct final action fully approving the State's submittal becomes effective or until EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA's direct final action fully approving the State submittal becomes effective, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed and direct final action is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with the proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

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

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 27, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–17267 Filed 7–13–95; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[CA 144–5–7100a; FRL–5256–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District and Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: South Coast Air Quality Management District (SCAQMD) and Santa Barbara County Air Pollution Control District (SBAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on these rules serves as a final determination that the deficiencies in these rules have been corrected and that on the effective date of this action, any sanctions or Federal Implementation Plan (FIP) obligations are permanently stopped. The revised rules control VOC emissions from marine coating operations, coating of metal parts and products, motor vehicle assembly line coating operations, solvent cleaning operations, architectural coatings, and motor vehicle and mobile equipment coating operations. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This final rule is effective on September 12, 1995 unless adverse or critical comments are received by August 14, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

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

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812–2815

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Chief Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: SCAQMD's Rule 1106, Marine Coating Operations; Rule 1107, Coating of Metal Parts and Products; Rule 1115, Motor Vehicle Assembly Line Coating Operations; Rule 1171, Solvent Cleaning Operations and SBAPCD's Rule 323, Architectural Coatings and Rule 339, Motor Vehicle and Mobile Equipment Coating Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on February 24, 1995 (Rule 1106), April 13, 1995 (Rule 339), May 24, 1995 (Rule 323) and June 16, 1995 (Rules 1107, 1115 and 1171).

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the South Coast Air Basin and the Santa Barbara, Santa Maria and Lompoc Area (Santa Barbara County). 43 FR 8964, 40 CFR 81.305. Because these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. (40 CFR 52.222). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the

1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The South Coast Air Basin is classified as extreme, and Santa Barbara County is classified as moderate[2]; therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on February 24, 1995, April 13, 1995, May 24, 1995 and June 16, 1995, including the rules being acted on in this notice. This notice addresses EPA's direct-final action for the SCAQMD's Rule 1106, Marine Coating Operations; Rule 1107, Coating of Metal Parts and Products; Rule 1115, Motor Vehicle Assembly Line Coating Operations; Rule 1171, Solvent Cleaning Operations and for the SBAPCD's Rule 323, Architectural Coatings, and Rule 339, Motor Vehicle and Mobile Equipment Coating Operations. The SCAQMD adopted Rule 1106 on January 13, 1995 and Rules 1107, 1115, and 1171 on May 12, 1995. The SBAPCD adopted Rule 323 on March 16, 1995 and Rule 339 on December 15, 1994. The submitted SCAQMD's Rule 1106 was found to be complete on March 10, 1995; SCAQMD's Rules 1107, 1115 and 1171 and SBAPCD's Rule 323 were found to be complete on June 23, 1995; and SBAPCD's Rule 339 was found to be complete on May 2, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V[3] and are being finalized for approval into the SIP.

SCAQMD's Rule 1106 controls VOC emissions from the coating of marine vessels and their parts, SCAQMD's Rule 1107 controls VOC emissions from the coating of metal parts and products except those performed on aerospace assembly, magnet wire, marine craft, motor vehicle, metal container, and coil coating operations, SCAQMD's Rule 1115 limits VOC emissions from coating operations conducted on assembly lines during manufacturing of new motor vehicles, and SCAQMD's Rule 1171 controls VOC emissions from solvent cleaning operations and activities. SBAPCD's Rule 323 controls emissions of VOCs from the application of coatings to architectural structures and their appurtenances, to mobile homes, to pavements and to curbs, and SBAPCD's Rule 339 limits emissions of VOCs from automotive refinishing operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SCAQMD's and SBAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''fix-up'' their RACT rules. See section 182(a)(2)(A). The CTG applicable to SCAQMD's Rule 1107 is entitled Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, June 1978, EPA–450/2–78–015. The CTG applicable to SCAQMD's Rule 1115 is entitled Control of Volatile Organic Emissions from Existing Stationary Sources—Volume I: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks. U.S. Environmental Protection Agency, Office of Air Quality and Standards, May 1977, EPA–450/2–77–008. SCAQMD's Rules 1106 and 1171 and SBAPCD's Rules 323 and 339 control emissions from source categories for which EPA has not issued a CTG. Accordingly, these rules were evaluated against the interpretations of EPA policy found in the Blue Book, referred to in footnote 1 and against other EPA policy including the EPA Region 9/CARB document entitled: Guidance document for correcting VOC rule deficiencies (April 1991) In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD's submitted Rule 1106, Marine Coating Operations, includes the following significant changes from the current SIP:

- Revised statement of rule applicability.
- Added definition for aerosol product.
- Revised definition of exempt compounds.
- Revised table of VOC content standards.
- Added control device equivalency language.
- Added test method specification.
- Added aerosol exemption.

SCAQMD's submitted Rule 1107, Coating of Metal Parts and Products, includes the following significant changes from the current SIP:

- Added rule applicability section.

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The South Coast Air Basin and Santa Barbara County retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

• Revised the VOC content limits for coatings covered by this rule.

• Removed executive officer discretion to choose capture efficiency source testing methodology.

• Added EPA method 25 and 25A with respect to determining efficiency of add-on control equipment.

• Incorporated SCAQMD ''Spray Equipment Transfer Efficiency Test Procedure dated May 24, 1989.

• Modified exemption for all non-compliant coating use to an aggregate of 55 gallons per year.

• Added the requirements to keep records of key operating parameters of control equipment.

• Added EPA approved test methods to determine VOC content and exempt solvent content.

SCAQMD's submitted Rule 1115, Motor Vehicle Assembly Line Coating Operations, includes the following significant changes from the current SIP:

• Added purpose and applicability section.

• Reduced VOC limits to be in line with applicable CTG limits.

• Added the requirement to use EPAs ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operation''.

• Added specification for EPA approved capture and control efficiency source test method.

• Included record keeping requirement for emission control systems.

SCAQMD's submitted Rule 1171, Solvent Cleaning Operations, includes the following significant changes from the current SIP:

• Added medical device category.

• Added specialty flexographic printing category.

• Modified and supplemented test method section to correct rule deficiencies cited by EPA.

• Added small usage exemption for specialty medical device and pharmaceutical operations.

• Added exemption for cleaning of application equipment used to manufacture transdermal drug delivery systems.

SBAPCD's submitted Rule 323, Architectural Coatings, includes the following significant changes from the current SIP:

• Clarifies requirements of the rule by moving exemption section to section B.

• Added a definition for reactive organic compound (ROC).

• Removes executive officer discretion by revising the language in the test section.

• Added test method for determination of exempt solvent content.

SBAPCD's submitted Rule 339, Motor Vehicle and Mobile Equipment Coating Operations, includes the following significant changes from the current SIP:

• Deleted spray booth requirement for undercoating if undercoating contains no lead or chromium compounds and if the area covered does not exceed 16 square feet.

• Added definition for multi-stage topcoat.

• Added definition for undercoat.

• Revised VOC limits and compliance dates.

• Limits pre-coat usage to no more than 25% of the amount of primer/primer surfacer monthly usage.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD's Rule 1106, Marine Coating Operations; SCAQMD's Rule 1107, Coating of Metal Parts and Products; SCAQMD's Rule 1115, Motor Vehicle Assembly Line Coating Operations; SCAQMD's Rule 1171, Solvent Cleaning Operations; SBAPCD's Rule 323, Architectural Coatings; and SBAPCD's Rule 339, Motor Vehicle and Mobile Equipment Coating Operations are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D. The final action on these rules serves as a final determination that the deficiencies in these rules have been corrected. Therefore, if this direct final action is not withdrawn, on September 12, 1995, any sanction or FIP clock is stopped.

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

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on September 12, 1995, unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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. If no such comments are received, the public is advised that this action will be effective on September 12, 1995.

Regulatory Process

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

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with the proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are

already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 27, 1995.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(215)(i)(A)(*3*), (c)(219), (c)(220), and (c)(222) and by adding and reserving paragraph (c)(221) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(215) * * *

(i) * * *

(A) * * *

(*3*) Rule 1106, adopted on January 13, 1995.

* * * * *

(219) New and amended regulations for the following APCDs were submitted on April 13, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara County Air Pollution Control District.

(*1*) Rule 339, adopted December 15, 1994.

(220) New and amended regulations for the following APCDs were submitted on May 24, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara County Air Pollution Control District.

(*1*) Rule 323, adopted March 16, 1995.

* * * * *

(221) [Reserved]

(222) New and amended regulations for the following APCDs were submitted on June 16, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 1107, 1115, and 1171 adopted on May 12, 1995.

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[FR Doc. 95–17269 Filed 7–13–95; 8:45 am]

BILLING CODE 6560–50–W

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–86; RM–8497; RM–8548]

Radio Broadcasting Services; Klamath Falls, Altamont, Butte Falls, OR, Dorris, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Terry A. Cowan, allots Channel 284C1 to Klamath Falls, OR, as the community's fourth local FM service. Channel 284C1 can be allotted to Klamath Falls in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 42-12-56 North Latitude and 121–47–56 West Longitude. *See* 59 FR 38950, August 1, 1994. The Commission denies the proposal of Western States Broadcasting, Inc., to substitute Channel 284C1 for Channel 249C1 at Altamont, OR, reallot Channel 249C2 to Butte Falls, OR, and modify Station KCHQ(FM)'s construction permit to specify Butte Falls as its community of license. The Commission also dismisses the late-filed counterproposal of Goldrush Broadcasting to allot Channel 284C3 to Dorris, California. With this action, this proceeding is terminated.

DATES: Effective August 24, 1995. The window period for filing applications will open on August 24, 1995, and close on September 25, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–86, adopted June 29, 1995, and released July 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Channel 284C1 at Klamath Falls.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–17239 Filed 7–13–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 93–69; RM–8106]

Radio Broadcasting Services; San Carlos and Oracle, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 276C2 for Channel 279A at San Carlos, Arizona, and modifies the authorization of Station KCDX(FM) to specify operation on the higher powered channel, as requested by Desert West Air Ranchers Corporation. Additionally, in order to accommodate the modification at San Carlos, Channel 279A is substituted for Channel 276A at Oracle, Arizona, and the license issued to Golden State Broadcasting Corporation for Station KLQB(FM) is modified accordingly. *See* 58 FR 17819, April 6, 1993. Coordinates for Channel 276C2 at San Carlos are 33–23–13 and 110–44–25. Coordinates for Channel 279A at Oracle are 32–37–07 and 110–47–20. As San Carlos and Oracle are located within 320 kilometers (199

miles) of the Mexican border, concurrence of the Mexican government in this proposal was obtained. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 24, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 93–69, adopted June 29, 1995, and released July 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona is amended by removing Channel 279A and adding Channel 276C2 at San Carlos, and by removing Channel 276A and adding Channel 279A at Oracle.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–17240 Filed 7–13–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 91–137; RM–7494]

Radio Broadcasting Services; Saltville, Virginia, and Jefferson, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of 106.1, Inc., permittee of Channel 291A, Saltville, Virginia, substitutes Channel 291C3 for Channel 291A at Saltville, Virginia, reallots Channel 291C3 from Saltville to Jefferson, North Carolina, and modifies 106.1, Inc.'s construction permit accordingly. *See* 56 FR 23260, May 21, 1991. Channel 291C3 can be allotted to Jefferson with a site restriction of 8.3 kilometers (5.2 miles) northeast to avoid a short-spacing conflict with a construction permit for Station WLJQ-FM, Channel 290A, Colonial Heights, Tennessee. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 24, 1995.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 91–137, adopted June 30, 1995, and released July 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virginia and North Carolina, is amended by removing Channel 291A at Saltville, Virginia, and adding Channel 291C3 at Jefferson, North Carolina.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–17241 Filed 7–13–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. T84–01; Notice 36]

RIN 2127–AF58

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 1996 High-Theft Car Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determinations of high-theft car lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft car lines that are exempted from parts marking because the vehicles are equipped with agency-approved antitheft devices, for model year (MY) 1996, pursuant to the statute relating to motor vehicle theft prevention.

EFFECTIVE DATE: The amendment made by this final rule is effective July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740. Her fax number is (202) 366–4329.

SUPPLEMENTARY INFORMATION: The Federal motor vehicle theft pevention standard, 49 CFR Part 541, requires motor vehicle manufacturers to inscribe or affix vehicle identification numbers (VINs) onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

49 U.S.C. 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines, with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the theft prevention standard unless that line is exempted under Section 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of Section 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft

device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines which were previously listed as high-theft, and the lines which are being listed for the first time and will be subject to the theft prevention standard beginning with MY 1996. It also identifies those car lines that are exempted from the theft prevention standard for the 1996 model year because of standard equipment antitheft devices.

For MY 1996, the agency selected three new car lines as likely to be high-theft lines, in accordance with the procedures published in 49 CFR Part 542. The newly selected lines are the Plymouth Breeze, Honda Acura TL, and the Hyundai Accent. In addition to these three car lines, the list of high-theft cars includes all those lines that were selected as high-theft and listed for prior model years.

The list of lines exempted by the agency from the parts-marking requirements of Part 541 includes high-theft lines exempted in full, beginning with MY 1996, The five car lines exempted in full are the General Motors Chevrolet Lumina/Monte Carlo, Buick Regal, Mercedes-Benz C–Class, Nissan Infiniti I, and Volkswagen Golf/GTI. Volkswagen also informed the agency that the ''III'' designation attached to the Jetta car line would be dropped beginning with the 1996 model year. Additionally, Nissan informed the agency that it stopped utilizing the antitheft exemption for the Maxima beginning with MY 1995, and now parts-marks the Maxima's. The updated list reflects this information. Furthermore, Appendix A–II has been amended to reflect a name change for the General Motors Cadillac Six-Special. It was renamed the Concours beginning MY 1994.

The car lines listed as being subject to the parts-marking standard have previously been selected as high-theft lines in accordance with the procedures set forth in 49 CFR Part 542. Under these procedures, manufacturers evaluate new vehicle lines to conclude whether those new lines are likely to be high-theft. Manufacturers submit these evaluations and conclusions to the agency, which makes an independent evaluation, and, on a preliminary basis, determines whether the new line should be subject to the parts-marking requirements. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider the preliminary determinations. Within 60 days of the receipt of these requests, NHTSA makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new car lines on the high-theft list was the subject of a final determination.

Similarly, the car lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR Part 543 and Section 33106.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331, and is unnecessary since the selections and exemptions have previously been made in accordance with the statutory criteria and procedure.

For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose any additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also considered this notice under Executive Order 12866. As already noted, the selections in this final rule have previously been made in accordance with the provisions of 49 U.S.C. Section 33104, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of Part 541 for MY 1996. Further, this listing does not actually exempt lines from the requirements of Part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of prior agency action for MY 1996, a full regulatory evaluation has not been prepared.

2. Regulatory Flexibility Act

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is simply to inform the public of those lines that are subject to the requirements of Part 541 for MY 1996. The agency believes that the listing of this information will not have any economic impact on small entities.

3. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

4. 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 final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This final rule does not have a retroactive effect. In accordance with Section 33118 when the theft prevention standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. Section 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. Section 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 49 U.S.C. 33102–33104 and 33106; delegation of authority at 49 CFR 1.50.

2. In part 541, Appendices A, A–I, and A–II are revised to read as follows:

Appendix A to Part 541—Lines Subject to the Requirements of This Standard

Manufacturer	Subject lines
ALFA ROMEO	Milano 161.
	164.
BMW	3 Car Line.
	5 Car Line.
	6 Car Line.
CHRYSLER	Chrysler Cirrus.
	Chrysler Executive.
	Sedan/Limousine.
	Chrysler Fifth Avenue/Newport.
	Chrysler Laser.
	Chrysler LeBaron/Town & Country.
	Chrysler LeBaron GTS.
	Chrysler's TC.
	Chrysler New Yorker Fifth Avenue.
	Chrysler Sebring.
	Dodge 600.
	Dodge Aries.
	Dodge Avenger.
	Dodge Colt.
	Dodge Daytona.
	Dodge Diplomat.
	Dodge Lancer.
	Dodge Neon.
	Dodge Shadow.[1]
	Dodge Stratus.
	Dodge Stealth.
	Eagle Summit.
	Eagle Talon.
	Plymouth Caravelle.
	Plymouth Colt.
	Plymouth Laser.
	Plymouth Gran Fury.
	Plymouth Neon.
	Plymouth Reliant.
	Plymouth Sundance.[1]
	Plymouth Breeze.[2]
CONSULIER	Consulier GTP.
FERRARI	Mondial 8.
	308.
	328.
FORD	Ford Mustang.
	Ford Thunderbird.
	Ford Probe.
	Mercury Capri.
	Mercury Cougar.
	Lincoln Continental.
	Lincoln Mark.
	Lincoln Town Car.
	Merkur Scorpio.
	Merkur XR4Ti.
GENERAL MOTORS	Buick Electra.
	Buick Reatta.
	Chevrolet Nova.
	Chevrolet Monte Carlo (MYs 1987–88).
	Oldsmobile Cutlass Supreme.
	Pontiac Fiero.
	Pontiac Grand Prix.
	Geo Prizm.
	Geo Storm.
	Saturn Sports Coupe.
HONDA	Acura TL.[2]
HYUNDAI	Accent.[2]
ISUZU	Impulse.
	Stylus.
JAGUAR	XJ.
	XJ–6.
	XJ–40.
LOTUS	Elan.
MASERATI	Biturbo.
	Quattroporte.
	228.
MAZDA	GLC.

Manufacturer	Subject lines
	626.
	MX–6.
	MX–5 Miata.
	MX–3.
MERCEDES-BENZ	190 D.
	190 E.
	250D–T.
	260 E.
	300 SE.
	300 TD.
	300 SDL.
	300 SEC/500 SEC.
	300 SEL/500 SEL.
	420 SEL.
	560 SEL.
	560 SEC.
	560 SL.
MITSUBISHI	Cordia.
	Eclipse.
	Mirage.
	Tredia.
	3000GT.
NISSAN	Maxima.[3]
PEUGEOT	405.
PORSCHE	924S.
SUBARU	XT.
	SVX.
	Legacy.
TOYOTA	Avalon.
	Camry.
	Celica.
	Corolla/Corolla Sport.
	MR2.
	Starlet.
VOLKSWAGEN	Audi Quattro.
	Rabbit.
	Scirocco.

[1] The MY 1995 Dodge and Plymouth Neon car lines replaced the Dodge Shadow and Plymouth Sundance car lines during MY 1994. The Shadow and Sundance continued to be subject to Part 541.
[2] Car lines added for MY 1996.
[3] Car line subject to parts-marking beginning with MY 1995.

Appendix A–I to Part 541—High-Theft Lines With Antitheft Devices Which are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject Lines
AUSTIN ROVER	Sterling.[1]
BMW	7 Car Line.
	8 Car Line.
CHRYSLER	Chrysler Conquest.
	Imperial.
GENERAL MOTORS	Buick Regal.[1]
	Buick Riviera.
	Cadillac Allante.
	Chevrolet Corvette.
	Chevrolet Lumina/Monte Carlo.[1]
	Oldsmobile Aurora.
	Oldsmobile Toronado.
HONDA	Acura NS–X.
	Acura Legend.
	Acura Vigor.
ISUZU	Impulse (MY's 1987–1991).
MAZDA	929.
	RX–7.
	Millenia.
	Amati 1000.
MERCEDES-BENZ	*124 Carline* (the models within this line are):
	300D.
	300E.
	300CE.
	300TE.
	400E.
	500E.

Manufacturer	Subject Lines
MERCEDES-BENZ	*129 Carline* (the models within this line are):
	300SL.
	500SL.
	600SL.
	202 Line.
	C-Class.[1]
MITSUBISHI	Galant.
	Starion.
	Diamante.
NISSAN	Maxima.[2]
	300 ZX.
	Infiniti M30.
	Infiniti Q45.
	Infiniti J30.
	Infiniti I.[1]
PORSCHE	911.
	928.
	968.
SAAB	900.
	9000.
TOYOTA	Supra.
	Cressida.
	Lexus LS400.
	Lexus ES250.
	Lexus SC300.
	Lexus SC400.
VOLKSWAGEN	Audi 5000S.
	Audi 100.
	Audi 200.
	Cabriolet.
	Corrado.
	Jetta.
	Golf/GTI.[1]

[1] Lines exempted in full from the requirements of Part 541 pursuant to 49 CFR Part 543, beginning with MY 1996.
[2] Exemption applied for MYs 1987–1994.

Appendix A–II to Part 541—High-Theft Lines With Antitheft Devices Which are Exempted in Part From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject lines	Parts to be marked
GENERAL MOTORS	Chevrolet Camaro	Engine, Transmission.
	Pontiac Firebird	Engine, Transmission.
	Cadillac Deville	Engine, Transmission.
	Cadillac Eldorado	Engine, Transmission.
	Cadillac Seville	Engine, Transmission.
	Cadillac Sixty Special	Engine, Transmission.[1]
	Oldsmobile 98	Engine, Transmission.
	Buick Park Avenue	Engine, Transmission.
	Pontiac Bonneville	Engine, Transmission.
	Buick LeSabre	Engine, Transmission.
	Oldsmobile 88 Royale	Engine, Transmission.

[1] Renamed the Cadillac Concours beginning with MY 1994.

Issued on: July 6, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–17037 Filed 7–13–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 070795F]

Groundfish of the Gulf of Alaska; Pacific Ocean Perch in the Eastern Regulatory Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific ocean perch (POP) in the Eastern Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the POP total allowable catch (TAC) in the Eastern Regulatory Area.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t.), July 9, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Sloan, 907–581-2062.

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

In accordance with § 672.20(c)(1)(ii)(B) the POP TAC for the Eastern Regulatory Area was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995) as 1,914 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20 (c)(2)(ii), that the POP TAC in the Eastern Regulatory Area soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 1,614 mt, with consideration that 300 mt will be taken as incidental catch in directed fishing for other species in the Eastern Regulatory Area. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for POP in the Eastern Regulatory Area.

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 review under E.O. 12866.

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

Dated: July 10, 1995.

Richard W. Surdi,

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

[FR Doc. 95–17270 Filed 7–10–95; 4:52 pm]

BILLING CODE 3510–22–F

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50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 070795D]

Groundfish of the Gulf of Alaska; Shortraker/Rougheye Rockfish in the Eastern Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of the shortraker/rougheye rockfish species group in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the shortraker/rougheye rockfish species group total allowable catch (TAC) in the Eastern Regulatory Area of the GOA has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 9, 1995, until 12 midnight A.l.t., December 31, 1995.

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

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

In accordance with § 672.20(c)(1)(ii), the TAC for the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the GOA was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995), as 530 metric tons.

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the TAC for the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the GOA be treated as prohibited species in accordance with § 672.20(e).

Classification

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

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

Dated: July 10, 1995.

Richard W. Surdi,

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

[FR Doc. 95–17271 Filed 7–10–95; 4:52 pm]

BILLING CODE 3510–22–F

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50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 070795E]

Groundfish of the Gulf of Alaska; Northern Rockfish in the Eastern Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of northern rockfish in the Eastern Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of northern rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the northern rockfish total allowable catch (TAC) in the Eastern Regulatory Area of the GOA has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 9, 1995, until 12 midnight A.l.t., December 31, 1995.

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

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

vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii), the TAC for northern rockfish in the Eastern Regulatory Area of the GOA was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995), as 20 metric tons.

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the TAC for northern rockfish in the Eastern Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of northern rockfish in the Eastern Regulatory Area of the GOA be treated as prohibited species in accordance with § 672.20(e).

Classification

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

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

Dated: July 10, 1995.

Richard W. Surdi,

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

[FR Doc. 95–17272 Filed 7–10–95; 4:52 pm]

BILLING CODE 3510–22–F

50 CFR Part 672

[I.D. 021695C]

RIN 0648–AH40

Groundfish of the Gulf of Alaska; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to footnote 2 to Table 1 contained in a final regulation (I.D. 021695C) that was published on Wednesday, May 10, 1994. The regulation revised the standard product recovery rate for pollock, deep skin fillets, and product code 24. The regulation was necessary to respond to new information on the current recovery rate achieved by the groundfish processing industry for this product type.

EFFECTIVE DATE: June 9, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine Belli, 301-713-2341.

SUPPLEMENTARY INFORMATION: On May 10, 1995 (60 FR 24800), NMFS revised the pollock deep skin fillet product recovery rate. However, NMFS inadvertently changed footnote 2 to Table 1 to § 672.20 to indicate that the second period for the standard pollock surimi rate was the period July through September. This document corrects footnote 2 to Table 1 to reflect the appropriate period, i.e., July through December.

Correction of Publication

Accordingly, the publication on May 10, 1995 (60 FR 24800), of the final regulations (I.D. 021695C) that were the subject of FR Doc. 95–11429, is corrected as follows:

Table 1 to § 672.20 [Corrected]

On page 24801, footnote 2 to Table 1 to § 672.20, is revised to read as follows:

[2] Standard pollock surimi rate during July through December.

Dated: July 10, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–17320 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 135
Friday, July 14, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AG83

Prevailing Rate Systems; Technical Corrections and Clarifications

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to correct and clarify certain matters relating primarily to pay administration under the Federal Wage System (FWS). The proposed regulations would correct errors and eliminate ambiguities in the administration of the system.

DATES: Comments must be received by August 14, 1995.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: Federal agencies have been instrumental in helping OPM to identify the need for several corrections and clarifications in FWS regulations. In some cases, errors were noted. In other instances, regulatory provisions were found to be ambiguous. Accordingly, the proposed changes include the following: (1) Clarification of provisions governing the analysis of usable wage survey data in § 532.241; (2) clarification of the definitions of two terms in § 532.401; (3) a description of limitations on the use of a rate of pay earned on temporary promotion as a ''highest previous rate'' in § 532.405; (4) correction for conformance with 5 CFR part 536 of provisions on the application of pay retention when a wage schedule is reduced in § 532.415; (5) and insertion of a mistakenly deleted Standard Industrial Classification code in § 532.267(c)(1).

The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by consensus recommended approval.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Subpart B—Prevailing Rate Determinations

2. Section 532.241 is amended by revising paragraph (a)(1) to read as follows:

§ 532.241 Analysis of usable wage survey data.

(a)(1) The lead agency shall compute a weighted average rate for each appropriated fund survey job having at least 10 unweighted matches and for each nonappropriated fund job having at least 5 unweighted matches. The weighted average rates shall be computed using the survey job data collected in accordance with §§ 532.235 and 532.247 and the establishment weight.

* * * * *

3. In § 532.267, paragraph (c)(1) is revised to read as follows:

§ 532.267 Special wage schedules for aircraft, electronic, and optical instrument overhaul and repair positions in Puerto Rico.

* * * * *

(c) * * *

(1) Surveys shall, at a minimum, include the air transportation and electronics industries in SIC's 3571, 3572, 3575, 3577, 3663, 3669, 3672, 3674, 3679, 3695, 3812, 4512, 4513, 4522, 4581, 5044, and 5045.

* * * * *

Subpart D—Pay Administration

4. In § 532.401, the definitions of *change to lower grade* and *promotion* are revised to read as follows:

§ 532.401 Definitions.

* * * * *

Change to lower grade means to change in the position of an employee who, while continuously employed—

(1) Move from a position in one grade of a prevailing rate schedule established under this part to a position in a lower grade of the same type prevailing rate schedule, whether in the same or different wage area;

(2) Moves from a position under a prevailing rate schedule established under this part to a position under a different prevailing rate schedule (e.g., WL to WG) with a lower representative rate; or

(3) Moves from a position not under a prevailing rate schedule to a position with a lower representative rate under a prevailing rate schedule.

* * * * *

Promotion means a change in the position of an employee who, while continuously employed—

(1) Moves from a position in one grade of a prevailing rate schedule established under this part to a position in a higher grade of the same type prevailing rate schedule, whether in the same or different wage area;

(2) Moves from a position under a prevailing rate schedule established under this part to a position under a different prevailing rate schedule (e.g., WG to WL) with a higher representatives rate; or

(3) Moves from a position not under a prevailing rate schedule to a position with a higher representative rate under a prevailing rate schedule.

* * * * *

5. In § 532.405, paragraph (d) is added to read as follows:

§ 532.405 Use of highest previous rate.

* * * * *

(d) The highest previous rate may be based upon a rate of pay received during a temporary promotion, so long as the temporary promotion is for a period of not less than 1 year. This limitation does not apply upon permanent placement in a position at the same or higher grade.

6. In § 532.415, paragraph (c) is revised to read as follows:

§ 532.415 Application of new or revised wage schedules.

* * * * *

(c) In applying a new or revised wage schedule, the scheduled rate of pay of an employee paid at one of the steps of the employee's grade on an old wage schedule shall be adjusted upward to the newly adjusted rate for the same numerical step of the grade whenever there is an increase in rates. Except when there is a decrease in wage rates because of a statutory reduction in scheduled rates, the employee is entitled to pay retention as provided in 5 CFR 536.104(a)(3).

[FR Doc. 95–17278 Filed 7–13–95; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

[Docket No. AO–160–A71; DA–93–30]

Milk in the Middle Atlantic Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document recommends changes in some provisions of the Middle Atlantic milk marketing order based on industry proposals considered at a public hearing. The changes would reduce the standards for regulating distributing plants and cooperative reserve processing plants and increase the amount of producer milk that can be diverted to nonpool plants. Additional changes would authorize the market administrator to adjust pool plant qualification standards and producer milk diversion limits to reflect changes in marketing conditions. Also, the decision provides that a pool distributing plant that meets the pooling standards of more than one Federal order should continue to be regulated under this order for two months before regulation can shift to the other order. A decision on a proposal that would utilize only a route disposition standard to determine under which Federal order a plant should be regulated cannot be made on the basis of the hearing record.

DATES: Comments are due on or before August 14, 1995.

ADDRESSES: Comments (six copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The amendments would promote more orderly marketing of milk by producers and regulated handlers.

The amendments to the rules proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Prior document in this proceeding:

Notice of Hearing: Issued February 25, 1994; published March 4, 1994 (59 FR 10326).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Middle Atlantic marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250, by the 30th day after publication of this decision in the **Federal Register**. Six copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at the Holiday Inn-Independence Mall, 400 Arch Street, Philadelphia, Pennsylvania, on May 3, 1994, pursuant to a notice of hearing issued February 25, 1994, and published in the **Federal Register**, March 4, 1994 (59 FR 10326).

The material issues on the record of the hearing relate to:

1. Pool plant definitions and qualifications;
2. Diversions of milk to nonpool plants;
3. Regulation of distributing plants that meet the pooling standards of more than one Federal order.
4. Discretionary authority to revise pooling standards and producer milk diversion limits.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Pool Plant Definitions and Qualifications

Two proposals that would modify the pool plant definition of the order should be adopted. One proposal would exclude diversions of producer milk

from a pool distributing plant's receipts in determining whether or not the plant satisfies the pool plant definition standard. Currently, the order's pool plant definition includes diverted producer milk as a receipt at a distributing plant in determining whether the plant has a sufficient proportion of its receipts in Class I use to qualify as a pool plant. The other proposal would reduce the percentage of a cooperative association's member milk that must be transferred to pool distributing plants from 30 percent to 25 percent of receipts for a reserve processing plant to qualify as a pool plant.

Pennmarva, a federation of certain Middle Atlantic marketing area dairy cooperatives, and Atlantic Processing, Inc., an association of cooperatives, proposed the changes to the pool plant definition of the order which were published as Proposal No. 1 and Proposal No. 4 in the hearing notice. Pennmarva's members include Atlantic Dairy Cooperative; Dairymen Incorporated (Middle Atlantic Division); Maryland and Virginia Milk Producers' Cooperative Association; and Valley of Virginia Co-operative Milk Producers Association—associations that market more than 90 percent of the producer milk associated with the order. Atlantic Processing, Inc., members include Mount Joy Milk Producers Cooperative and Cumberland Valley Milk Producers Cooperative.

According to the Pennmarva witness, changing the distributing plant pooling standard (Proposal No. 1) is a more comprehensive solution to past informal rulemaking actions which suspended the requirement that 40 percent of a pool plant's receipts be disposed of as Class I milk during the months of September through February. These suspension actions were taken because of the decline of Class I use in the Order 4 marketplace and because of a shift in regulation of two plants that were regulated under the order.

Pennmarva testified that a more permanent change to the pool plant definition is warranted because: (1) the Order 4 market is primarily serviced by cooperatives in a system-wide fashion and that accounting for diversions at the individual plant level given this cooperatively-supplied nature of the Order 4 market is burdensome; (2) there is a lack of complete knowledge by the servicing cooperative of the total receipts and Class I sales of the pool distributing plants from which the cooperative diverts milk; and (3) continued association of diverted milk on the order would still be provided for because of the producer definition of the order.

Cooperatives in Order 4 attempt to market milk, said Pennmarva, in a manner that will minimize the overall transportation costs. Pennmarva said that accounting for diversions at the individual plant level places an unnecessary and costly burden on cooperatives. Pennmarva also noted that to a pool handler who buys his/her entire milk supply from a cooperative, there are no market-disruptive consequences if milk is over-diverted. According to Pennmarva, handlers continue to pay the appropriate class price for the milk when an excess amount of milk is diverted from the plant. However, the cooperative supplying milk must reduce the volume of milk from the pool when it over-diverts milk shipments so that the plant will continue to qualify as a pool plant.

Additionally, Pennmarva testified that the lack of complete knowledge of a pool distributing plant's other milk supplies makes it unnecessarily difficult to effectively operate under the current requirements of the pool plant definition. No supplier knows either the total receipts of the distributing plant or the Class I disposition of the plant, said Pennmarva. Similarly, Pennmarva testified, suppliers of a pool distributing plant have no knowledge of the plant's in-area Class I sales. This lack of knowledge by the supplying cooperative is especially important, according to Pennmarva, because the ''lock-in'' provisions of the pool plant definition do not apply to the requirement that 15 percent of the plant's sales must be within the marketing area.

Pennmarva testified that deleting diversions from a plant's receipts in determining its regulatory status would have limited effects given present marketing conditions within the order. According to Pennmarva, plants that meet the 15 percent in-area sales and 40 percent Class I disposition pooling standard in the months of September through February, and 30 percent Class I disposition during the remainder of the year, will continue to be pooled under the order. According to Pennmarva, diversions from such plants either by a cooperative or by a handler with a non-member supply will continue to be regulated through the producer definition of the order. Pennmarva also indicated that both the producer definition and the pool reserve processing plant definition will continue to encourage deliveries of cooperative and non-member milk supplies to Order 4 pool plants in meeting priority Class I needs of the market while decreasing the uneconomic movement of milk.

No opposition to excluding diverted milk as a receipt at a distributing plant for determining pool plant status (Proposal No. 1) was received.

Currently, a cooperative must ship a minimum of 30 percent of its member milk to an Order 4 pool distributing plant in order for its milk to be pooled. Pennmarva proposed to reduce the minimum percentage to 25 percent as published in the hearing notice as Proposal No. 4. Pennmarva testified that this reduction is needed to continue the pooling of Order 4 producers historically associated with the market and is preferable to suspension of such provisions.

Pennmarva testified that this change is warranted because of recent changes in the market. Pennmarva cited that between 1990 and 1992, the level of Class I sales has remained unchanged, while producer receipts expanded. The expansion of producer receipts caused a reduction of the Class I utilization for the market, according to published statistics. Class I use dropped from 53.1 percent in 1990, to 50.7 percent in 1991, and to 48.0 percent in 1992. Level Class I sales and expanding production in Order 4 between 1990 and 1992, said Pennmarva, reduced the proportion of Order 4 milk delivered to pool distributing plants by cooperatives operating reserve processing plants.

Pennmarva also testified that in 1993, both Class I and producer receipts declined. According to market administrator statistics, production decreased by 162.3 million pounds and Class I sales fell by 265.6 million pounds—resulting in a Class I utilization percentage of 45.1 percent.

According to Pennmarva, the reduction of Class I use in Order 4 during 1993 was partially attributable to a shifting of an Order 4-regulated distributing plant located in Lansdale, PA, in November 1992 and another distributing plant located in Reading, PA, in January 1993 to regulation under another Federal order. Pennmarva said this had the effect of reducing the Order 4 pool plant deliveries required by reserve processing plants to maintain pool status.

Pennmarva maintained that the shifting of regulation of these two plants has had a dramatic effect. In a one-year period from October 1992 to October 1993, Atlantic Dairy Cooperative, which operates a pool reserve processing plant, delivered 13.3 percent less milk to a Lansdale, PA, distributing plant. Between December 1992 and December 1993 Maryland and Virginia Milk Producers Cooperative Association,

which also operates a pool reserve processing plant, experienced a 14 percent reduction in deliveries to a Reading, PA, distributing plant.

Pennmarva noted other changes in the Order 4 market, including the closing of a distributing plant in Harrisburg, PA, and a change in the product mix of two large Order 4 distributing plants that eliminated yogurt and cottage cheese production. Pennmarva said this loss of Class II business at distributing plants caused a reduction in the amount of pool-qualifying milk deliveries for the cooperative supplying milk to these plants. Additionally, Pennmarva made note of previous suspension actions to extend the period of automatic pool plant status for supply and reserve processing plants.

No opposition to reducing the shipping standard (Proposal No. 4) was received.

Regarding Proposal No. 1, the record is clear that cooperatives play a dominant role in servicing the Middle Atlantic marketing area, accounting for some 90 percent of milk deliveries to pool distributing plants. While accounting for diversions on an individual plant basis has merit, good reason exists to conclude that in this market, retaining individual plant accounting for the purposes of diversions does place a burden and costs on cooperatives who seek to deliver milk to where it is needed in the most economic fashion. This is especially important and justified due to the changing marketing conditions of declining Class I use in the marketing area.

As indicated by the testimony and in a brief filed by Pennmarva, distributing plants generally have more than one supplier, and such suppliers generally do not know the plant's total receipts and Class I disposition. This makes it difficult to determine what milk can be diverted from any single pool plant in a given month. Inadvertent over-diversions of milk will result in milk not being eligible for pooling and the benefits that accrue from such pooling.

Part of the Order 4 pooling provisions rests on a 15 percent route disposition standard. Adoption of Proposal No. 1 would enable cooperatives supplying the market to more economically move milk without undermining this standard or other pool plant definition standards.

Regarding Proposal No. 4, changing marketing conditions, namely expanding producer receipts and a decline in the Class I utilization of the market, provide support for changing the pooling requirements for reserve processing plants operated by a cooperative, without negating the demands of the Class I market. Such prevailing marketing conditions have in the past resulted in the suspension of certain pooling provisions of reserve processing plants operated by cooperatives so that producer milk normally associated with the Order 4 market would remain pooled under the order. Proposal No. 4 offers a more permanent and reasonable solution to potentially repetitive requests by Order 4 producers for suspension of such pooling standards by easing the shipping standard by 5 percentage points.

2. Diversions of Milk to Nonpool Plants

Two proposals that would increase the permissible percentage of milk deliveries for both cooperative (or federation of cooperative associations) and non-cooperative (nonmember) milk that may be diverted under the producer definition of the order should be adopted. The proposal for increasing the permissible percentage of cooperative milk that can be diverted to nonpool plants was proposed by Pennmarva and was Proposal No. 7 as published in the hearing notice. The proposal for increasing the permissible percentage of nonmember milk that can be diverted to nonpool plants was proposed by Johanna Dairies, Inc. (Johanna), a handler regulated under both the Middle Atlantic and New York-New Jersey marketing orders and was Proposal No. 9 as published in the hearing notice.

Another proposal by Pennmarva—intended to more clearly define the pooling requirements for producer deliveries to pool plants and the status of producers whose marketing is interrupted by compliance with health regulations under the producer definition of the order—was abandoned and received no evidence or testimony at the hearing. This proposal was Proposal No. 6 as published in the hearing notice.

In Proposal No. 7, Pennmarva recommended increasing the permissible percentage of milk that can be diverted to nonpool plants to a maximum volume of 55 percent of receipts instead of the current 50 percent maximum. For nonmember milk, Johanna proposed increasing the maximum allowable deliveries from the current 40 percent to a new maximum of 45 percent.

Citing statistics prepared by the market administrator, the Pennmarva witness observed that over the three-year period of 1991 to 1993, producer receipts under Order 4 increased by 158.8 millions pounds, while Class I disposition fell by 277.3 million pounds. Similarly, over the same three-year period, the witness also noted the annual Class I utilization of the market fell from 50.7 percent in 1991, to 48 percent in 1992, and to 45.1 percent in 1993. This witness testified that because the market's Class I use decreased, diversions to nonpool plants increased. According to Pennmarva, such a situation makes it difficult to keep producers historically associated with the market pooled under the order.

Johanna provided similar testimony and indicated that there is no equitable basis why diversions of nonmember milk should not similarly be increased from the current 40 percent of receipts for nonmember milk to a maximum of 45 percent of receipts. Johanna testified that the producer definition historically has offered disparate treatment between member (cooperative) and nonmember milk in terms of the allowable percentage of milk that can be diverted to nonpool plants and still be priced under the order. Johanna noted that the incremental difference between the two has consistently been 10 percentage points, and that if the allowable percentage of member deliveries can be increased by 5 percentage points, nonmember milk should similarly be increased by the same amount.

Johanna also supported Pennmarva's observations of the market administrator statistics that show the steadily declining percentage of Class I milk receipts within the order's pool. The same statistics, Johanna said, support the adoption of their proposal.

No opposition to the adoption of Proposals Nos. 7 and 9 was received.

Regarding Proposal No. 7, changing marketing conditions, namely increasing producer receipts and declining Class I use, provide support for adoption of this proposal to increase the percentage of milk of cooperative members which may be diverted to non-pool plants during the months of September through February. This proposal offers a reasonable unopposed solution for more orderly marketing and to keep milk pooled under the order that has historically been associated with the market.

Regarding Proposal No. 9, the record does not reveal any reason to not similarly increase the permissible diversion limit by handlers with non-cooperative member milk supplies for the same reasons already indicated regarding Proposal No. 7.

3. Regulation of Distributing Plants That Meet the Pooling Standards of More Than One Federal Order

a. A proposal to leave the determination of which order regulates

a plant with pool-qualifying disposition in more than one Federal order to the provisions of § 1004.7(f)(1) cannot be decided upon on the basis of the hearing record. The provisions of § 1004.7(f)(1) requires that if a pool plant qualifies as a pool plant in another order, the plant will be regulated under that order unless the plant has a greater volume of Class I dispositions in the Order 4 marketing area. Currently, this order provision is subordinated by an additional provision in § 1004.7(f)(2) that yields a plant's pool status to another order whenever such plant qualifies as a pool plant under the other order. It is this subordinating provision that is proposed to be deleted from the order (Proposal No. 3 as published in the hearing notice). In other words, Proposal No. 3, offered by Pennmarva, would determine the regulation of a plant under the order on the basis of where the plant has its greatest Class I route disposition in the event that a plant qualifies as a pool plant under another order.

According to Pennmarva, the yield provision contained in § 1004.7(f)(2) unnecessarily subordinates the Middle Atlantic milk order to the provisions of another Federal order. Such subordination is not needed, said Pennmarva, because the provisions of § 1004.7(f)(1) defines a comprehensive and adequate standard for determining whether a pool plant should be regulated under Order 4.

Pennmarva testified that two pool plants, one located in Lansdale, PA (Lansdale), and the other located in Reading, PA (Reading), have changed from being regulated under Order 4 to Order 2. These changes, said Pennmarva, have had the effect of depressing the Order 4 blend price relative to the blend price of Order 2. According to Pennmarva, the New York-New Jersey 1992 average blend price was $0.68 per hundredweight less than the Order 4 blend price for the same time period. Similarly, Pennmarva indicated that for 1993, the Order 2 blend price was $0.50 per cwt. less than in Order 4.

Pennmarva testified that between 1992 and 1993 there also were changes in Class I receipts and utilization between Order 4 and Order 2. During this time period, Class I receipts of producer milk in Order 4 fell by 265,613,000 pounds while in Order 2 they rose by 170,765,660 pounds, said Pennmarva. During this same time period, the Class I utilization of Order 4 shrank by nearly 3 percentage points to a total of 45.1 percent, while the Order 2 Class I utilization grew by one percentage point to a total of 40.3 percent. Pennmarva attributed these changes partly to the change in regulation of the already-noted plants.

Pennmarva also testified that the exchange of milk between Orders 2 and 4 has historically been equal. However, according to Pennmarva, this relationship changed greatly in the past year. Citing Order 4 market administrator published statistics (the volume of packaged fluid sales from Order 2 into the Order 4 marketing area in 1993), Pennmarva indicated that 327.3 million pounds of pooled and priced Order 2 milk was disposed of in the Order 4 marketing area, up by 134.7 million pounds from 1992—an increase of 70 percent. However, Order 4 priced and pooled milk in the Order 2 marketing area over the same time period increased by only 12.1 percent to a total of 238.0 million pounds. This change of the historical balance was attributed by Pennmarva to the shifting of regulation of the Lansdale pool plant in November 1992 and the Reading pool plant in January 1993 to regulation under Order 2. Even though these plants became regulated under the New York-New Jersey milk order, Pennmarva said, these plants continued to have significant Class I route disposition in the Order 4 marketing area.

Pennmarva also justified using the measure of greatest Class I route sales as the basis for deciding where a plant should be pooled by citing the provisions of nearby orders that provide for this measurement; specifically, the Carolina (Order 5) and the Eastern Ohio-Western Pennsylvania (Order 36) milk orders. However, noted Pennmarva, the New York-New Jersey order provides a different measure.

Pennmarva noted differences between Order 4 and Order 2 pooling provisions. Order 2 allows for transfers of bulk fluid milk (classified as Class I-A) between plants, while Order 4 specifically excludes deliveries to a plant, said Pennmarva. This difference in order provisions may result in a situation where a plant may have a greater in-area packaged route disposition in Order 4, but, testified Pennmarva, because Order 2 allows for plant transfers of bulk fluid milk (milk classified as Class I-A), such bulk transfers may cause the plant to have greater total Class I assignments in Order 2 than in Order 4. In this event, said Pennmarva, the subordinating language of § 1004.7(f)(2) causes the plant to be regulated as an Order 2 pool plant, even though it may have more packaged Class I route distribution in the Order 4 marketing area.

Pennmarva said this proposal would not change the pool plant definition of the New York-New Jersey order. According to Pennmarva, a plant which qualifies as a pool plant in either order prior to the adoption of this proposal will continue to qualify as a pool plant.

Significant opposition testimony was received regarding Proposal No. 3. Johanna, testified that Proposal No. 3 seems intended to prevent them from pooling the milk from its Lansdale plant under the New York-New Jersey milk order despite the fact that the greater percentage of such milk ultimately is distributed as Class I milk in that area. To the best of his knowledge, Johanna said, Proposal No. 3 would have no effect on any other handler. Moreover, the requirement that milk received at Johanna's Lansdale plant be pooled in Order 4 yields no material benefit to Order 4 producers.

According to Johanna, Proposal No. 3 fails to recognize the close relationship between the Order 2 and Order 4 markets and would be counterproductive to the goals of the Federal milk marketing scheme. Johanna contended that milk which is received and separated at one plant, and then shipped as bulk milk for subsequent packaging and Class I distribution by another plant, is most clearly associated with the market in which the milk ultimately is distributed on fluid routes. Johanna also asserted that if more than half of a plant's receipts from producers are regularly shipped to another plant for packaging and Class I disposition in another order, the plant initially receiving the milk, and those farmers who supply such milk, should be associated with and pooled under the order where those later fluid Class I sales are made.

Johanna testified that its Lansdale plant became pooled under Order 2 for legitimate business reasons and not for the purpose of circumventing where it is regulated. The reason for the switch in regulation from Order 4 to Order 2 was the cessation of milk processing at another Johanna plant located in Flemington, New Jersey (Flemington). Prior to this plant's closure, Johanna said, the Flemington plant had been distributing some 677 million pounds of Class I milk annually in the Order 2 market and had been an Order 2 pool plant for more than 15 years.

Upon closing the Flemington plant, Johanna indicated that the greatest majority of its milk business was relocated to its Lansdale operation, with the greatest majority of its Class I sales in Order 2. Johanna said there was no change in Class I disposition in either Order 2 or Order 4 by virtue of the movement of that milk. Johanna asserted again that the combining of operations of the two plants at Lansdale

was a business decision and not an attempt at manipulating order provisions.

Johanna testified that producers in Pennsylvania's milkshed typically supply large quantities of milk to handlers in both Orders 2 and 4. Further, said Johanna, it is unrealistic to view the Pennsylvania milkshed as somehow geographically linked to the Order 4 market. The overlapping nature of this milkshed between the two orders, said Johanna, supports Order 2 regulation of a Pennsylvania plant that distributes the majority of its fluid milk within the Order 2 marketing area.

Johanna emphasized that the Lansdale plant is a ''designated'' Order 2 pool plant, and therefore is relied upon by the performance standards of such designation to provide support for Class I sales within the marketing area. The presence of such plants, said Johanna, supports the blend price which accommodates the large amount of manufacturing milk pooled in the New York-New Jersey order.

No appreciable adverse effect on the Order 4 blend price would result from the inclusion of the Lansdale plant under Order 2, according to Johanna's analysis. The effect on the Order 4 blend price using 1993 averages, said Johanna, amounts to about a three-cent reduction. Johanna also indicated that pooling the milk under Order 4 would have had a slightly smaller reduction in the blend price received by Order 2 producers.

Johanna concluded that any justification for adopting Proposal No. 3 upon a supposed improvement in the blend price by pooling the Lansdale plant under Order 4 fails to account for the effect upon the blend price in Order 2. At most, said Johanna, classification of the plant's milk with one order or the other would represent an insignificant adjustment in the movement, up or down, of blend prices in either order.

Johanna also testified that Proposal No. 3 seems intended to eliminate the applicable location differential as an Order 2 plant. Because of the Lansdale's route distribution in Order 2, the existing location differential is fair, said Johanna. Adoption of Proposal No. 3, according to Johanna, would place them at a competitive disadvantage against other Order 2 handlers competing in the market for fluid sales. Johanna noted that there is a 24.5-cent difference in the location differential in Order 2 between the Lansdale plant's applicable zone (the 71–75 mile zone) and the next nearer zone (the 61–70 mile zone). If Proposal No. 3 is intended to alter the location differentials of Order 2 because of some perceived unfairness, such changes to the Order 2 pricing structure should be addressed through proposed amendments to the New York-New Jersey order and not this proceeding, said Johanna.

Johanna asserted that the 24.5-cent location adjustment between the two zones was properly factored into Order 2's location differential scheme based upon the historical mechanism of transporting distant milk to the urban market through the use of receiving stations. Johanna added that the 24.5-cent difference equalizes the price, for competitive purposes, of milk brought into the Order 2 market from more distant locations. The witness said that as milk had to be shipped from more distant locations, receiving stations collected the milk from dispersed producers. At the time the Order 2 location differential applicable to the Lansdale operation was adopted, said Johanna, the location adjustment difference was intended to allow handlers to recoup the fixed costs associated with the creation and maintenance of receiving stations. At the same time, Johanna added, the location adjustment difference between zones was intended to not affect any Order 2 plant then in existence.

A witness from Dairylea Cooperative, Inc. (Dairylea), of Syracuse, New York, also testified in opposition to Proposal No. 3. Dairylea is a dairy farmer cooperative comprised of some 2,200 members throughout the northeast of the United States who produce milk regulated under Federal Orders 1, 2, 4, and 36. This witness testified Order 4 provisions currently recognizes its interdependence with Order 2. When there is a dispute over which order a particular plant should be pooled under, Dairylea said, there is recognition by Order 4 provisions of the historical uniqueness of Order 2 in terms of its use of up-country plants to separate farm milk into skim milk that is shipped hundreds of miles to city bottling plants, while leaving the cream fraction of the raw milk in the up-country plants for processing into Class II or Class III products. Dairylea said this is part of a sound economic system that has developed over many years.

According to Dairylea, adoption of Proposal No. 3 would set up a direct conflict between Order 4 and Order 2 pooling provisions because adopting it would tend to amend the application of Order 2's pooling provisions. Dairylea was of the opinion that Proposal No. 3 appeared to be based solely on the goal of enhancing a single group's economic interest without regard to the potential of injury to another order's system of milk sales that developed over many years. Dairylea indicated there is a historical uniqueness of Order 2 in terms of its use of up-country plants to separate farm milk into skim milk that is shipped hundreds of miles to city bottling plants, while leaving the cream fraction of the raw milk in up-country plants for processing into Class II or Class III products.

Opposition testimony was also received from a witness on behalf of Clover Farms Dairy Company (Clover Farms), located in Reading, PA. Clover Farms testified that adoption of Proposal No. 3 would lead to irreconcilable conflict with the provisions of the New York-New Jersey order.

Clover Farms testified that the most basic provisions of any milk marketing order are those that determine which plants are to be regulated. These provisions, Clover Farms said, often differ from one order to another because they are designed to meet the varying characteristics of the marketing areas involved. According to Clover Farms, because an individual plant serving a diverse market may meet the pooling requirements of more than one Federal order, each order must specify how such a situation is to be resolved. Moreover, said Clover Farms, the resolution as determined by each order involved must lead to the same conclusion, otherwise no guidance will be given either to the Department of Agriculture or to the courts in resolving the conflict.

Clover Farms testified that Proposal No. 3 would eliminate the basis for deciding which order takes precedence when a plant would otherwise be subject to the classification and pricing provisions of both Order 4 and another Federal order. Leaving the determination on which order has the greater volume of Class I milk disposed of on routes in its marketing area from the plant might work, said Clover Farms, provided the other order has a provision that provides the same conclusion. This could not work in the case of Order 4 and Order 2, Clover Farms indicated, because the provisions of the New York-New Jersey order bases the decision on which order has the larger portion of disposition of Class I–A milk, which includes bulk shipments of milk assigned to Class I, in its marketing area. Since Order 4 does not recognize the role of bulk shipments in its calculation, said Clover Farms, adoption of Proposal No. 3 would provide no basis upon which to resolve the conflict between the two orders when a plant meets the pooling provisions of both.

The opposition testimony of the Clover Farms witness was supported in testimony by a witness who testified on

behalf of Eastern Milk Producers Cooperative Association, a dairy farmer cooperative having some 2,400 members that ship milk to Orders 1, 2, 4, and 36.

A brief filed by Pennmarva noted that while Johanna agrees that a plant should be pooled under the order in which most Class I sales are made, Johanna provided no evidence to support the claim that fluid milk transfers from the Lansdale plant were in fact distributed on routes in the Order 2 marketing area, thereby meeting a defacto route disposition test. Pennmarva argues here that if, in fact, the Lansdale plant has greater route disposition in Order 2 than it has in Order 4, the adoption of Proposal No. 3 will have no effect on the plant. Pennmarva further argues that even if the plant did not now have greater route disposition in Order 2, operators of the plant could implement the changes necessary to ensure greater route sales in Order 2.

To illustrate the need for adopting Proposal No. 3, the Pennmarva brief noted that in 1993, the Lansdale plant had 224 millions pounds of Class I disposition in Order 4 and 245 million pounds of Class I disposition in Order 2, for a total of 469 million pounds. Of that 469 million pounds, Pennmarva indicated that at least 10 percent (46.9 million pounds) of its milk was transferred in bulk or packaged form from Lansdale to other plants. According to Pennmarva, Lansdale consequently distributed on routes no more than 198.1 million pounds in the Order 2 marketing area. Thus, Pennmarva claims that the Lansdale plant distributed 198.1 million pounds of Class I milk on routes in Order 2 versus 224 million pounds of Class I milk in Order 4, clearly revealing that there is more route disposition under Order 4. However, because of the yield provision contained in § 1004.7(f)(2), according to Pennmarva, the Lansdale plant is regulated under Order 2.

The Pennmarva brief contends that Johanna's testimony that the Lansdale Class I–A milk transfers were ultimately distributed on routes in Order 2 is in error. Pennmarva noted that the definition of Class I–A milk under Order 2 is ''as route disposition in an other order marketing area'' as delineated in § 1002.41(a)(1)(ii) of the New York-New Jersey order. Thus, according to Pennmarva, a plant which otherwise qualifies as an Order 2 pool plant can dispose of milk on routes in the Order 4 marketing area, and such dispositions are classified under Order 2 as Class I–A. Pennmarva indicated that once classified as Class I–A, no further distinction is made regarding the ultimate destination of route sales.

The Pennmarva brief also challenged the Johanna witness' assertion that all of its transferred milk was ultimately distributed on routes in the Order 2 marketing area. Pennmarva noted that transfers were made between Lansdale, PA, and Reddington Farms (an Order 2 pool plant) and that market administrator statistics indicate that Reddington Farms enjoyed Class I route disposition in the Order 4 marketing area in every month between 1991 and 1994.

In response to the Clover Farms' testimony that adoption of Proposal No. 3 would lead to irreconcilable conflict with Order 2 and that such conflict would need to be addressed by the Dairy Division, Pennmarva cited an example of how, through administrative determination, a pooling issue such as this might be handled. The Pennmarva brief asserted that it is within the purview of the Act for proponent cooperatives, which represent volumes in excess of 90 percent of the Order 4 market, to delete provisions which subjugate the order to all other orders and to rely on a route disposition test in determining where a plant should be pooled when it also qualifies for pooling under another order.

According to the Pennmarva brief, orderly marketing within Order 4 should not be hinged on an accommodation to another order. Pennmarva does concede that the interplay of adjoining markets, such as Order 2 and 4, must be considered in maintaining orderly marketing but indicated there is nothing in the record which provides a reason why Order 4 should be subordinated to Order 2 or any other order. This is important, according to Pennmarva, because of the economic hardship brought about through depressed blend prices. Pennmarva indicates that there is no benefit to Order 4 producers from the application of the provisions of § 1004.7(f)(2) and that its elimination will not change the pooling standards of any other Federal order.

In defense of the adequacy of using a route disposition test, the Pennmarva brief cited a recommended decision applicable to another Federal order in which a plant that qualifies under more than one order is regulated under the order which it enjoys the greatest route disposition. This recommended decision indicated that such application normally assures that all handlers having principal sales in a market are subject to the same pricing and other regulatory requirements. Official Notice is taken of the Final Decision (59 FR 26603, published May 23, 1994) for the Southern Michigan marketing area in which no changes were made regarding this issue from the recommended decision. According to Pennmarva, such an example speaks to a fundamental intent of milk marketing orders—to regulate handlers that compete for sales within the specific geographic definition of the marketing area.

A brief filed by Johanna reiterated their opposition to the adoption of Proposal No. 3.

Reply briefs filed by both Pennmarva and Johanna similarly reiterated their positions given in testimony and in submitted briefs. However, Johanna's reply brief takes objection to Pennmarva's suggestion that Johanna should simply effectuate changes in its Lansdale operations so as to convert its bulk shipments of fluid milk to Order 2 into route disposition and thereby preserve the plant as an Order 2 plant under the strictures of § 1004.7(f)(1). According to Johanna, this suggestion does not take into account the impracticality and costs to Johanna of pooling the Lansdale plant to accommodate the packaging requirements of multiple wholesale customers who presently receive bulk shipments from the Lansdale plant for packaging and ultimate route disposition in Order 2.

Johanna also counters the Pennmarva's reference to another rulemaking proceeding and recommended decision involving a pooling issue of a Ultra High Temperature (UHT) plant in another Federal order. While Pennmarva cited this recommended decision as an example of how administrative intervention could be used to determine where a plant should be regulated, Johanna views this recommended decision as providing certainty and orderly conditions for the UHT plant and its producer on where it will be pooled. In this example, Johanna notes that the route disposition test, as a single criteria for pooling, is rejected because of the unique aspects of the marketing conditions faced by the UHT plant. Such uniqueness should also be recognized for the Lansdale plant, said Johanna, because it makes Class I bulk shipments to an order which does not rely solely on a route distribution pooling test.

At issue regarding Proposal No. 3 is where a plant should be pooled and regulated when it meets the pooling standards of more than one order. Both the proponent and opponents to Proposal No. 3 agree that the market in which fluid sales distributed on routes are greatest is where a plant should be regulated. Where a plant should be regulated is a most important feature of

all Federal milk orders. The basis upon which a marketing area is determined is founded on the basis of where handlers compete with each other for fluid sales. An important determinant of handlers competing with each other for sales is generally made through a measurement of the route disposition of fluid milk. For the Middle Atlantic marketing area, the order clearly defines route disposition, and its measurement can be made with exacting precision every month. However, the New York-New Jersey marketing order differs from Order 4 in that it provides for the bulk transfers of fluid milk between plants that is classified as Class I-A milk. Order 4 specifically excludes such transfers between plants from meeting its route disposition test.

Opponents of Proposal No. 3 assert, in part, that bulk transfers of Class I-A between plants are an important feature of the Order 2 marketing area because of the market structure that evolved there over time. The basis of providing for bulk transfers of Class I-A milk between plants recognized the market structure and conditions in that order. Opponent witnesses describe ''up-country'' plants that assemble and separate the skim fraction of producer milk for subsequent transfer to ''city'' bottling plants for eventual distribution to retail outlets, while leaving the cream fraction in country plants to be further processed into Class II and Class III products, as a unique characteristic of the Order 2 marketplace.

On its face, it is difficult to conclude that adoption of Proposal No. 3 somehow threatens the above described market structure that Order 2 handlers have relied upon for a long period of time. Both the proponent and opponents of Proposal No. 3 recognize and describe similarly the close relationship between Order 2 and Order 4. The record reveals that both orders share, to a significant extent, a common milkshed. The record also reveals that milk movements between orders have been historically equal until the Lansdale plant switched regulation from Order 4 to Order 2. The change in the regulatory and pool status of the Lansdale plant was due to Order 2 allowing for bulk transfers of Class I-A milk as a fluid use which brought the total Class I disposition of the plant to have more milk associated with the New York-New Jersey marketing area than it had with the Middle Atlantic marketing area. This allowance for bulk transfers under the New York-New Jersey order, together with the subordinating language of Order 4, required the regulatory and pool status of the Lansdale plant to shift to Order 2 even if the Lansdale plant may have had more route sales in Order 4.

The Lansdale plant is physically located within the Order 4 marketing area and until recently had historically been pooled as an Order 4 pool distributing plant. Further, the Lansdale plant is clearly a fluid distributing plant that competes with other handlers for fluid sales in Order 4. In the New York-New Jersey order, it seems to enjoy, from the testimony of some opponent witnesses, the status of a distributing plant while at the same time was inferred to be a ''country'' plant. Nevertheless, Order 2 recognizes the Lansdale plant as a fluid milk distributing plant with the transferring of milk as a secondary operation. This distinction is made here because Order 2 also recognizes processing plants with manufacturing as a secondary operation. Simply put, the Lansdale plant's primary enterprise is as a fluid distributing plant.

The effect of the New York-New Jersey order provision of allowing for bulk transfers of Class I–A milk and its lack of a route disposition test makes it difficult to determine precisely where the majority of Landsdale's Class I sales take place that includes the bulk transferred milk. The record reveals, in testimony by Johanna, that bulk transfers of Class I–A milk end up eventually as route disposition, although the record does not reveal how much of such milk is distributed on routes within Order 2 or in another marketing area. Pennmarva makes a case from the record evidence that suggests that there is more route disposition in Order 4. In this regard, Johanna's claim that fluid milk transfers from the Lansdale plant were in fact distributed on routes in Order 2 might not be totally accurate on basis of the record evidence. This conclusion is further supported by examining the Order 2 provision of what constitutes Class I–A milk, namely, inclusion of milk distributed on routes in another marketing area. This decision agrees with Pennmarva that a plant which otherwise qualifies as an Order 2 pool plant can dispose of milk on routes in the Order 4 marketing area with such disposition classified as Class I–A, and then once so classified, no further distinction as to the ultimate route disposition is made through the transfer chain.

In summary, a conclusion on the basis of the record of where the greatest route sales of fluid milk are made by Johanna's Lansdale plant cannot be determined. This is problematic because both proponent and opponent witnesses indicate that a plant should be pooled where it enjoys the majority of its Class I disposition, but Order 2 and Order 4 each rely on different forms of measuring this outcome. Due recognition of the regulatory impact on a plant that meets the pooling standards of the New York-New Jersey order is warranted because the plant has met that order's standards. At the same time, Order 4 producers are required by their order to yield to the pricing provisions of another order on the terms of measurement that are not its own.

This recommended decision agrees with an opponent witness' testimony that each marketing order should specify how to resolve differences and conflicts that arise in the regulation and pooling of plants. In this regard, opponents to Proposal No. 3 voiced concern that its adoption would lead to irreconcilable conflict with the provisions of the New York-New Jersey order. Such conflict probably would not be the case if an identical definition and standard of measurement, that is route disposition, existed for both orders.

In short, adoption of Proposal No. 3 would leave determination of the regulatory and pool status of the Lansdale plant solely to the Order 4 route disposition test. However, adoption of this proposal has the effect of causing a change to the New York-New Jersey order which was not open or noticed in this proceeding. Adoption of Proposal No. 3 provides neither clarity nor a basis, at least with respect to the relationship between Order 4 and Order 2, to determine in which order a plant should be pooled.

The apparent intent of Pennmarva's Proposal No. 3 seems clear and consistent with how milk is regulated and pooled throughout the Federal milk order system. In this regard, Pennmarva is asking that milk distributed on routes be the sole test for determining where a plant should be pooled. Proponents and opponents agree that where a plant has most of its sales is the most appropriate basis for making such a determination. Unfortunately, Proposal No. 3 falls short of being able to accomplish this without causing a change to the New York-New Jersey order.

The Johanna witness testified that, in part, the purpose of Proposal No. 3 appeared intended to eliminate the location differential as an Order 2 plant. This would obviously place Johanna at a competitive disadvantage against other Order 2 handlers competing in the market for fluid sales in the Order 2 marketing area. The witness observed correctly that there is a 24.5-cent difference in the location adjustment in Order 2 between the Lansdale plant's applicable zone (the 71–75 mile zone) and the nearer zone (the 61–70 mile

zone). On this point, an examination of the Class I price at the Lansdale location reveals a disparate price difference between being regulated under Order 2 or Order 4. Under the provisions of the Middle Atlantic order, the Class I price applicable at Lansdale is $0.345 more than what the applicable Class I price would be if it were regulated under the New York-New Jersey order.

This disparate price difference suggests that the Class I price, at least at the Lansdale location, could be better aligned. To the extent that a $0.345 price difference between the pricing provisions of two adjoining orders may be sufficient to encourage bulk Class I–A milk transfers, that, together with other forms of milk disposition in the New York-New Jersey order, provides the Lansdale plant the economic incentive to meet the pooling standards and pricing provisions of Order 2. If the Class I price at Lansdale were in better alignment, it is reasonable to suppose that Johanna would likely be indifferent on which order they sought pricing and regulatory status. On the one hand, Landsdale is able to attract an adequate supply of fluid milk at a price lower than what would be applicable if regulated under Order 4. Further, adoption of Proposal No. 3 would likely cause a shift in the regulatory status of the Lansdale plant back to Order 4, causing their cost of milk to increase when they meet the pooling standards of another order. On the other hand, if the Lansdale plant enjoys its greatest route disposition in the Order 4 marketing area, they enjoy a sales advantage against other Order 4 regulated handlers that pay more for their milk.

It is because of the above discussion of this issue that a recommendation for or denial of Proposal No. 3 cannot be made on the basis of this record. Adoption of Proposal No. 3 would have the effect of causing a change to another order which cannot be accomplished without a hearing that includes the other order. Further, the apparent disparate price difference between the pricing provisions of the Middle Atlantic and New York-Jersey orders suggests that the pooling question at issue is perhaps a pricing issue. As such, it is not appropriate to attempt correction of a pricing problem by changing pooling provisions.

Notice is given that the Department expects that interested parties will investigate and offer proposals that address the Class I price alignment structure between Order 2 and Order 4. Other features of marketing order differences, such as that exhibited on the issue regarding Proposal No. 3, should similarly be considered with the view to facilitating more orderly marketing conditions.

b. A second proposal that would eliminate the exemption of a pool plant's regulation under Order 4 when such a plant meets the pool plant definition of another order from the pool plant definition of the order should be adopted. This was proposed by Pennmarva (Proposal No. 2 as published in the hearing notice).

Currently, an Order 4 pool plant can continue to be regulated under the order as a pool plant for two succeeding months after it fails to meet certain pooling standards, unless it simultaneously meets the pooling provisions of another Federal order. This feature of the order is commonly referred to as the ''lock-in'' provision.

Pennmarva testified that in the recent past, two Order 4 pool distributing plants changed their status from being regulated under the Middle Atlantic marketing order to the New York-New Jersey marketing order (Order 2). In both cases, Pennmarva said, notice of the change of regulation was provided to cooperative suppliers in a timely fashion so that the appropriate logistical arrangements could be made. According to Pennmarva, an important logistical item attended to was the reassociation of the market's producers whose last shipment to a pool distributing plant was to one of these plants. Pennmarva said accomplishing this task was exacting and time consuming.

Pennmarva testified that there is no requirement or certainty for a handler to give adequate notice to its cooperative suppliers of milk. Further, said Pennmarva, cooperative suppliers have no independent knowledge that a plant may change from regulation under the order to another order. In a worst case scenario, Pennmarva said, a cooperative supplying milk to a handler changing regulation would not discover this change until ten days into the following month. Pennmarva indicated the intent of this proposed amendment is to enhance orderly marketing rather than keeping a plant pooled permanently under Order 4.

Opposition to Proposal No. 2 was voiced by Dairylea. According to Dairylea, Proposal No. 2 has no economic or substantive basis. This witness drew attention to the timely notification to suppliers by the two plants that shifted regulation to the New York-New Jersey order as an indicator of the well-functioning current provision of the order. Thus, Dairylea concluded that the order therefore does not require a modification to address the issue.

In the interest of promoting more orderly marketing conditions, Proposal No. 2 has merit because it mitigates a cooperative's lack of knowledge of a distributing plant's dispositions. Such knowledge is needed in order for the cooperative to know where a plant is pooled or when a plant's pool status may change in any given month. It is reasonable to expect that when a distributing plant does change its regulatory status under the order, producers supplying the plant should have the time to make the business changes and adjustments they deem necessary without the loss of the certainty of where their milk will be pooled. The record reveals that advance notification was provided to cooperative suppliers prior to changes of where certain plants would be regulated in some instances. This is commendable and speaks well to the interactions between cooperative suppliers of milk and handlers. However, such notification is clearly voluntary when requiring it would offer clear advantages without being burdensome. The merit in requiring advance notification stems from the very real and reasonable need of cooperatives to have such prior knowledge of where their milk will be pooled and priced. Finding out after-the-fact that a plant's regulatory status has changed is tantamount to denying producers access to an intended market. For this reason, the objections by the opposition witness from Dairylea have little merit. It also places an unreasonable economic burden on Order 4 producers because of the order's requirement to re-associate producer milk in the marketing area so that producers may enjoy the benefits from being pooled in Order 4.

Because a decision regarding Proposal No. 3 cannot be made on the basis of this record, the proposed deletion of § 1004.7(a)(4) as proposed by Pennmarva would not accomplish implementing the intent of this proposal (Proposal No. 2). Accordingly, this decision modifies the language of § 1004.7(a)(4) to ensure that the two month ''lock-in'' provisions (as contained in § 1004.7(a)(3)) will apply to plants that may, in the future, shift regulation to another Federal order or become a nonpool plant.

4. Discretionary Authority To Revise Pooling Requirements and Producer Milk Diversion Limits

Two proposals offered by Pennmarva that would provide discretionary authority for the market administrator to revise pooling requirements and producer milk diversion limits should be adopted. Proposal No. 5, as

published in the hearing notice, would provide the market administrator the authority to raise or lower the applicable pooling standards for distributing plants, supply plants, and reserve processing plants. Proposal No. 8, as published in the Notice of Hearing, would similarly provide the market administrator the authority to raise or lower the applicable diversion limits for cooperative associations, federations of cooperative associations, and handlers with non-member milk supplies. Adoption of these provisions will provide a procedure for the order to be modified in a more responsive manner to changes in marketing conditions than is currently the case. Modification can be made to encourage the shipment of additional supplies of milk for fluid use or to prevent the uneconomic shipments of milk that are in excess of fluid needs.

The order does not currently provide for such discretionary authority for the market administrator to change pooling requirements or diversion limitations. Typically, pooling standards may be temporarily revised or suspended administratively through informal rulemaking by the Department at a petitioner's request. The Department investigates the request and determines the need to temporarily revise or suspend pooling standards. Permanent changes or amendments to Federal order provisions, as in this proceeding, are accomplished through formal rulemaking procedures based on a public hearing.

The pool plant definition of Order 4 currently requires that in meeting pool plant qualification status, a plant must have a Class I disposition of at least 40 percent of its receipts in the months of September through February and 30 percent in the months of March through August. Additionally, at least 15 percent of receipts must be within the marketing area. Any plant that does not meet this criteria for pool plant status can still be a pool plant if at least a specified percentage of its milk receipts is moved during the month to a plant(s) that meet the Class I disposition requirements and volume of route disposition within the marketing area indicated above. The applicable percentage for the months of September through February is 50 percent of receipts; for the months of March through August, the applicable percentage is 40 percent. A reserve processing plant operated by a cooperative association or by a federation of cooperative associations is a pool plant provided, in part, that at least 30 percent of the total milk receipts of member producers during the month is moved to and physically received at a plant that meets the Class I disposition standards.

The producer definition of Order 4 currently provides that dairy farmers can be producers under the order even though their milk is moved from the farm to nonpool plants for manufacturing purposes rather than to plants for fluid use. Diversion limits apply to handlers marketing dairy farmer's milk such as cooperative associations, federations of cooperatives, and handlers marketing non-member milk. The diversion limit for a cooperative association or a federation of cooperatives is restricted to 50 percent of the volume of milk of all members of a cooperative association or federation delivered to, or diverted from, pool plants during the month. The diversion limit for handlers with non-member milk supplies is restricted to 40 percent of the total of non-member milk for which a pool plant operator is the handler during the month.

Pennmarva testified that granting the market administrator the authority to raise or lower pooling standards and diversion limits will enhance orderly marketing by either encouraging needed milk shipments or preventing the uneconomic movement of milk. Pennmarva indicated that such administrative authority is granted to market administrators in other markets, noting for example that the market administrator in the Upper Midwest marketing area (Order 68) has similar authority.

Before making any revision to the pooling standard or diversion limits established by the order, Pennmarva offered specific procedures that would govern the conditions under which revisions might be warranted. The procedure offered specifies that the market administrator may increase or decrease the applicable percentages of either the pool plant definition section or the producer definition section of the order (§§ 1004.7 and 1004.12 respectively) if a revision is necessary to encourage needed shipments or to prevent uneconomic shipments of milk. Before making such a finding, the order procedure requires the market administrator to investigate the need for revision either on the market administrator's own initiative, or at the request of interested parties. If the investigation shows that a revision might be appropriate, the proposed order language requires the market administrator to issue a notice stating that a revision is being considered and invite data, views, and arguments on whether a revision is necessary. The procedure also specifies that any request for revisions be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired to be effective.

Pennmarva testified that this amendment would provide for more timely decisions on factors affecting the pool status of dairy farmers. It was Pennmarva's opinion that the market administrator and staff are fully appraised of the market conditions in the Middle Atlantic market. Such working knowledge, said Pennmarva, can decrease the time and expense needed to respond to a changing market and improve regulatory efficiency.

Pennmarva maintains that this process is superior to the process currently used to affect needed changes in pooling standards and diversion limitations. Pennmarva noted that the Department can effectuate suspension actions of order provisions that remove regulatory language, thus reducing the burden on handlers. However, the witness indicated that deletions of language by informal rulemaking procedures is too limiting to address changes in marketing conditions. Pennmarva said that providing the market administrator with a procedure to make specific percentage changes, either up or down, would be a more flexible way of changing shipping requirements or diversion limits.

Opposition testimony was received from Dairylea for granting such discretionary authority to the market administrator for revising shipping requirements (Proposal No. 5). Dairylea said that while they have significant faith in market administrators, they see no reason to abandon long-term practices of having a public hearing or meeting to discuss the merits of changing applicable shipping standards within an order. Dairylea is of the view that Proposal No. 5 does not provide for a public meeting forum but rather simply written arguments almost after the fact. Dairylea indicated that shipping standards can have a profound economic impact on farmers, cooperatives, processors and consumers, and, in fact, are the very essence of the market order structure. The witness said that changing these standards without public scrutiny in the form of a public meeting or hearing should not be allowed. The witness feared that a simple request for a written response would leave many people out of the discussion and decisionmaking process.

A witness for Clover Farms testified in opposition to both Proposal Nos. 5 and 8. Clover Farms opposes these two proposals unless provision is made for a public forum to aid in the decision

making process of the market administrator.

A witness for Eastern Milk Producers Cooperative Association (Eastern) also testified in opposition to Proposal Nos. 5 and 8. Eastern indicated that it makes sense to provide a degree of administrative discretion to the market administrator to resolve the problems that may arise as a result of changes in supply and demand conditions in the marketplace that would warrant adjustment of shipping percentages. Nevertheless, before such discretion is exercised, Eastern maintained that there be notice to the industry and preferably that there be an opportunity for a public meeting for interested parties to bring evidence in aiding the market administrator to make a proper decision. Eastern noted that the ''call'' provision of the New York-New Jersey marketing order, which requires the market administrator to conduct a public meeting in setting performance standards on handlers to ensure that the fluid market needs are adequately served, works well. Eastern indicated support for a proposal that would be similar in scope for the Middle Atlantic order.

At issue on the part of those who oppose granting administrative discretion to the market administrator in adjusting shipping requirements and diversion limitations is the lack of a public meeting. Opponents have firm opinions that the public and interested parties should have a greater degree of participation in the decisional process than the proposed administrative proceeding would require. However, opponents take no issue on the ability, impartiality or integrity of the market administrator to make appropriate administrative decisions regarding adjustments to shipping requirements and diversion limits. The issue here is one of procedure.

The informal rulemaking procedure is routinely used for making temporary suspensions or revisions to pool plant shipping requirements and diversion limitations. The procedure of public notice and comment before deciding on the appropriate course of action that is proposed in Proposals Nos. 5 and 8 follow in identical fashion the procedures followed by the Department. This informal rulemaking procedure does not include reliance on public hearings or meetings because of the need for urgent and expeditious action to address rapidly changing market conditions. Nevertheless, any interested party has the opportunity to have their views included in the decision making process.

As the record reveals, such a procedure has been used in the Upper Midwest Marketing Area since 1990. Since the record does not reveal any lack of confidence in the ability of market administrators (who are entrusted with great responsibility in administering the order) to effectively carry out this duty, it is reasonable to conclude that on the basis of the broad authorities already entrusted to the market administrator to provide for the effective administration of the order, such discretionary authority that would be granted with the adoption of Proposals Nos. 5 and 8 are consistent with those already given. Furthermore, these two proposals have the broad support of producers who represent some 90 percent of the milk associated with the market.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Middle Atlantic order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Middle Atlantic marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Part 1004

Milk marketing orders.

For the reasons set forth in the preamble, the following provision(s) in Title 7, Part 1004, is amended as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. The authority citation for 7 CFR part 1004 continues to read as follows:

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

2. Section 1004.7 is amended by revising paragraphs (a)(1) and (a)(4); revising paragraph (d)(1); and by adding a new paragraph (g), to read as follows:

§ 1004.7 Pool plant.

* * * * *

(a) * * *

(1) Milk received at such plant directly from dairy farmers (excluding milk diverted as producer milk pursuant to § 1004.12, by either the plant operator or by a cooperative association, and also excluding the milk of dairy farmers for other markets) and from a cooperative in its capacity as a handler pursuant to § 1004.9(c); or

* * * * *

(4) A plant's status as an other order plant pursuant to paragraph (f) of this section will become effective beginning the third month in which a plant is subject to the classification and pricing provisions of another order.

* * * * *

(d) * * *

(1) A reserve processing plant operated by a cooperative association at

which milk from dairy farmers is received if the total of fluid milk products (except filled milk) transferred from such cooperative association plant(s) to, and the milk of member producers physically received at, pool plants pursuant to § 1004.7(a) is not less than 25 percent of the total milk of member producers during the month.

* * * * *

(g) The applicable shipping percentage of paragraphs (a) and (b) or (d) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that a revision of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and invite data, views and arguments. Any request for revision of shipping percentages shall be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired effective.

3. Section 1004.12 is amended by revising paragraphs (d)(2)(i) and (d)(2)(ii); and by adding a new paragraph (g), to read as follows:

§ 1004.12 Producer.

* * * * *

(d) * * *

(2) * * *

(i) All of the diversions of milk of members of a cooperative association or a federation of cooperative associations to nonpool plants are for the account of such cooperative association or federation, and the amount of member milk so diverted does not exceed 55 percent of the volume of milk of all members of such cooperative association or federation delivered to or diverted from pool plants during the month.

(ii) All of the diversions of milk of dairy farmers who are not members of a cooperative association diverting milk for its own account during the month are diversions by a handler in his capacity as the operator of a pool plant from which the quantity of such nonmember milk so diverted does not exceed 45 percent of the total of such nonmember milk for which the pool plant operator is the handler during the month.

* * * * *

(g) The applicable percentages in paragraphs (d)(2)(i) and (d)(2)(ii) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that a revision of the diversion limit percentages might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and invite data, views and arguments. Any request for revision of the diversion limit percentages shall be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired effective.

Dated: July 10, 1995.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 95–17282 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

RIN 1515–AB28

Copyright/Trademark/Trade Name Protection; Disclosure of Information

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise a previous proposal to amend the Customs Regulations to allow Customs to disclose to intellectual property rights owners sample merchandise and certain information regarding the identity of persons involved with importing merchandise that is detained or seized for suspected infringement of registered copyright, trademark, or trade name rights. The initial proposal is revised in response to comments received and to make the proposed regulatory amendments consistent with provisions of the North American Free-Trade Agreement (NAFTA) and the Uruguay Round Agreements Act relating to the disclosure of information to intellectual property rights owners. This document solicits comments regarding the revised proposal.

DATES: Comments must be received on or before September 12, 1995.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue NW., Washington, DC 20229. Comments submitted may be inspected at Franklin Court, 1099 14th Street NW—Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Wm. Means, Intellectual Property Rights Branch, (202) 482–6957.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1993, the Customs Service published a Notice of Proposed Rulemaking in the **Federal Register** (58 FR 44476) regarding the disclosure to intellectual property rights (IPR) owners of sample merchandise and certain identifying information regarding the persons involved with importing merchandise that is either detained or seized for suspected infringement of registered copyright, trademark, or trade name rights. Thereafter, the United States, Canada, and Mexico entered into the North American Free-Trade Agreement (NAFTA) and, on December 8, 1994, the President signed the Uruguay Round Agreements Act (URAA) (Pub. L. 103–465, 108 Stat. 4809), both of which contain provisions pertaining to the protection of IPR.

Chapter 17, Article 1718 of the NAFTA provides for the enforcement of IPR at the border and contains a provision concerning notification of trademark or copyright owners when Customs suspends the release of merchandise for suspected infringement. The provisions of Article 1718 were not addressed by the North American Free Trade Implementation Act (NAFTA Implementation Act) (December 8, 1993) (Pub. L. 103–182, 107 Stat. 2057) because, as stated in the Statement of Administrative Action (House Document 103–159, vol. 1, pp. 637–638, 103d Cong., 1st Sess.), the United States was obligated to make changes in statute or regulation in only five limited areas. The notification provision of Article 1718 was not one of those areas. Accordingly, while the Customs Service does not consider the regulatory changes proposed in this document to be specifically mandated by Article 1718 of the NAFTA or by the NAFTA Implementation Act, their inclusion in this proposal supports the enforcement principles reflected in Chapter 17 of the NAFTA.

The URAA implements the Uruguay Round multilateral trade agreements

negotiated under the General Agreement on Tariffs and Trade (GATT)—now the World Trade Organization (WTO). The GATT Agreement on Trade-Related Aspects of Intellectual Property Rights, as adopted by Congress (section 101(d)(15) of the URAA, 19 U.S.C. 3511), establishes comprehensive standards for the protection of intellectual property and the enforcement of IPR in signatory countries; article 57 of this Agreement confers a right of inspection and information on IPR holders.

Because the proposed rule of August 23, 1993, did not consider the expanded IPR owners notification requirements contained in article 1718 of the NAFTA and article 57 of the GATT Agreement on Trade-Related Aspects of Intellectual Property Rights, Customs is publishing a revised notice of proposed rulemaking and solicits public comments. As the background information previously published in the August 23, 1993, proposed rule continues to be applicable to this revised proposed rule, it is incorporated herein by reference. In summary, the background stated that certain changes to part 133 of the Customs Regulations (19 CFR part 133) were being proposed to codify the rules for disclosure of information to certain parties at interest in import transactions involving infringement of trademarks and copyrights. Among the reasons stated for the proposed rule were the current haphazard availability of such information to parties at interest through the lengthy and cumbersome Freedom of Information Act (FOIA) process; Customs interest in facilitating the parties' private remedies for trademark and copyright infringement; and, the disparity among the current regulations for notification in situations of detention or seizure of trademark and copyright infringing merchandise.

In addition to the changes required because of provisions contained in the NAFTA and GATT Agreement, Customs has revised the language of the proposed regulations in an effort to improve their clarity.

Analysis of Comments

In response to the August 23, 1993 rulemaking proposal, Customs received 65 comments: 53 in favor of the proposal, 5 against the proposal, 5 in favor with a specific qualification or suggestion, and 2 suggested changes to the proposal without taking a position either for or against it.

Each of the 53 responses in favor of the proposal had several elements in common. Most commenters noted the losses to private business each year due to the importation of infringing merchandise, and the private litigation required to deter such infringement. These commenters further noted the lack of information which is provided to IPR owners under the current regulations, and were in favor of additional information being disclosed to facilitate private enforcement actions. Commenters also noted that the proposal would facilitate communication between IPR owners and Customs personnel when the assistance of the IPR owner is required to determine whether or not an imported article is genuine.

Specific qualifications, suggestions and/or concerns are addressed below.

Comment: One commenter requested that in addition to information provided when importers deny piracy of a recorded copyright (19 CFR 133.43), Customs disclose information when an importer does not deny piracy.

Response: In those cases where an importer does not deny infringement under the procedures provided for in § 133.43 of the Customs Regulations (19 CFR 133.43) the merchandise is seized. As set forth in this revised proposal, § 133.42 would be amended to make mandatory the disclosure of the requested information to the IPR owner in such a seizure circumstance.

Comment: One commenter was in favor of disclosure only when a seizure action is indicated, and opposed to disclosure when merchandise is merely ''suspected'' of infringement. In contrast, another commenter requested that an importer's identity be released when goods are detained as well as seized.

Response: Customs only detains that merchandise for which there are reasonable grounds to believe that an infringement of IPR has occurred, or when in the words of the commenter ''firm evidence'' is present to suspect infringement. At the time of detention, Customs tries to determine whether sufficient grounds exist to believe that a substantive violation has occurred such that further action is warranted. In many cases Customs cannot without the assistance of the IPR owner determine whether or not the imported article in fact bears genuine or infringing marks. Customs expects that the proposed regulations will provide Customs personnel with the authority to consult IPR owners, thereby resulting in more accurate decisions regarding infringement. Further, given that, at the time of detention, Customs has not yet determined whether a violation has occurred, Customs believes that the premature release of an importer's identity would be inappropriate. In addition, the constraints of the disclosure laws suggest that the importer's rights against the release of such information make disclosure inappropriate. The proposal is structured to limit the disclosure of information in instances of detention in order to protect the rights of importers.

Comment: Several commenters suggested that more information should be released than was proposed. Specifically, various commenters requested that information pertaining to the country of origin, the identity of the shipper, the means of transport, the identity of the broker (if any), dates of export/import, the port(s) of entry, and a description of the goods all be made available.

Response: Regarding country of origin information, Customs agrees that this information, when available, should be disclosed to IPR owners. Accordingly, to the extent that country of origin information is available from the documents submitted to Customs in the normal course of business, that information will be disclosed. For the purposes of the proposed regulation, country of origin is defined at 19 CFR 134.1(b). Also, the latter three types of information (dates of importation, the port of entry, and a description of the merchandise) will be included in every detention and seizure notification as a matter of course.

However, regarding the other types of information (the identity of the shipper, the means of transport, and the date of export), in balancing the desires of the IPR owner against the disclosure limitations of the Freedom of Information Act (5 U.S.C. 552) and the Trade Secrets Act (18 U.S.C. 1905) and the potential workload of Customs personnel in providing such additional information, Customs considers such disclosure inappropriate.

Regarding disclosure of the identity of the broker (if any), Customs response is set forth below in the response regarding the use of the term ''importer.''

Comment: One commenter requested clarification on the timing of notices; i.e., when during the entry-detention-and-seizure process the notice would be provided.

Response: Although the IPR provisions contained in the NAFTA and the GATT do not specify a minimum time frame for notification to IPR owners, Customs believes that notification within a 30-day time period provides notice in a manner consistent with the purpose of these commitments.

Comment: Several commenters addressed the condition of sample merchandise provided under the proposed regulations.

Response: The condition of samples sent to IPR owners will be as allowed under applicable disclosure laws. Thus, where no part of seized or detained merchandise comes within an exemption from disclosure, the sample provided the IPR owner will be as received by Customs.

Comment: Comments were received with regard to the use of the term ''importer'' and the concern that an importer may in fact be a broker rather than ''the party who actually caused the importation.'' As a result, rights holders could be notified of the identity of a broker acting as importer rather than ''the party who actually caused the importation.''

Response: Customs recognizes that the term ''importer'' may include a broker under certain circumstances. However, Customs does not intend that nominal consignees should be included for the purposes of this regulation.

Comment: One commenter suggested that the term ''mark'' should be defined by specific reference to section 5 of the Lanham Act (15 U.S.C. 1127).

Response: While this comment is not relevant to the proposed regulations, Customs notes that § 133.1 of the Customs Regulations (19 CFR 133.1) provides for the recordation of trademarks registered under ''the Trademark Act of March 3, 1881, the Trademark Act of February 20, 1905, or the Trademark Act of 1946 (15 U.S.C. 1501, *et seq.*) except those registered on the supplemental register,'' and further provides that a ''status copy of the certificate of registration'' shall be provided to Customs at the time of recordation. Because these various Acts incorporate the definition of ''mark'' found at 15 U.S.C. 1127, which is referenced in provisions in Part 133 of the Customs Regulations, Customs believes that no further change to the proposed regulations is required.

Comment: One commenter opposed to the regulations suggested that the proposal would delay Customs in the clearing of shipments.

Response: Customs disagrees that the proposed regulations will result in extended periods of detention, given the revised operating requirements mandated by the Customs Modernization provisions (Title VI of the Act, the Mod Act). Because of the Mod Act, Customs must now provide for a formal decision and notice of detention, and for either the subsequent seizure or release of those goods within a specified time frame. In the event that Customs does not act in accordance with the statute, the goods are treated as excluded from entry, and importers acquire by operation of law certain rights of action with regard to protest against the exclusion.

Comment: Most of the comments in opposition suggested that the information released by Customs will be used by rights owners to obstruct or otherwise interfere with legitimate shipments, initiate spurious litigation, restrict legitimate parallel imports, and constitute the release of protected business confidential information.

Response: Customs does not intend to provide domestic rights owners open access to the Customs and/or shipping documents associated with either detained or seized merchandise. To the contrary, the proposed regulation is intended to define clearly the scope of permissible disclosure and to provide guidelines for the timely and necessary release of information. Customs sees no prolonged delays associated with such disclosure. One of Customs purposes in making such information available is to facilitate rights owners' pursuit of legal remedies for infringement. However, rights owners are not expected to institute frivolous litigation, nor does Customs expect that legitimate trade, in parallel goods or otherwise, would be restricted under the current statutes and regulations which clearly make provision for such legitimate goods.

Several commenters state that the effect of the regulatory change would be to ''hand over'' importers of parallel goods, thereby emasculating the regulatory provisions for such goods. To the contrary, Customs expects that limited, direct contact with IPR owners regarding detained goods will allow the more timely and accurate identification of parallel imports, and that where the importation of such goods is allowed, the goods will be released more rapidly without additional disclosure. All parties with an interest in the parallel goods issue should be aware that Customs has no intention of allowing disclosure beyond that which is legally allowed, and no objective other than the quick and accurate identification of legitimate goods. When rights owners can assist Customs in that task, every effort will be made to avail Customs of the opportunity.

Conclusion

Based on the comments received and the subsequent entry into force of the NAFTA and GATT provisions regarding the notification rights of IPR owners (article 1718 of the NAFTA and section 101(d)(15) of the URAA), Customs has decided to revise the amendments to part 133 of the Customs Regulations that were initially proposed on August 23, 1993, as follows: to make mandatory the disclosure of certain information concerning detained and seized merchandise; to make specific a thirty-day time frame within which Customs will notify IPR owners of detention and seizure activities; and, to allow for the disclosure of country of origin information and other items enumerated.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1099 14th Street, NW—Suite 4000, Washington, DC.

The Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. The amendments more fully carry out the intent of the law and confer a benefit on IPR owners in the enforcement of such rights. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as defined in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 133

Copyright, Counterfeit goods, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Restricted merchandise, Trademarks, Trade names.

Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend part 133, Customs Regulations (19 CFR part 133), as set forth below:

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. The general authority citation for part 133 would continue to read as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

2. It is proposed to amend § 133.22 by revising the section heading; adding a new paragraph (b); redesignating current paragraphs (b) and (c) as paragraphs (c) and (d); and revising the heading of new paragraph (c). The addition and revision to read as follows:

§ 133.22 Procedure on detention of articles subject to restriction.

* * * * *

(b) *Notice of detention and disclosure of information.* When merchandise is detained, in order to obtain assistance in determining whether the item bears an infringing mark, Customs officers shall disclose to the owner of the trademark that merchandise has been detained and provide the following information regarding the detained merchandise, if available, within thirty days, excluding weekends and holidays, of the date of detention:

(1) a sample of the item bearing a suspected mark;

(2) the quantity involved;

(3) the name and address of the manufacturer; and

(4) the country of origin of the merchandise if known.

(c) *Form of notice.* * * *

* * * * *

3. It is proposed to amend § 133.23a by adding a new paragraph (c); redesignating current paragraph (c) as paragraph (d); and revising the section heading of and removing the first sentence in newly designated paragraph (d). The addition and revision to read as follows:

§ 133.23a Articles bearing counterfeit trademarks.

* * * * *

(c) *Notice to trademark owner.* When merchandise is seized, Customs officers shall disclose to the owner of the trademark that merchandise has been seized and provide the following information regarding the seized merchandise within thirty days, excluding weekends and holidays, of the date of seizure:

(1) a sample of the item bearing the counterfeit mark;

(2) the quantity involved;

(3) the name and address of the manufacturer;

(4) the country of origin of the merchandise if known;

(5) the name and address of the exporter; and

(6) the name and address of the importer.

(d) *Failure to make appropriate disposition.* * * *

* * * * *

4. It is proposed to amend § 133.42 by adding a new paragraph (d); and by redesignating current paragraph (d) as new paragraph (e). The revision to read as follows:

§ 133.42 Infringing copies or phonorecords.

* * * * *

(d) *Disclosure.* When merchandise is seized under this section, Customs officers shall disclose to the owner of the copyright that merchandise has been seized and provide the following information within thirty days, excluding weekends and holidays, of the date of seizure:

(1) a sample of the piratical copy;

(2) the quantity involved;

(3) the name and address of the manufacturer;

(4) the country of origin of the merchandise if known;

(5) the name and address of the exporter; and

(6) the name and address of the importer.

* * * * *

5. It is proposed to amend paragraph (b) of § 133.43 by revising the introductory text of paragraph (b); by adding new subparagraphs (b)(1) through (b)(4); and by redesignating current subparagraphs (b)(1) and (b)(2) as (b)(4)(i) and (b)(4)(ii). The addition and revision to read as follows:

§ 133.43 Procedure on suspicion of infringing copies.

* * * * *

(b) *Notice to copyright owner.* If the importer of the suspected infringing copies or phonorecords files a denial as provided in paragraph (a) of this section, the district director shall furnish to the copyright owner within thirty days, excluding weekends and holidays, of the receipt of the importer's denial:

(1) a sample of the suspected piratical item;

(2) the quantity involved;

(3) the name and address of the importer; and

(4) notice that the imported article will be released to the importer unless, within thirty days from the date of the notice, the copyright owner files with the district director: * * *

* * * * *

George J. Weise,

Commissioner of Customs.

Approved: June 20, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–17065 Filed 7–13–95; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–5–7100b; FRL–5256–4]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District and Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from marine coating operations, coating of metal parts and products, motor vehicle assembly line coating operations, solvent cleaning operations, architectural coatings, and motor vehicle and mobile equipment coating operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this 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 this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by August 14, 1995.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 95105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street SW., Washington, DC 20460

California Air Resources Board, Stationary Source Divison, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812–2815

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4812

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Chief Rulemaking Section (A–5–3), Air and Toxics Division, U.S Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone:(415)744–1185

SUPPLEMENTARY INFORMATION: This document concerns South Coast Air Quality Management District's Rule 1106, Marine Coating Operations, submitted to EPA by the California Air Resources Board on February 24, 1995; Rule 1107, Coating of Metal Parts and Products, Rule 1115, Motor Vehicle Assembly Line Coating Operations, Rule 1171, Solvent Cleaning Operations, submitted to EPA by the California Air Resources Board on June 16, 1995; and Santa Barbara County Air Pollution Control District's Rule 323, Architectural Coatings, submitted by the California Air Resources Board on May 24, 1995; and Santa Barbara County Air Pollution Control District's Rule 339, Motor Vehicle and Mobile Equipment Coating Operations, submitted by the California Air Resources Board on April 13, 1995. For further information please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 27, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–17268 Filed 7–13–95; 8:45 am]

BILLING CODE 6560–50–W

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–28; Notice 2]

RIN 2127–AF73

Lamps, Reflective Devices and Associated Equipment; Advisory Committee Public Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA); DOT.

ACTION: Notice of establishment of advisory committee for regulatory negotiation and notice of first meeting.

SUMMARY: The National Highway Traffic Safety Administration announces the establishment of a Negotiated Rulemaking Advisory Committee to develop recommended specifications for altering the U.S. lower headlamp beam pattern to be more sharply defined. Such a pattern would facilitate visual aimability of headlamps and might be the basis for a world-wide lower beam pattern. The Committee will develop its recommendations through a negotiation process. The Committee is composed of persons who represent interests that would be affected by the rule such as domestic and foreign manufacturers of motor vehicles, headlamps, headlamp aimers, motor vehicle inspection facilities, consumers, State governments, and the Federal government. This notice also announces the time and place of the first advisory committee meeting.

DATES: The first meeting of the advisory committee will be held at 9:00 a.m. on Tuesday, July 25, 1995 and will continue through Thursday, July 27, 1995.

ADDRESSES: The first meeting of the advisory committee will be held at the Department of Transportation, Room 2230 Nassif Building, 400 Seventh Street, SW, Washington D.C.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, NHTSA (Phone: 202–366–5276; FAX: 202–366–4329). *Mediator:* Lynn Sylvester, Federal Mediation and Conciliation Service (phone: 202–606–9140; FAX: 202–606–3679).

SUPPLEMENTARY INFORMATION:

I. Background

On June 9, 1995, the National Highway Traffic Safety Administration (NHTSA) published a notice of intent to establish an advisory committee (Committee) for regulatory negotiation to develop recommended specifications for altering the U.S. lower beam pattern to be more sharply defined. Such a pattern would facilitate visual aimability of headlamps and might be the basis for a world-wide lower beam pattern (60 FR 30506). The notice requested comment on membership, the interests affected by the rulemaking, the issues the Committee should address, and the procedures it should follow. The notice also announced that NHTSA had procured the services of the Federal Mediation and Conciliation Service to facilitate the negotiations. The reader is referred to the notice of June 9, 1995, for further information on these issues.

NHTSA received nine comments on the notice of intent. None of the comments opposed using regulatory negotiation for this rulemaking; all endorsed the process and seven included requests to serve on the Committee. Based on this response and for the reasons stated in the notice of intent, NHTSA has determined that establishing an advisory committee on this subject is necessary and in the public interest. In accordance with Section 9(c) of the Federal Advisory Committee Act, 5 U.S.C. App. I sec. 9(c), NHTSA prepared a Charter for the establishment of a Negotiated Rulemaking Advisory Committee. On April 17, 1995, the Office of Management and Budget approved the Department's Advisory Committee Plan for FY 1995 which included this advisory committee, and on July 6, 1995, the Secretary approved the Charter, authorizing the Committee to begin negotiating the recommended changes.

II. Membership

In addition to a representative from NHTSA, the Committee will consist of the following members:

American Automobile Manufacturers Association

Association of International Automobile Manufacturers, Inc.

Society of Automotive Engineers, Road Illumination Devices Subcommittee

Hopkins Manufacturing Corporation

Traffic Materials Controls Division, 3M Corporation

Wagner Lighting Division of Cooper Industries

Groupe de Travail Brussels

Liaison Committee for the Manufacturers of Automobile Equipment and Spare Parts

Japanese Automobile Standards Internationalization Center
American Association of Motor Vehicle Administrators
National Automobile Dealers Association
Automotive Service Association
Advocates for Highway and Auto Safety

Requests for representation were made by Osram Sylvania (''Osram''), Hella, Inc., Volkswagen of America, Inc. (''Volkswagen''), National Committee on Uniform Traffic Control Devices (''NCUTCD''), Wagner Lighting Division of Cooper Industries (''Wagner''), 3M Traffic Controls Materials Division (''3M''), and the American Association of State Highway and Transportation Officials (''AASHTO'').

In considering the requests for representation, the task before NHTSA was to decide whether the requesters are interests potentially affected by the proposed rulemaking that are not otherwise adequately represented by the Committee members already chosen. Generally, those who responded did not understand that NHTSA used the word ''interest'' in a broad, categorical sense, rather than a narrow individual one. For example, Wagner, of Hampton, Va., applied to represent its interests as a manufacturer of both OEM and aftermarket lighting products. Upon review of the existing committee members, NHTSA concluded that the interests of domestic headlamp manufacturers might not be adequately represented since there is no specific trade organization that speaks for them, and no Committee member already chosen directly addressed this interest. Accordingly, NHTSA asked Wagner if it would be willing to represent the interests of the domestic OEM and replacement headlamp manufacturing industry (as compared with its corporate interests), and Wagner agreed to do so. Accordingly, NHTSA has added Wagner to the Committee, as shown in the list above. Osram described itself as a manufacturer of motor vehicle headlamp and headlamp light sources that meet both Standard No. 108 and ECE standards, and offered to provide an employee who is a member of the Groupe de Travail Brussels. Hella described itself as an OEM supplier, knowledgeable about the lighting technologies of both the United States and Europe. Both Hella and Osram are the United States subsidiaries of European headlamp manufacturers. After reviewing these requests, NHTSA has decided to deny them. To the extent to which the interest of these companies is headlamps with European beam patterns and aiming characteristics, their interests will be adequately represented by Groupe de Travail Brussels and the Liaison Committee for the Manufacturers of Automotive Equipment and Spare Parts. To the extent to which their interests are headlamps complying with the beam and aim characteristics of Standard No. 108, their interests will be adequately represented by Wagner.

Volkswagen requested participation on behalf of itself, Volkswagen AG and Audi AG ''as major European automobile manufacturers'' and ''as a liaison participant on behalf of the Association of International Automobile Manufacturers (AIAM).'' Because AIAM is a member of the Committee, NHTSA concludes that Volkswagen's interests are adequately represented and has denied its request.

3M, an applicant who is a manufacturer of retroreflective materials, believes that ''[m]odification of the lower beam pattern may impact the effectiveness of retroreflective devices in place on our nation's highways.'' In reviewing the composition of the Committee, the agency discerned that the interests of the reflectorized marking industry were not adequately represented. Accordingly, it asked 3M whether it would be willing to serve as the representative of that industry for the negotiated rulemaking. It agreed to do so, and has been added to the Committee. NCUTCD, among other things, ''provides background information and develops proposed standards for traffic control devices for the Federal Highway Administration.'' It applied for membership on the basis of ''the critical need for adequate headlamp that provides the light source for sign reflectorization.'' After reviewing the composition of the Committee and NCUTCD's remarks, NHTSA is denying its request. The group's interest in headlighting and sign reflectorization are adequately represented by existing committee members. To the extent that NCUTCD provides guidance to the Federal Highway Administration (FHWA), its interests are adequately represented by NHTSA, which also represents the FHWA. AASHTO applied because of its concern ''with regard to the illumination of signage and other traffic control devices having retroreflective characteristics.'' The agency has concluded that AASHTO's interests are adequately represented by 3M, AAMVA, and NHTSA, and is denying its request.

III. Participation by Non-Members

Negotiation sessions will be open to the public, so that individuals who are not part of the Committee may attend and observe, but not participate.

IV. Key Issues for Negotiation

In its notice of intent, NHTSA tentatively identified major issues that should be considered in this negotiated rulemaking, and asked for comment concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues were:

1. Whether NHTSA should be involved in specifying headlamp aimability requirements, or delete aimability requirements from Federal Motor Vehicle Safety Standard No. 108 and leave this subject to be regulated by the States.

There was one commenter on this issue. 3M believed that it was more appropriate for NHTSA, rather than the States, to establish ''a national standard for headlamp beam patterns and to establish standards covering the ability to aim headlamps such that the beam pattern can be maintained.'' In its view, ''[i]ndividual states may lack the resources required to scientifically research headlamp beam performance and establish required performance.'' Without a national standard, ''the performance of traffic control devices could be jeopardized.''

2. Whether it is appropriate for NHTSA to develop a single approach to visual aim or any aim.

There were no commenters on this issue.

3. Whether motor vehicle inspectors are likely to follow the results of a negotiated approach.

3M, the sole commenter, considers that ''[t]he negotiation process will most likely result in a standard which is as easy to implement as possible while still remaining effective.'' Implementation of the result will be more successful if ''the reasoning which supports the specification is communicated to those affected. States and inspectors need to understand the 'why' as well as the 'how' associated with safe night time driving.''

4. Whether SAE Standard J1735 *Harmonized Vehicle Headlamp Performance Requirement* is acceptable as a starting point from which to begin negotiating the details of a visual aim provision for Standard No. 108.

3M agreed without comment. Volkswagen of America agreed that the committee could use the SAE standard as the starting point even though ''a few photometric points and zonal values still need to be discussed and resolved.''

5. Other issues.

Commenters raised other issues. Volkswagen recommended that ''front fog lamps or other front lamps that project a beam should also be included

in the negotiated rulemaking even though they are optional devices and not required by any Standard.'' In its view, ''unregulated fog lamps on some vehicles are actually larger and in some cases brighter with more glare, especially if improperly aimed, than the headlamps themselves.'' It believes that any headlamp beam standard that NHTSA develops ''would be fruitless and only a partial solution if unregulated fog lamps and other auxiliary lamps remain uncontrolled and improperly aimed.''

In NHTSA's view, Volkswagen's recommendation does not relate directly to the issue of headlamp aimability requirements, which are the focus of the Committee. The argument made by Volkswagen is interesting as it relates to the overall needs of roadway illumination for nighttime driving; however, it would be appropriate to address it in a future rulemaking more closely aligned with roadway illumination performance.

Issues of concern to 3M were ''the impact of all potential lower headlamp beam patterns on the visibility of traffic signs and pavement markings, the cost of maintaining traffic control devices to meet a minimum luminance value of 2.4 candelas per square meter based on the various beam patterns under consideration, how the visibility of pedestrians, joggers, etc. on both sides of the roadway would be affected by the proposed beam patterns, the applicability of beam patterns among various vehicle types, the effect of changing headlamp patterns on research completed by the FHWA for minimum replacement values for signs and pavement markings, the impact of beam pattern on conspicuity of other vehicles and legibility of front mounted license plates.'' These appear to be relevant concerns and, as a Committee member, 3M may raise them when appropriate.

The University of Michigan Transportation Research Institute (''UMTRI'') expressed concern that the driving public was underrepresented on the proposed committee. UMTRI did not request that it be added to the committee, but asked that the committee keep in mind the needs of older drivers as it negotiates. 3M also asked that the committee consider ''the elderly driver's response to glare.'' NCUTCD pointed out that ''[t]he ability to see and react to traffic control devices is even more critical for the older driver.'' NHTSA shares these concerns, and anticipates that a proposal based upon the recommendations of the committee will accommodate the needs of older drivers in no less a fashion that do current headlighting specifications.

V. Procedure and Schedule

Two comments were received on the Committee procedure regarding establishment of a definition of consensus. The American Automobile Manufacturers Association (AAMA), a Committee member, is concerned that ''if the advisory committee is unable to initially agree on the voting rules, that by default, the voting rules for subsequent votes will be required to be unanimous.'' In its view ''this possible occurrence could negate the efforts to arrive at constructive rulemaking in this area.'' It recommends that the ''default voting rules'' be set for ''substantial agreement'' in order ''to eliminate the potential for one vote to stymie the process.'' Volkswagen of America expressed the same concern, and recommended that consensus be ''substantial agreement or some defined plurality such as ⅔ of the members voting acceptance.'' The voting rules are set during the Organization Meeting of the Committee, and NHTSA will make the Committee aware of the recommendations of the commenters.

NHTSA anticipates that all of the negotiation sessions will take place at DOT headquarters in Washington, D.C.

Consistent with requirements of the Federal Advisory Committee Act, NHTSA will keep a summary record of all Committee meetings. This record will be placed in Docket No. 95–28.

The objective of the negotiation, in NHTSA's view, is for the Committee to prepare a report recommending a regulatory approach for resolving the issues discussed above. If consensus is not obtained on some issues, the report will identify the areas of agreement and disagreement, and explanations for any disagreement. NHTSA will issue a notice of proposed rulemaking based on the approach recommended by the Committee.

The negotiation process will proceed according to a schedule of specific dates that the Committee devises at the first meeting to be held on July 25–27, 1995. NHTSA will publish notices of future meetings in the **Federal Register**. The first meeting is scheduled to begin at 9:30 a.m. in Room 2230 of the Nassif Building, DOT headquarters, 400 Seventh Street, SW., Washington, D.C. This session will commence with an orientation and regulatory negotiation training program conducted by a facilitator from the Federal Mediation and Conciliation Service. An orientation in headlamp aiming will then be presented. After the training program, the Committee will devise its procedures and calendar, and will then begin substantive deliberations. NHTSA has given advance notice of this meeting to all Committee members and believes that all members will be present for this first and important meeting.

Title 41 CFR Sec. 101–6.1015 requires that establishment notices and notices of advisory committee meetings must be published at least 15 calendar days before the committee charter is filed and at least 15 calendar days prior to a meeting. However, that section also provides that the Secretariat may approve less than 15 days for the establishment notice when requested by the agency for good cause. In exceptional circumstances, the agency may give less than 15 days notice of a meeting, provided that the reasons for doing so are included in the committee meeting notice published in The **Federal Register**. In developing the schedule for the first meeting, the agency determined that an early date was most convenient for the identified interests. The date chosen did not permit the notice of establishment and first meeting to be published not less than 15 days before the charter was filed and the scheduled date for the meeting. However, representatives of the identified interests were informed of the meeting date well in advance of the 15 day period.

Issued: July 12, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–17452 Filed 7–12–95; 12:02 pm]

BILLING CODE 4910–59–P

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49 CFR Part 575

[Docket No. 94–30, Notice 4]

RIN 2127–AF17

Consumer Information Regulations Uniform Tire Quality Grading Standards; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Correction to supplemental notice of proposed rulemaking and change in date of public meeting.

SUMMARY: On July 5 1995, NHTSA published a notice announcing a public meeting on the Uniform Tire Quality Grading Standards (UTQGS), and a supplemental notice of proposed rulemaking to amend the UTQGS (See 60 FR 34961). In this document, NHTSA changes the date of the public meeting to July 28, 1995, and corrects the proposed regulatory text.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives,

Office of the Associate Administrator for Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Room 5320, Washington, DC 20590, telephone (202) 366–0846.

SUPPLEMENTARY INFORMATION:

Background

In the July 5, 1995 **Federal Register**, NHTSA published a supplemental notice of proposed rulemaking (SNPRM) to amend the Uniform Tire Quality Grading Standards (UTQGS)(49 CFR 575.104), extension of comment period and notice of public meeting (See 60 FR 34961). The July 1995 document was published subsequent to a May 24, 1995 proposal to amend the UTQGS, with a closing date of July 10, 1995 to receive public comments.

The July 1995 document announced the extension of the comment closing date to August 14, 1995, and announced that a public meeting would be held to supplement the written comments. The July 1995 document also included a SNPRM, proposing an additional calculation to supplement the proposed rolling resistance regression equation so that the equation can be used to calculate a specific rolling resistance coefficient.

Need for Correction

As published, the July 5, 1995 contained an error in the proposed regulatory text. Correction of the error is necessary to enable the public to make preparations for attending the public meeting and to comment effectively on the supplemental proposal.

Correction of Publication

Accordingly, the publication on July 5, 1995, of the supplemental notice of proposed rulemaking and notice of public meeting, which were the subject of FR Doc. 95–1462, is changed and corrected as follows:

On page 34961, in the third column, under **DATES:**, the first sentence is changed to read: ''The public meeting will be held July 28, 1995, beginning at 9 a.m.''

On page 34962, in the first column, under Requests for Extension of Comment Period and for Public Meeting, the fourth sentence should read: ''A public meeting will be held on July 28, 1995 in Room 2230, Nassif Building, 400 Seventh Street, SW, Washington, DC.''

On page 34964, in the third column, in the proposed regulatory text to amend 49 CFR part 575.104, under (Alternative 2 to paragraph (g)), paragraph (g)(3)(ii) should read as follows:

(ii) Using the numbers in Example No. 2 in paragraph (g)(2) of this section: If Fn = 1,100 lbf, and Fr = 18 lbf, then

$$C_r = \frac{18}{1{,}100} = 0.01636$$

$$F_g = (0.0150 - 0.01636) \times 1{,}333$$

$$= (-0.00136) \times 1{,}333$$

$$= -1.82 \text{ or } 0 \text{ percent}$$

A negative value represents a 0 percent increase in fuel economy, and would be expressed as a fuel economy grade of ''0%''.

Issued on: July 10, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–17298 Filed 7–13–95; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 60, No. 135
Friday, July 14, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Huckleberry Land Exchange With Weyerhaeuser Company, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Lewis and Pierce Counties, Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) on a proposal to exchange lands west of the Cascade Crest in the state of Washington. The exchange would result in the transfer of up to 7,200 acres of National Forest System (NFS) lands for up to 33,000 acres of Weyerhaeuser lands in Snohomish, King, Pierce, Yakima, Skagit, and Kittitas Counties in the state of Washington. Transfer of these lands will result in consolidation of NFS land ownership in the Greenwater, Snoqualmie (I–90 corridor), and Skykomish River Basins.

The EIS will be consistent with the Mt. Baker-Snoqualmie National Forest Land and Resource Management Plan (LRMP) (as amended in April 1994), which provides overall guidance of all land management activities on the Mt Baker-Snoqualmie National Forest.

The Forest Service invites written comments and suggestions on the issues and management opportunities for the area being analyzed.

DATES: Comments concerning the scope of the analysis should be received in writing by July 31, 1995.

ADDRESSES: Send written comments to Dennis Bschor, Forest Supervisor, 21905 64th Avenue West, Mountlake Terrace, Washington 98043.

FOR FURTHER INFORMATION CONTACT: Jeff Osmundson, Washington Area Land Adjustment Team, Staff Appraiser, Phone: 206–744–3446.

SUPPLEMENTARY INFORMATION: The Forest Service proposed action would consolidate landownership presently characterized by a ''checkerboard'' ownership pattern. Consolidation will enable the Forest Service to: implement more effective ecosystem based management; better protection of wetlands; attainment of long-term habitat needs by reducing fragmentation of forest cover; and reduce recreational conflict. Lands acquired in the exchange by the Forest Service will be managed in accord with the LRMP.

The proposed action will exchange lands that are offered to the Forest Service which include Weyerhaeuser lands that are: in the Greenwater River Basin east of Enumclaw; near the Norse Peak Wilderness Area; and next to the Clearwater River Wilderness Area east of Carbonado. Other Weyerheauser lands offered are: between the north and middle forks of the Snoqualmie River near the Alpine Lakes Wilderness Area; in the McClellan Butte area near Snoqualmie Pass and south of U.S. Highway 2; and in the South Fork of the Skykomish River Basin near Index. Two smaller Weyerhaeuser parcels are located in south Skagit County and in Lewis County, in the North fork of the Stillaquamish drainage.

Weyerhaeuser will acquire NFS lands located generally to the west of the administrative boundary of the Mt. Baker-Snoqualmie National Forest. The area is mostly north of the Greenwater River and the community of Greenwater.

The Mt-Baker-Snoqualmie LRMP (as amended) provides guidance for land exchanged within the potentially affected area through its goals, objectives, standards, guidelines and management area direction.

An environmental document will be produced which will display alternatives considered, including the proposed action, and an estimation of the effects of the alternatives. Based on the issues identified through scoping, all action alternatives will vary in the number of acres to exchange, the location of the acres to be exchanged, and the kind of mitigation measures.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest System lands will be considered. The EIS will disclose the analysis of site-specific mitigation.

Comments from the public will continue to be used to:

—Identify potential issues.
—Identify major issues to be analyzed in depth.
—Eliminate minor issues or those which have been covered by a previous environmental analysis, such as the Mt Baker-Snoqualmie LRMP.
—Identify alternatives to the proposed action.
—Identify potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects).
—Determine potential cooperating agencies and task assignments.

Issues identified as a result of internal and public scoping include: Access and travel management; threatened, endangered and sensitive plant and animal species; current condition of federal and nonfederal lands; and valuation procedures for Federal and nonfederal lands.

An initial scoping letter was mailed on June 14, 1994. The responses have been compiled and will be incorporated into the process. Public involvement meetings have been considered but are not scheduled at this time.

Consolidation of checkerboard ownership in the I–90 corridor into federal control would provide an opportunity for ecosystem management on a larger scale. It would also support the ''Mountains-to-the-Sound'' goals of a continuous greenway between the Cascade Mountains and Puget Sound.

The draft EIS is expected to be filed in November 1995. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised at the draft EIS stage but

that are not raised until after completion of the final EIS may be waived or dismissed by the courts (*City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

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

The final EIS is scheduled to be completed March 1996. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The lead agency is the Forest Service. Wendy M. Herrett, Director of Recreation, Lands, and Mineral Resources, Pacific Northwest Region, is the responsible official. As the responsible official she will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR Part 217).

Dated: July 10, 1995.

Wendy M. Herrett,

Director, Recreation, Lands and Mineral Resources.

[FR Doc. 95–17299 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ADAAG Review Advisory Committee; Meetings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meetings.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates and locations of subcommittee meetings at the ADAAG Review Advisory Committee.

ADATES: The subcommittees of the ADAAG Review Advisory Committee will meet as follows:

Accessible Routes Subcommittee, July 28, 19, and 30 and August 28, 29, and 30, 1995.

Communications Subcommittee, July 31 and August 1 and 2, 1995.

Plumbing Subcommittee, August 24 and 25, 1995.

Special Occupancies Subcommittee, August 9, 10, and 11 and September 25 and 26, 1995.

All meetings will be held from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The Accessible Routes Subcommittee meetings will be held at the offices of the Paralyzed Veterans of America, 801 18th Street, NW., Washington, DC. The Communications Subcommittee meetings will be held at the Grand Hyatt, 1000 H Street, NW., Washington, DC. The Plumbing Subcommittee meetings will be held at the offices of the National Institute of Building Sciences. 1201 L Street, NW., Washington, DC. The location of the Special Occupancies Subcommittee meetings has not been determined. Persons interested in attending the Special Occupancies Subcommittee meetings should contact the Access Board prior to the date of the meetings. Information on contacting the Access Board is listed below.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone (202) 272–5434 ext. 21 (voice); (202) 272–5449 ext. 21 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

SUPPLEMENTARY INFORMATION: In September 1994, the Access Board established an advisory committee to review the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities. 36 CFR part 1191, appendix A. The advisory committee will make recommendations to the Access Board for updating ADAAG to ensure that the guidelines remain a state-of-the-art document which is generally consistent with technological developments and changes in national standards and model codes, and continue to meet the needs of individuals with disabilities. The advisory committee is composed of organizations representing individuals with disabilities, model code organizations, professional associations, State and local governments, building owners and operators, and other organizations. The advisory committee has formed the following subcommittees to assist in its work: Editorial, Accessible Routes, Communications, Plumbing, and Special Occupancies. The subcommittees will present their recommendations to the full advisory committee in November 1995. The full advisory committee will review the subcommittee recommendations and present final recommendations to the Access Board by May 1996.

The Accessible Routes Subcommittee, Communications Subcommittee, Plumbing Subcommittee, and Special Occupancies Subcommittee will meet on the dates and at the locations announced in this notice. The meetings are open to public. The meetings sites are accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Marsha Mazz at least three full business days prior to the meeting date by calling (202) 272–5434 ext. 21 (voice) or (202) 272–5434 ext. 21 (TTY).

James J. Raggio,

General Counsel.

[FR Doc. 95–17273 Filed 7–13–95; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36–95]

Foreign-Trade Zone 141, Monroe County, New York; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, New York, grantee of Foreign-Trade Zone 141, requesting authority to expand its zone in the Monroe County area, within

the Rochester Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 5, 1995.

FTZ 141 was approved on April 2, 1987 (Board Order 355, 52 FR 12219, 4/15/87). The zone project includes 4 general-purpose sites in the Rochester, New York, area: *Site 1* (18 acres)—401–409 Pixley Road, Gates; *Site 2* (8 acres)—30 Breck Street, Rochester; *Site 3* (19 acres)—10 Carriage Street, Honeoye Falls; and, *Site 4* (39 acres)—200 Carlson Road, Rochester.

The applicant is now requesting authority to expand the general-purpose zone to include two new sites in the Town of Henrietta (Monroe County) (proposed Sites 5 and 6):

Proposed Site 5: (5 acres)—Diamond Packaging Company facility, 111 Commerce Drive, Henrietta, 5 miles south of the Greater Rochester International Airport; and,

Proposed Site 6: (3 acres)—Diamond Packaging Company facility, 10 Thruway Park Drive, Henrietta, 7 miles south of the Greater Rochester International Airport.

Diamond Packaging provides warehousing, inventory management, and packaging services to a range of customers, including companies in the photographic, electronics, pharmaceutical and health products industries. It would serve as zone operator for these two sites.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 12, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 27, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 111 East Avenue, Suite 220, Rochester, New York 14604

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: July 6, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–17344 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 754]

Grant of Authority for Subzone Status, Oneida Ltd., (Tableware); Sherrill and Oneida, New York

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment...of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the County of Oneida, New York, grantee of Foreign-Trade Zone 172, for authority to establish special-purpose subzone status for the tableware manufacturing facilities of Oneida Ltd. at sites in Sherrill and Oneida, New York, was filed by the Board on June 7, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 23–94, 59 FR 30910, 6/16/94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 172A) at the Oneida Ltd. facilities in Sherrill and Oneida, New York, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of July 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–17351 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 758]

Approval of Export Manufacturing Activity; ABB Randall Corporation (Gas Plant Modules) Within Foreign-Trade Zone 155, Calhoun County, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Calhoun-Victoria FTZ, Inc., grantee of FTZ 155, Calhoun County, Texas, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of ABB Randall Corporation, to manufacture gas plant modules for export within FTZ 155 (filed 5–8–95, FTZ Docket A(32b1)-7–95; Doc. 35–95, assigned 6/29/95);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is for export only (§ 400.32(b)(1)(ii); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request for a period ending December 31, 1996, subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of July 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95–17350 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with June anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders and one antidumping finding in part.

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with June anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on polyethylene terephthalate film from Japan and Korea and the antidumping finding on oil country tubular goods from Canada.

Initiation of Reviews

In accordance with 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under § 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than June 30, 1996.

	Period to be reviewed
Antidumping Duty Proceedings:	
Canada:	
Oil Country Tubular Goods A–122–506	
IPSCO, Inc.	06/01/94–05/31/95
France:	
Calcium Aluminate Flux A–427–812	
LaFarge Fondu International	06/15/94–05/31/95
Large Power Transformers A–427–030	
Jeumont Schneider	06/01/94–05/31/95
Germany:	
High-Tenacity Rayon Filament Yarn A–428–810	
Akzo Nobel Faser AG	06/01/94–05/31/95
Sugar A–428–082	
Pfefer & Langen	06/01/94–05/31/95
Japan:	
Polyethylene Terephthalate Film (PET Film) A–588–814	
Toray Industries, Inc.	06/01/94–05/31/95
Korea:	
Polyethylene Terephthalate Film (PET Film) A–580–807	
Cheil Synthetics, Inc., Kolon Industries, Inc., SKC Limited, STC	06/01/94–05/31/95
Netherlands:	
Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide (''PPD–T'') A–421–805	
Aramid Products V.o.F.	12/16/93–05/31/95
New Zealand:	
Fresh Kiwifruit A–614–801	
New Zealand Kiwifruit Marketing Board (''NZKMB'')	06/01/94–05/31/95
The People's Republic of China:	
Sparklers A–570–804	
Guangxi Native Produce I/E Corporation; Behai Fireworks & Firecrackers Branch	06/01/94–05/31/95
Romania:	
Tapered Roller Bearings and Parts Thereof A–485–602	
Tehnoimportexport, S.A.	06/01/94–05/31/95
Taiwan:	
Certain Stainless Steel Butt-Weld Pipe Fittings A–583–816	
Ta Chen Stainless Pipe, Ltd.	06/01/94–05/31/95
Countervailing Duty Proceedings:	
None.	

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: July 10, 1995.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 95–17352 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–029]

Fishnetting of Man-Made Fibers From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request from one respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on fishnetting of man-made fibers from Japan. The review covers one manufacturer/exporter of the subject merchandise to the United States for the period June 1, 1993, through May 31, 1994.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Kim Moore or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, telephone: (202) 482–0090/3814.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1994, the Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping finding on fishnetting from Japan (37 FR 11560, June 9, 1972) for the period June 1, 1993, through May 31, 1994 (59 FR 29411) . We received a timely request for an administrative review on June 29, 1994, from Yamaji Fishing Net Company Ltd. (Yamaji). The Department initiated the review, covering the period June 1, 1993, through May 31, 1994, on July 15, 1994 (59 FR 36160). The Department is now conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by the review are shipments of fishnetting of man-made fibers, not including salmon gill netting, from Japan. This merchandise is currently classified under item numbers 5608.11.00, 5608.19.10, and 5608.90.10 of the Harmonized Tariff Schedule (HTS). The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage. The period of review is June 1, 1993, through May 31, 1994.

United States Price

In accordance with section 772(b) of the Act, the Department based USP on purchase price, because the merchandise was sold to unrelated U.S. purchasers prior to importation. Purchase price was based on c.i.f. U.S. port and packed prices to unrelated purchasers in the United States. The contract date was the date that the terms of sale, quantity, and price were final; thus, the Department accepted the respondent's contract date as the date of sale. We made adjustments, where applicable, for Japanese and U.S. ocean freight, marine insurance, shipping charges, and inland freight. No other adjustments were claimed or allowed.

We reviewed information Yamaji submitted regarding product matches and determined product comparisons based on this information. We first compared products sold in the United States to identical products sold in the home market. For several of the products sold in the United States, we did not find a contemporaneous sale of the identical product in the home market. To determine similar merchandise in the home market, we grouped products according to their specifications. We then compared U.S. sales to these groups, again using these specifications as our matching criterion.

Foreign Market Value

In accordance with section 773(a) of the Act, the Department calculated FMV for Yamaji based on f.o.b. and delivered prices to unrelated purchasers in the home market. We used the invoice date as the date of sale for these transactions. Because information from Yamaji indicated that there were no cost differences between the U.S. merchandise and similar home market merchandise, we did not make an adjustment to FMV for physical differences. We adjusted FMV for the differences in packing costs between the home market and the U.S. market. We deducted home market packing costs from the home market price and added U.S. packing costs to the FMV. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margin exists for the period June 1, 1993, through May 31, 1994:

Manufacturer/Exporter	Percent margin
Yamaji	2.58

The following deposit requirements will be effective for all shipments of fishnetting of man-made fibers entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a) (1) of the Act: (1) The cash deposit rate for Yamaji will be the rate established in the final results of this review; (2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or in the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be zero percent, the all others rate established in the final results of the first administrative review (49 FR 19339, April 30, 1984).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Interested parties may request disclosure within 5 days of the date of publication of this notice, and may

request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as is convenient for the parties but not later than 44 days after the date of publication of this notice or the first work day thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a) (1) of the Act (19 U.S.C. 1675(a) (1)) and 19 CFR 353.22.

Dated: July 6, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–17348 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–351–005]

Frozen Concentrated Orange Juice From Brazil; Termination of Administrative Review of Suspended Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Administrative Review of Suspended Countervailing Duty Investigation.

SUMMARY: On April 14, 1995, the Department of Commerce (''the Department'') initiated an administrative review of the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil. The Department is now terminating this review.

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Linda Ludwig, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 377–3793 or telefax (202) 377–1388.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 1995, the Department of Commerce published in the **Federal Register** a notice of initiation of administrative review of the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil (60 FR 19017) at the request of the Associação Brasileira dos Exportadores de Cítricos (''ABECitrus'') and its member exporters. This notice stated that we would review information submitted by ABECitrus and its member exporters for the period January 1, 1994 through December 31, 1994. ABECitrus and its member exporters subsequently withdrew their request for review on June 19, 1995. Under § 355.22(a)(3) of the Department's regulations, a party requesting a review may withdraw that request no later than 90 days after the date of publication of the notice of initiation. Because the withdrawal by ABECitrus and its member exporters occurred within the time frame specified in 19 CFR 355.22(a)(3), and no other interested party has requested an administrative review for this period, the Department is now terminating this review.

This notice is published pursuant to § 355.22(a)(3) of the Department's regulations (19 CFR 355.22(a)(3)).

Dated: July 10, 1995.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 95–17349 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review, Application No. 92–4A001.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Aerospace Industries Association of America, Inc. (''AIA'') on June 26, 1995. Notice of the original Certificate was published in the **Federal Register** on April 17, 1992 (57 FR 13707).

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

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of l982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 92–00001 was issued to Aerospace Industries of America, Inc. on April 10, 1992 (57 FR 13707) and previously amended on September 8, 1992 (57 FR 41920, September 14, 1992), October 8, 1993 (58 FR 53711, October 18, 1993), and November 17, 1994 (59 FR 60349, November 23, 1994). AIA seeks to amend its Certificate to:

1. Delete the following companies as ''Members'' of the Certificate: Aluminum Company of America, Cleveland, Ohio; Dynamic Engineering Inc., Newport News, Virginia; Reflectone, Inc., Tampa, Florida; and Vought Aircraft Company, Dallas, Texas.

2. Change the listing of the following current ''Members'' as follows: Change the name of HEICO Corporation to HEICO Aerospace Corporation, Hollywood, California; DuPont Company to E.I. du Pont de Nemours and Company, Wilmington, Delaware; Williams International to Williams International Corporation, Walled Lake, Michigan.

3. Change the name and address of Aerojet, a Segment of GenCorp, Rancho Cordova, California to Aerojet-General Corporation, Sacramento, California; AlliedSignal Aerospace Company, Torrance, California to AlliedSignal, Inc., Morristown, New Jersey; Dowty Aerospace Los Angeles, Duarte, California to Dowty Decoto, Inc., Yakima, Washington; Lucas Aerospace, Inc., Brea, California to Lucas Industries Inc., Reston, Virginia.

4. Change the address of Hexcel Corporation from Dublin, California to Pleasanton, California; Digital Equipment Corporation from Marlboro, Massachusetts to Maynard, Massachusetts; ITT Defense and

Electronics, Inc. from Arlington, Virginia to McLean, Virginia; and Rockwell International Corporation from El Segundo, California to Seal Beach, California.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: July 11, 1995.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 95–17353 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–DR–P

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Wednesday, August 9, 1995. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review the 1995 Award applications and to select applications to be considered in the site visit stage of the evaluation. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene August 9, 1995, at 8 a.m. and adjourn at 5 p.m. on August 9, 1995. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 3, 1994, that the meeting of the Panel of Judges will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: July 7, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–17316 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–13–M

Patent and Trademark Office

[Docket No. 950706172–5172–01]

Utility Examination Guidelines

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Patent and Trademark Office (PTO) is publishing the final version of guidelines to be used by Office personnel in their review of patent applications for compliance with the utility requirement. Because these guidelines govern internal practices, they are exempt from notice and comment and delayed effective date rulemaking requirements under 5 U.S.C. 553(b)(A).

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Jeff Kushan by telephone at (703) 305–9300, by fax at (703) 305–8885, by electronic mail at kushan@uspto.gov, or by mail marked to his attention addressed to the Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

I. Discussion of Public Comments

Forty-four comments were received by the Office in response to the request to public comment on the proposed version of utility guidelines published on January 3, 1995 (60 FR 97). All comments have been carefully considered. A number of changes have been made to the examining guidelines and the legal analysis supporting the guidelines in response to the comments received.

Many of the individuals responding to the request for public comments suggested that the Office address the relationship between the requirements of 35 U.S.C. 112, first paragraph, and 35 U.S.C. 101. The Office has amended the guidelines to provide a clarification consistent with these requests. The guidelines now specify that any rejection based on a ''lack of utility'' under section 101 should be accompanied by a rejection based upon section 112, first paragraph. The guidelines also specify that the procedures for imposition and review of rejections based on lack of utility under section 101 shall be followed with respect to the section 112 rejection that accompanies the section 101 rejection.

A suggestion was made that the guidelines should be modified to provide that an application shall be presumed to be compliant with section 112, first paragraph, if there is no proper basis for imposing a section 101 rejection. This suggestion has not been followed. Instead, the guidelines specify that section 112, first paragraph, deficiencies other than those that are based on a lack of utility be addressed separately from those based on a lack of utility for the invention.

Several individuals suggested that the guidelines address how section 101 compliance will be reviewed for products that are either intermediates or whose ultimate function or use is unknown. The Office has amended the guidelines to clarify how it will interpret the ''specific utility'' requirement of section 101.

Some individuals suggested that the guidelines be amended to preclude Examiners from requiring that an applicant delete references made in the specification to the utility of an invention which are not necessary to support an asserted utility of the claimed invention. The guidelines have been amended consistent with this suggestion.

One individual suggested that the legal analysis be amended to emphasize that any combination of evidence from *in vitro* or *in vivo* testing can be sufficient to establish the credibility of an asserted utility. The legal analysis has been amended consistent with this recommendation.

A number of individuals questioned the legal status of the guidelines, particularly with respect to situations where an applicant believes that a particular Examiner has failed to follow the requirements of the guidelines in imposing a rejection under section 101. The guildeines and the legal analysis supporting the guidelines govern the internal operations of the Patent and Trademark Office. They are not intended to, nor do they have the force and effect of law. As such they are not substantive rules creating or altering the

rights or obligations of any party. Rather, the guidelines define the procedures to be followed by Office personnel in their review of applications for section 101 compliance. The legal analysis supporting the guidelines articulates the basis for the procedures established in the guidelines. Thus, an applicant who believes his or her application has been rejected in a manner that is inconsistent with the guidelines should respond substantively to the grounds of the rejection. ''Non-compliance'' with the guidelines will not be a petitionable or appealable action.

Some individuals suggested that the guidelines and legal analysis be amended to specify that the Office will reject an application for lacking utility only in those situations where the asserted utility is ''incredible.'' This suggestion has not been adopted. The Office has carefully reviewed the legal precedent governing application of the utility requirement. Based on that review, the Office has chosen to focus the review for compliance with Section 101 and Section 112, first paragraph, on the ''credibility'' of an asserted utility.

Some individuals suggested that the guidelines be amended to address how a generic claim that covers many discrete species will be assessed with regard to the ''useful invention'' requirements of sections 101 and 112 when one or more, but not all, species within the genus do not have a credible utility. The guidelines have been amended to clarify how the Office will address applications in which genus claims are presented that encompass species for which an asserted utility is not credible. The legal analysis makes clear that any rejection of any claimed subject matter based on lack of utility must adhere to the standards imposed by these guidelines. This is true regardless of whether the claim defines only a single embodiment of the invention, multiple discrete embodiments of the invention, or a genus encompassing many embodiments of the invention. As cast in the legal analysis and the guidelines, the focus of examination is the invention as it has been defined in the claims.

Some individuals questioned whether the guidelines and the legal analysis govern actions taken by Examining Groups other than Group 1800 or the Board of Patent Appeals and Interferences. The guidelines apply to all Office personnel, and to the review of all applications, regardless of field of technology.

In addition to the changes made in response to comments from the public, the Office has amended the guidelines to clarify the procedure to be followed when an applicant has failed to identify a specific utility or an invention. The guidelines now provide that where an applicant has made no assertion as to why an invention is believed useful, and it is not immediately apparent why the invention would be considered useful, the Office will reject the application as failing to identify any specific utility for the invention. The legal analysis has also been amended to address evaluation of this question.

II. Guidelines for Examination of Applications for Compliance With the Utility Requirement

A. Introduction

The following guidelines establish the policies and procedures to be followed by Office personnel in the evaluation of any application for compliance with the utility requirements of 35 U.S.C. 101 and 112. The guidelines also address issues that may arise during examination of applications claiming protection for inventions in the field of biotechnology and human therapy. The guidelines are accompanied by an overview of applicable legal precedent governing the utility requirement. The guidelines have been promulgated to assist Office personnel in their review of applications for compliance with the utility requirement. The guidelines and the legal analysis do not alter the substantive requirements of 35 U.S.C. 101 and 112, nor are they designed to obviate review of applications for compliance with this statutory requirement.

B. Examination Guidelines for the Utility Requirement

Office personnel shall adhere to the following procedures when reviewing applications for compliance with the ''useful invention'' (''utility'') requirement of 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph.

1. Read the specification, including the claims, to:

(a) Determine what the applicant has invented, noting any specific embodiments of the invention;

(b) Ensure that the claims define statutory subject matter (e.g., a process, machine, manufacture, or composition of matter);

(c) Note is applicant has disclosed any specific reasons why the invention is believed to be ''useful.''

2. Review the specification and claims to determine if the applicant has asserted any credible utility for the claimed invention:

(a) If the applicant has asserted that the claimed invention is useful for any particular purpose (i.e., a ''specific utility'') and that assertion would be considered credible by a person of ordinary skill in the art, do not impose a rejection based on lack of utility. Credibility is to be assessed from the perspective of one of ordinary skill in the art in view of any evidence of record (e.g., data, statements, opinions, references, etc.) that is relevant to the applicant's assertions. An applicant must provide only one credible assertion of specific utility for any claimed invention to satisfy the utility requirement.

(b) If the invention has a well-established utility, regardless of any assertion made by the applicant, do not impose a rejection based on lack of utility. An invention has a well-established utility if a person of ordinary skill in the art would immediately appreciate why the invention is useful based on the characteristics of the invention (e.g., properties of a product or obvious application of a process).

(c) If the applicant has not asserted any specific utility for the claimed invention and it does not have a well-established utility, impose a rejection under section 101, emphasizing that the applicant has not disclosed a specific utility for the invention. Also impose a separate rejection under section 112, first paragraph, on the basis that the applicant has not shown how to use the invention due to lack of disclosure of a specific utility. The sections 101 and 112, rejections should shift the burden to the applicant to:

—Explicityly identify a specific utility for the claimed invention, and
—Indicate where support for the asserted utility can be found in the specification.

Review the subsequently asserted utility by the applicant using the standard outlined in paragraph (2)(a) above, and ensure that it is fully supported by the original disclosure.

3. *If no assertion of specific utility for the claimed invention made by the applicant is credible, and the claimed invention does not have a well-established utility, reject the claim(s) under section 101 on the grounds that the invention as claimed lacks utility. Also reject the claims under section 112, first paragraph, on the basis that the disclosure fails to teach how to use the invention as claimed.* The section 112, first paragraph, rejection imposed in conjunction with a section 101 rejection should incorporate by reference the grounds of the corresponding section 101 rejection and should be set out as a rejection distinct from any other

rejection under section 112, first paragraph, not based on lack of utility for the claimed invention.

To be considered appropriate by the Office, any rejection based on lack of utility must include the following elements:

(a) A prima facie showing that the claimed invention has no utility.

A *prima facie* showing of no utility must establish that it is more likely than not that a person skilled in the art would not consider credible any specific utility asserted by the applicant for the claimed invention. A *prima facie* showing must contain the following elements:

(i) A well-reasoned statement that clearly sets forth the reasoning used in concluding that the asserted utility is not credible;

(ii) Support for factual findings relied upon in reaching this conclusion; and

(iii) Support for any conclusions regarding evidence provided by the applicant in support of an asserted utility.

(b) Specific evidence that supports any fact-based assertions needed to establish the prima facie showing.

Whenever possible, Office personnel must provide documentary evidence (e.g., scientific or technical journals, excerpts from treatises or books, or U.S. or foreign patents) as the form of support used in establishing the factual basis of a *prima facie* showing of no utility according to items (a)(ii) and (a)(iii) above. If documentary evidence is not available, Office personnel shall note this fact and specifically explain the scientific basis for the factual conclusions relied on in sections (a)(ii) and (a)(iii).

4. A rejection based on lack of utility should not be maintained if an asserted utility for he claimed invention would be considered credible by a person of ordinary skill in the art in view of all evidence of record.

Once a *prima facie* showing of no utility has been properly established, the applicant bears the burden of rebutting it. The applicant can do this by amending the claims, by providing reasoning or arguments, or by providing evidence in the form of a declaration under 37 CFR 1.132 or a printed publication, that rebuts the basis or logic of the *prima facie* showing. If the applicant responds to the *prima facie* rejection, Office personnel shall review the original disclosure, any evidence relied upon in establishing the *prima facie* showing, any claim amendments and any new reasoning or evidence provided by the applicant in support of an asserted utility. It is essential for Office personnel to recognize, fully consider and respond to each substantive element of any response to a rejection based on lack of utility. Only where the totality of the record continues to show that the asserted utility is not credible should a rejection based on lack of utility be maintained.

If the applicant satisfactorily rebuts a *prima facie* rejection based on lack of utility under section 101, withdraw the section 101 rejection and the corresponding rejection imposed under section 112, first paragraph, per paragraph (3) above.

Office personnel are reminded that they must treat as true a statement of fact made by an applicant in relation to an asserted utility, unless countervailing evidence can be provided that shows that one of ordinary skill in the art would have a legitimate basis to doubt the credibility of such a statement. Similarly, Office personnel must accept an opinion from a qualified expert that is based upon relevant facts whose accuracy is not being questioned; it is improper to disregard the opinion solely because of a disagreement over the significance or meaning of the facts offered.

III. Additional Information

The PTO has prepared an analysis of the law governing the utility requirement to support the guidelines outlined above. Copies of the legal analysis can be obtained from Jeff Kushan, who can be reached using the information indicated above.

Dated: July 3, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95–17304 Filed 7–13–95; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 14, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 22, 1994, April 28, May 12 and 19, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 37466, 60 FR 20971, 25695 and 26876) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Administrative Services for the following locations:
- Fleet and Industrial Supply Center, San Diego, California
- Fleet and Industrial Supply Center, Long Beach, California

Janitorial/Custodial for the following locations:
- Federal Building, 525 Water Street, Port Huron, MI
- Social Security Administration Building, 142 Auburn Street, Pontiac, MI

Janitorial/Custodial, Carl Albert Federal Building and U.S. Courthouse, 301 E. Carl Albert Parkway, McAlester, Oklahoma

Janitorial/Custodial, IRS Service Center Complex, Memphis, Tennessee

Parts Sorting, Defense Reutilization and Marketing Office, Barstow, California
Parts Sorting, Defense Reutilization and Marketing Office, Robins Air Force Base, Georgia

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–17315 Filed 7–13–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 14, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Trap, Animal

3740–00–531–3905

NPA: ACT Corporation, Daytona Beach, Florida

Lancet, Finger Bleeding

Special Item #B–11

NPA: Lincoln Training Center and Rehabilitation Workshop, South El Monte, California

Services

Janitorial/Custodial, Defense Logistics Agency, Defense Fuel Region West, Building 100, San Pedro, California

NPA: Social Vocational Services, Inc., Torrance, California

Janitorial/Custodial, Pentagon Building, (First Floor, All Stairs and Stairwells, Elevators, Escalators, Defense Protective Service Structures and Corps of Engineers Modular Buildings), Washington, DC

NPA: Didlake, Inc., Manassas, Virginia

Janitorial/Custodial, Basewide, McGuire Air Force Base, New Jersey

NPA: Occupational Training Center of Burlington County, Mt. Holly, New Jersey

Laundry Service, Medical Center, Wright-Patterson Air Force Base, Ohio

NPA: Greene, Inc., Xenia, Ohio

Mailroom Operation, Internal Revenue Service, 55 Market Street, San Jose, California

NPA: VTF Services, Palo Alto, California

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–17314 Filed 7–13–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Availability of a Finding of No Significant Impact (FONSI) for the Construction of an 18-hole Golf Course at Andrews Air Force Base, Maryland

The U.S. Air Force (USAF) is proposing the construction of an 18-hole golf course in accordance with the National Environmental Policy Act (NEPA) the Council on Environmental Quality regulations implementing NEPA, the Department of Defense Directive (DOD) 6050.1, and Air Force Instruction 32–7061. These directives require the USAF to consider environmental consequences when authorizing or approving federal actions.

The USAF has prepared an Environmental Assessment (EA) analyzing the potential environmental consequences of the proposed golf course construction.

On the basis of the EA, we conclude the implementation of the proposed action will not have a significant effect on the quality of the environment at Andrews Air Force Base and, as a result, an Environmental Impact Statement is not warranted.

Comments on this FONSI must be received on or before 16 Aug 95 and may be addressed to Lt Col Michael Newberry, 89 CES/CEV, 3465 North Carolina St, Andrews AFB, MD, 20331–4803, Telephone (301) 981–2579.

Documents are available for public review at Oxon Hill Public Library, 6200 Oxon Hill Rd, Oxon Hill, MD, Telephone (301) 839–2400.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–17286 Filed 7–13–95; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

Army Science Board, Notice of Closed Meeting

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

Name of Committee: Army Science Board (ASB).

Date of Meeting: 19 July 1995.

Time of Meeting: 0800–1700.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's Ad Hoc Study on ''ASB Space and Missile Defense Organization'' will have its 7th meeting at the Pentagon. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically

subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781

Karen Blystone,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–17334 Filed 7–13–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

DOE Implementation Plan for Recommendation 94–3 of the Defense Nuclear Facilities Safety Board, Rocky Flats Seismic and Systems Safety

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board published Recommendation 94–3, concerning Rocky Flats Seismic and Systems Safety in the **Federal Register** on October 4, 1994 (59 FR 50581). Section 315(e) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(e) requires the Department of Energy to transmit an implementation plan to the Defense Nuclear Facilities Safety Board after acceptance of the Recommendation by the Secretary. The Department's implementation plan was sent to the Safety Board on June 30, 1995, and is available for review in the Department of Energy Public Reading Rooms.

DATES: Comments, data, views, or arguments concerning the Implementation Plan are due on or before August 14, 1995.

ADDRESSES: Send comments, data, views, or arguments concerning the implementation plan to: Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: RADM Richard Guimond, Principal Deputy Assistant Secretary for Environmental Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, D.C., on July 6, 1995.

Mark B. Whitaker,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

June 30, 1995.

The Honorable John T. Conway,
Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004

Dear Mr. Chairman: This letter provides the Department's Implementation Plan for Recommendation 94–3, Rocky Flats Seismic and Systems Safety. The enclosed plan utilizes the approach identified in a letter to you dated April 12, 1995, from the Assistant Secretary for Environmental Management. This approach was developed in close coordination with your staff. At the completion of the planned review of seismic safety and storage options, we will inform you of the decision regarding interim storage of the plutonium at Rocky Flats.

This document is unclassified and suitable for placement in the public reading room.

Sincerely,

Hazel R. O'Leary.

Enclosure

[FR Doc. 95–17354 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Ecomat, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15631 to Ecomat, Inc. The proposed grant will provide funding in the estimated amount of $98,900 by the Department of Energy for the purpose of saving energy through development of the inventor's ''Foamed Recyclables.''

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Ecomat, Inc., is meritorious based on the general evaluation required by 10 CFR 600.14(d) and that the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is a process to develop environmentally safe synthetic building materials, such as siding, slate, and lumber, composed of dual polymers and industrial waste filler. The use of fly ash or red mud fillers halves the amount of needed polymers, which are petroleum-based, energy intensive materials. Moreover, the invention's light weight will lower transportation fuel expenditures compared to conventional building materials, and reduce buttressing requirements of houses, leading to lower overall building costs. The inventor and principal investigator, John N. Mushovic, Ph.D., is the executive vice-president of Ecomat, Inc. He holds six patents and has over 25 years experience in commercializing plastics technologies. Ecomat, Inc., will utilize its engineering facilities, as well as those of the Hoppmann Corporation, for designing, constructing, and operating the production prototype unit. The proposed project is not eligible for financial assistance under a recent, current, or planned solicitation because the funding program, the Energy-Related Inventions Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Avenue SW., Washington, DC 20585.

The anticipated term of the proposed grant is 18 months from the date of the award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–17357 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Prototype Spent Nuclear Fuel Dry Transfer System Project

AGENCY: Office of Civilian Radioactive Waste Management, DOE.

ACTION: Notice to interested sources.

SUMMARY: The U.S. Department of Energy is currently engaged in a cooperative agreement with the Electric Power Research Institute (EPRI) to design a spent nuclear fuel dry transfer system. The design for this system is being developed by Transnuclear, Inc. under a subcontract from EPRI. The system will enable the transfer of individual spent nuclear fuel assemblies from a conventional top loading transfer cask to a multi-purpose canister (MPC) in a shielded overpack, or accommodate spent nuclear fuel transfers between two conventional casks. DOE is inviting letters of interest from potential sources to fabricate, demonstrate and/or license this system.

DATES: Letters of interest must be received no later than August 30, 1995.

ADDRESSES: Letters of interest should be sent to the U.S. Department of Energy, Attn: Michelle Miskinis, HR–561.21, 1615 M Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Michelle Miskinis, (202) 634–4413.

SUPPLEMENTARY INFORMATION: A dry transfer system has several significant applications and could benefit the Federal waste management system and utilities in a number of ways. It has the potential to:

(1) Allow recovery operations at shutdown reactor sites with independent spent nuclear fuel storage installations.

(2) Provide a means for utilities that can presently handle only a truck cask to utilize a rail cask.

(3) Permit the deployment of the larger capacity 125 ton MPC at reactor sites that would otherwise be limited to the 75 ton MPC.

(4) Allow transfers of spent nuclear fuel from existing utility on-site storage casks/canisters into MPCs without returning to the reactor storage pool.

(5) Support existing or future Department of Energy and Office of Civilian Radioactive Waste Management spent nuclear fuel management activities.

The Draft Project Design Report for the dry transfer system is expected to be completed by August 1, 1995. It will contain cost estimates for an operational system. The Topical Safety Analysis Report will be submitted to the Nuclear Regulatory Commission in early 1996. Upon approval, the topical report is expected to be referenced in subsequent site specific licensing applications for use of the dry transfer system in at-reactor applications and independent spent fuel storage installations.

The DOE desires that a Nuclear Regulatory Commission approved dry transfer system be available by 1998 to support potential program needs. Therefore, we are requesting electric utility companies and other private and public entities to provide us with information regarding their interest in participating with the DOE in a cooperative project for prototype fabrication and demonstration of a dry transfer system that is based on the DOE/EPRI design. Because site specific use of the system will require approval by the Nuclear Regulatory Commission, the licensing phase of the project may be pursued independent of prototype fabrication and demonstration activities.

This project is contingent upon the availability of appropriated funds.

A summary description of the dry transfer system is provided below.

Description of DOE/EPRI Dry Transfer System

The DOE/EPRI designed dry transfer system consists of a facility to perform cask preparatory activities and provide shielding during spent nuclear fuel transfer operations. Appropriate operations and support systems are included. Key operational systems, e.g., the spent fuel handling and transfer subsystems, are being designed by SGN (Societe Generale pour les Techniques Nouvelles) under a subcontract with Transnuclear, Inc. and incorporate technology and experiences from French dry spent fuel transfer operations at La Hague. Spent fuel handling experiences at Federal and commercial facilities in the United States also have been factored into the design.

The base dimensions of the facility will be approximately 40×60 feet with a height of approximately 45–50 feet. It consists of a Preparation Area, a Lower Access Area and a Transfer Confinement Area. The Preparation Area is a sheet metal building where casks are prepared for unloading, loading or shipment. The Lower Access Area and Transfer Confinement Area are the first and second floor, respectively, of a concrete cell which has walls approximately 3 feet thick. The sheet metal building abuts the concrete cell which allows casks to be moved into the Lower Access Area from the Cask Preparation Area. A large shield door separates the Preparation Area from the Lower Access Area. The Lower Access Area and the Transfer Confinement Area are separated by a floor containing two portals in which the casks are aligned. The fuel handling machine is located in the Transfer Confinement Area and moves fuel assemblies from one cask to the other. On the roof of the Transfer Confinement Area is a crane dedicated to handling cask shield plugs and lids. The crane can be operated manually for off-normal recovery. The heating, ventilation and air conditioning (HVAC) systems are balanced to ensure airflow from the Preparation Area (uncontaminated) to the Lower Access Area, to the Transfer Confinement Area (potentially contaminated). The control room and HVAC systems are separate from the facility and are envisioned to be portable, i.e., housed in a trailer or van. The transfer operations are performed remotely, however, maintenance on the facility equipment is manual.

The fuel handling machine includes a single fail safe crane and a transfer tube that contains the spent nuclear fuel assembly during the transfer operations. At the bottom of the transfer tube is a ''crud catcher'' which closes when the spent fuel assembly is in the transfer tube. The device catches crud during transfer and prevents the spreading of contamination in the Transfer Confinement Area. When the spent fuel transfer tube is aligned with the receiving cask, the device opens and any accumulated crud falls into the receiving cask, e.g., the MPC. There will be two monitoring systems in the facility to ensure proper grappling of the fuel: (1) A video monitor and (2) a series of switches, to assure that the operator knows the position of the fuel at all times. The fuel handling machine can be operated manually from the facility catwalks for off-normal recovery.

A unique feature of the dry transfer system is that all major components are transportable, except the concrete cell. The spent fuel handling equipment, for example, as well as the floors and roof are designed to be lowered-in and raised-out through the top of the cell. This feature is economically attractive because it enables the same dry transfer system equipment to be used at different locations.

Letters of Interest

Sources may indicate an interest in one or all phases of the project, i.e., prototype fabrication, demonstration and site specific licensing.

Sources interested in being considered for participation in this effort should forward a letter of interest referencing this **Federal Register** notice to the address shown above. Letters of interest must include the following information pertaining to the offeror's ability to perform: (1) Previous experience in the fabrication, construction or licensing of equipment and facilities in accordance with ASME NQA–1 or Nuclear Regulatory Commission requirements, and experience in the management of spent nuclear fuel, (2) relevant professional qualifications and specific experience of any key personnel who may be assigned to the project, (3) availability and description of special facilities that may be required in the fabrication or demonstration of the system, and (4) any additional pertinent information concerning the offeror's qualifications to perform the work. Letters of interest should not be submitted by companies which do not possess the capabilities required for the appropriate project phase or phases. Letters of interest should not exceed 10 pages.

Additional information may be requested by the Department of Energy following receipt of any letter of interest. This notice should not be construed as a commitment by the Department of Energy to enter into any agreement, nor is it a Request for Proposal.

Issued in Washington, DC on July 7, 1995.

Lake Barrett,

Deputy Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 95–17360 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Hydrodyne, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95CE15646 to Hydrodyne, Inc. The proposed grant will provide funding in the estimated amount of $99,925 by the Department of Energy for the purpose of saving energy through development of the applicants's patented ''Hydrodyne Process for Tenderizing Meat.''

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Hydrodyne, Inc. is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is expected to eliminate the long process times, costs, and energy associated with the aging process that the meat processing industry uses to tenderize meat. This technology is also expected to save energy by reducing feedlot fattening of cattle and reducing cooking time for certain cuts of beef. Mr. John B. Long, the inventor and principal investigator, has been active in mechanical engineering, nuclear and radioactive chemistry, and metallurgy throughout his career. Allied Engineering and Production, Inc., will help design and fabricate the prototype equipment. The U.S. Agricultural Research Service (ARS) will provide a site for the equipment's installation, testing, explosive charge optimization, demonstration, and analyze meat tissues for tenderness. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy-Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Avenue, SW., Washington, DC 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–17359 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Northeastern University

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15645 to Northeastern University. The proposed grant will provide funding in the estimated amount of $99,928 by the Department of Energy for the purpose of saving energy through development of the inventor's ''Hydro-Pneumatic Apparatus for Harnessing Ultra Low-Head Hydropower.''

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Northeastern University is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is expected to enable the multitude of low-head hydro sites throughout the United States to produce economically feasible renewable energy. The inventor and principal investigator, Dr. Alexander Gorlov, is the Director of the Hydro-Pneumatic Power Laboratory at Northeastern University. His professional experience includes design engineering and construction positions related to large-scale projects in the former Soviet Union with hydro power plants, dams; railroad and highway bridges; tunnels; and subway systems. He also holds 10 U.S. patents in the areas of power generation and mechanical systems, including two patents and one patent-pending for the subject invention, and has written about 70 periodical publications. Northeastern University will use its laboratory facilities for prototype development, testing, and optimization. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Avenue SW., Washington, DC 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–17356 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Oxley Research, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95CE15650 to Oxley Research, Inc. The proposed grant will provide funding in the estimated amount of $99,996 by the Department of Energy for the purpose of saving energy and reducing chemical wastes through development of the inventor's ''Electrolytic Regeneration of Acid Cupric Chloride Printed Circuit Board Etchant.''

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Oxley Research, Inc., is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation.

The new technology is expected to eliminate the costs and energy associated with transporting and disposal of wastes from circuit board etching processes, as well as recover market-grade copper. James Oxley obtained his B.S. and Ph.D. in Physical Chemistry from Imperial College, London University in 1961. Throughout his industrial career he has been active in applied electrochemistry, with particular experience in the areas of advanced batteries, fuel cells, electrochemical capacitors, and electrolytic processing. Oxley Research, Inc., will provide further process and materials validation and optimization to support the design and construction of an engineering prototype by using a pre-prototype electrolytic regenerator to define the system operating conditions to develop initial components designs and system layout for construction of an industrial-scale test regenerator. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Avenue SW., Washington, DC 20585.

The anticipated term of the proposed grant is 15 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–17355 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: John D. Watts

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95CE15608 to Mr. John D. Watts. The proposed grant will provide funding in the estimated amount of $96,976 by the Department of Energy for the purpose of saving energy through development of the inventor's ''Full-Strength Flush-Joint Pipe Connection.''

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Mr. John D. Watts is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology reduces the casing weight 27 percent and is expected reduce the volume of dirt and mud from drilling operations by 52 percent. The inventor and principal investigator, John Watts, has patented about 50 technologies and has created joining configurations for high pressure applications, oil field drilling, and cryogenic lines from space vehicles and nuclear reactors.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–17358 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Idaho National Engineering Laboratory.

DATES: Tuesday, August 1, 1995 from 8:00 a.m. Mountain Standard Time (MST) until 6:00 pm PST and Wednesday, August 2, 1995 from 8:00 a.m. MST until 5:00 p.m. MST. There will be a public comment availability session Tuesday, August 1, 1995 from 5:00 to 6:00 p.m. MST.

ADDRESSES: Shilo Inn, 780 Lindsay Blvd., Idaho Falls, ID 83402, (208) 523–1818.

FOR FURTHER INFORMATION CONTACT: Idaho National Engineering Laboratory Information 1–800–708–2680 or Marsha Hardy, Jason Associates Corporation Staff Support 1–208–522–1662.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Board will be developing a recommendation on the EM Integration Strategy for the Idaho National Engineering Laboratory and on the CFA Landfill and SL–1/BORAX Burial sites. They will also be initiating their study of the Comprehensive Facility and Land Use Plan and hearing a presentation on the Federal Facilities Compliance Act (FFCA).

Tentative Agenda

August 1, 1995

7:30 a.m. *Sign-in and Registration*
8:00 a.m. *Miscellaneous Business: Old Business*
- DDFO Report
- Chair Report

Member Reports

Standing Committee Reports

- Public Communications
- Budget
- Proposed Member Selection

10:00 am Break
10:45 am *FFCA Presentation*
12:00 noon Lunch
1:00 pm *EM Integration Strategy—INEL*
3:00 pm Break
3:15 pm *EM Integration Strategy—INEL*
5:00 p.m. *Public Comment Availability*
6:00 p.m. Adjourn

Wednesday, August 2, 1995

7:30 am *Sign-In and Registration*
8:00 am *Miscellaneous Business*
8:30 am *EM Integration Strategy*
10:00 am Break
10:15 am *Comprehensive Facility and Land Use Plan*
12:00 noon Lunch
1:00 pm *Comprehensive Facility and Land Use Plan*
2:30 pm *Environmental Restoration: CFA Landfill and SL1/BORAX Burial Sites*

3:30 pm Break
3:45 pm *Transportation/Haz Mat Outreach Program Development*
4:30 pm *Meeting Evaluation*
5:00 p.m. Adjourn.

A final agenda will be available at the meeting.

Public Comment Availability

The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, August 1, 1995 from 5:00 p.m. to 6:00 p.m. MST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Idaho National Engineering Laboratory Information line or Marsha Hardy, Jason Associates, at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

Issued at Washington, DC on July 11, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–17363 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES: Wednesday, August 2, 1995: 5:30 p.m.–9:30 p.m.

ADDRESSES: Community College of Southern Nevada, Cheyenne Campus, Highdesert Conference and Training Center, Room 1422, Las Vegas, NV.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. DOE, Nevada Operations Office, AMEM, P.O. Box 98518, Las Vegas, NV 89193–8518, ph. 702–295–0197 fax 702–295–1810.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The EM SSAB provides input and recommendations to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

Wednesday, August 2, 1995

5:30 p.m. Call to Order
Review Agenda
Minutes Acceptance
Financial Report
Correspondence
Reports from Committees, Delegates and Representatives
Unfinished Business
New Business
Evaluation of Board and Environmental Restoration and Waste Management Programs
Announcements
10:00 p.m. Adjournment.

If needed, time will be allotted after public comments for old business, new business, items added to the agenda, and administrative details. A final agenda will be available at the meeting Wednesday, August 2, 1995.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays.

Issued at Washington, DC on July 11, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–17362 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Pantex Plant.

DATE AND TIME: Tuesday, July 25, 1995: 1:30 pm—5:30 pm.

ADDRESSES: Amarillo Association of Realtors 5601 Enterprise Circle Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806)477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Pantex Plant Citizens' Advisory Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:30 pm Welcome—Agenda Review—Introductions
1:40 pm Co-Chairs' Comments
Report on Task Force Formation
2:00 pm Task Force Reports—Discussion
Public Participation/Public Information
Environmental Restoration
Sitewide Environmental Impact Statements
Future of the Nuclear Complex
Waste Management
3:00 pm Waste Management and Air Emissions Control—Texas Dept. of Health, Bureau of Radiation Control

4:00 pm Updates

Occurrence Reports—DOE

Agreement in Principle—Roger Mulder, Office of the Governor

4:30 pm Subcommittee Reports

- Budget and Finance
- Policy and Personnel
- Program and Training
- Community Outreach

5:30 pm Adjourn.

Public comment will be taken periodically throughout the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806)371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806)537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on July 11, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–17361 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995. The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507 (d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (7) Affected public; (8) An estimate of the number of respondents per report period; (9) An estimate of the number of responses per respondent annually; (10) An estimate of the average hours per response; (11) The estimated total annual respondent burden; and (12) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before August 14, 1995. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Norma White, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Ms. White may be telephoned at (202) 254–5327.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–521
3. 1902–0087
4. Payments for Benefits from Headwater Improvements
5. Extension
6. Required to obtain or retain benefits
7. Individuals or households; business or other for-profit; not-for-profit institutions; farms, Federal Government; and State, Local or Tribal Government
8. 25 respondents
9. 1 response
10. 33.6 hours per response
11. 840 hours
12. This survey carries out the legislative requirements of the Federal Power Act, Section 10(f) which directs the Commission to determine the benefits that have been received by downstream parties from the operation or storage reservoir(s) or other headwater improvement(s), and to assess the downstream beneficiaries for a part of the annual charges for interest, maintenance and depreciation.

The second energy information collection submitted to OMB for review was:

1. Fossil Energy
2. FE–329R
3. 1901–0297
4. Powerplant and Industrial Fuel Use Act of 1978; Final Rule
5. Extension
6. Mandatory
7. Business or other for profit
8. 30 respondents
9. 30 responses
10. 20 hours per response
11. 600 hours
12. FE–329R Final Rule (1) incorporates Pub. L. 100–42 FUA amendments into regulations, (2) revises and updates cost test fuel price and inflation indices, (3) clarifies how to claculate fuel price when using natural gas, and

(4) revises and updates oil/gas savings estimates for cogenerators.

The third energy information collection submitted to OMB for review was:

1. Nonproliferation and National Security
2. NN–417R
3. 1901–0288
4. Power System Emergency Reporting Procedures
5. Extension
6. Mandatory
7. Business or other for profit
8. 40 respondents
9. 1 response
10. 3.25 hours per response
11. 130 hours
12. NN–417R will provide the DOE with information regarding the location of where emergency electric power supply situations exist on an electrical power system or on a regional electric system. The data also provide DOE with a basis for determining the appropriate Federal action to relieve an electrical energy supply emergency. Respondents are electric utilities.

The fourth energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–550
3. 1902–0089
4. Oil Pipeline Rates: Tariff Filings
5. Extension
6. Mandatory
7. Business or other for-profit
8. 150 respondents
9. 3.58 responses
10. 10.91 hours per response
11. 5,860 hours
12. The data is collected to ensure that the Commission has timely rate/tariff information available to determine whether or not proposed oil pipeline rates are just and reasonable and to help ''streamline'' the ratemaking process both for industry and the Commission staff.

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., July 7, 1995.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–17364 Filed 7–13–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER94–1381–001, et al.]

Southwest Regional Transmission Association, et al.; Electric Rate and Corporate Regulation Filings

July 7, 1995.

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

1. Southwest Regional Transmission Association

[Docket No. ER94–1381–001]

Take notice that on June 26, 1995, the Southwest Regional Transmission Association (SWRTA) tendered for filing on behalf of its members, and pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, the Bylaws of SWRTA.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. American Electric Power Service Corporation

[Docket No. ER95–713–000]

Take notice that on June 15, 1995, the American Electric Power Service Corporation (AEPSC) amended its filing in the above-referenced docket to modify the method by which AEPSC will determine the cost of emission allowances.

A copy of the filing was served upon the parties affected by the amendment and the affected state regulatory commissions.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Power & Light Company

[Docket No. ER95–736–000]

Take notice that on June 28, 1995, Wisconsin Power and Light Company submitted an amended filing in the above-referenced docket, as ordered by the Commission in Ordering Paragraph (A) on Order dated June 2, 1995.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Power, Inc.

[Docket No. ER95–1284–000]

Take notice that on June 28, 1995, Entergy Power, Inc. tendered for filing a Purchase and Sale Agreement between InterCoast Power Marketing Company and Entergy Power, Inc.

Comment date: July 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Cleveland Public Power v. Centerior Energy Corporation

[Docket No. TX95–6–000]

Take notice that on June 30, 1995, Cleveland Public Power (CPP) tendered for filing an application for an order directing Centerior Energy Corporation (Centerior) to provide transmission services to CPP. CPP requests that the Commission order Centerior to file a tariff or service agreement setting forth the rates, terms and conditions for point-to-point transmission service, which CPP referred to as Transaction Delivery Service in its good faith request to Centerior.

Comment date: August 4, 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. 95–17247 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–594–000, et al.]

Northwest Pipeline Corporation, et al.; Natural Gas Certificate Filings

July 7, 1995.

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

1. Northwest Pipeline Corporation

[Docket No. CP95–594–000]

Take notice that on June 30, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP95–594–000 a request pursuant to Sections 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to replace obsolete facilities at the

Lynden Meter Station in Whatcom County, Washington, under Northwest's blanket certificate issued in Docket No. CP82–433–000 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.

Northwest proposes to abandon a 3-inch meter and a 2-inch meter and appurtenances and to construct and operate a single 3-inch turbine meter to replace those being abandoned. Northwest states that the replacement is necessary because the meters, which were installed in 1960, are obsolete and unable to accommodate Northwest's existing delivery obligations to Cascade Natural Gas Corporation (Cascade) at this location. It is asserted that Northwest has firm obligations to deliver up to 2,293 Dt equivalent of gas per day to Cascade at this location. It is explained that the replacement of facilities would permit an increase in the maximum daily design capacity from 2,167 Dt equivalent to 3,000 Dt equivalent. Northwest states that the deliveries made at the modified delivery point would be within Cascade's (or other shippers') certificated entitlement from Northwest. It is further asserted that there would be no loss of service resulting from the proposed abandonment and that the proposed deliveries would have no impact on Northwest's system peak day or annual deliveries. Northwest states that its tariff does not prohibit the proposed replacement of facilities. The cost of the abandonment and construction is estimated at $40,942.

Comment date: August 21, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP95–596–000]

Take notice that on July 3, 1995, Northwest Pipeline Corporation (Northwest), P.O. Box 58900, Salt Lake City, Utah 84158–0900, filed in Docket No. CP95–596–000 a request pursuant to Sections 157.205, 157.216 and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization to abandon certain obsolete facilities at the Goldendale Meter Station in Klickitat County, Washington [1] and to construct and operate replacement facilities at this station, under its blanket certificate issued in Docket No. CP82–433–000,[2] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Northwest states that upgraded facilities are needed to better accommodate its existing firm maximum daily delivery obligations at this delivery point to The Washington Water Power Company (WWP). Northwest proposes to upgrade the Goldendale Meter Station by replacing the existing obsolete 2-inch positive displacement meter with two 2-inch turbine meters. The proposed facility upgrade will increase the maximum design delivery capacity of this station from 1,033 Dth per day to approximately 1,336 Dth per day at a delivery pressure of 150 psig. Northwest further states that the total cost of the project is estimated to be approximately $57,780. Since this expenditure is necessary to replace obsolete equipment and to allow Northwest to accommodate existing delivery obligations at the Goldendale Meter Station, Northwest will not require any cost reimbursement from WWP.

Northwest states that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request. Northwest holds a blanket transportation certificate pursuant to Part 284 of the Commission's Regulations issued in Docket No. CP86–578–000.[3] Northwest states that construction of the proposed delivery point is not prohibited by its existing tariff and that it has sufficient capacity to deliver the requested gas volumes without detriment or disadvantage to it's other customers.

Comment date: August 21, 1995, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Eastern Transmission Corporation

[Docket No. CP95–598–000]

Take notice that on July 3, 1995, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–598–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon firm transportation service that Texas Eastern renders for Amoco Production Company which was authorized in Docket No. CP78–189–000, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Eastern proposes to abandon firm transportation service Texas Eastern renders for Amoco Production Company under firm transportation agreements. These agreements constitute Texas Eastern Rate Schedules X–88, X–89, X–90, and X–91.

Comment date: July 28, 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,

[1] *See*, Docket No. G–17769 (21 FPC 626).

[2] *See*, 20 FERC ¶ 62,412 (1982).

[3] *See*, 42 FERC ¶ 61,019 (1988).

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. 95–17248 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP89–161–033]

ANR Pipeline Co.; Notice of Refund Report

July 10, 1995.

Take notice that on April 28, 1995, ANR Pipeline Company (ANR) tendered for filing with the Federal Energy Regulatory Commission (Commission) a report summarizing refunds disbursed on March 29, 1995. These refunds represent an overcollection on its Gas Inventory Charge of $45,131,941, plus $4,433,988 in interest. The Commission previously approved the principle amount and its allocation among customers. ANR Pipeline Company, 70 FERC ¶ 61,236 (1995).

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 385.211). All such protests should be filed on or before July 17, 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. 95–17255 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1279–000]

Central Hudson Gas and Electric Corporation; Notice of Filing

July 10, 1995.

Take notice that Central Hudson Gas and Electric Corporation (CHG&E), on June 28, 1995, tendered for filing a Service Agreement between CHG&E and Engelhard Power Marketing, Inc. The terms and conditions of services under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (''Power Sales Tariff'') accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the Commission's notice requirements.

A copy of this filing has been served on the Public Service Commission of the State of New York.

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 July 24, 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. 95–17259 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–625–001]

Cincinnati Gas and Electric Company; Notice of Filing

July 10, 1995.

Take notice that on May 26, 1995, Cincinnati Gas and Electric Company tendered for filing revised tariff sheets in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 18, 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. 95–17262 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–40–001]

Koch Gateway Pipeline Company; Notice of Filing

July 10, 1995.

Take notice that on July 6, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective June 24, 1995.

Substitute Second Sheet Revised No. 5302

Koch Gateway states that although the tariff sheets filed in this proceeding were accepted to be effective June 24, 1995 in the June 14, 1995, Office of Pipeline Regulation Letter Order, Koch Gateway is submitting the above-mentioned tariff sheets to revise its Index of Purchasers. Koch Gateway states that one of its Customers is listed three times in the Index of Purchasers, but should only have been listed twice. Koch Gateway is revising Tariff Sheet No. 5302 to make the appropriate deletion.

Koch Gateway states that the tariff sheet is being mailed to all parties on the official service list 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 regulations. All such protests should be filed on or before July 17, 1995. Protests will be considered by the Commission in determining 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17257 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1280–000]

Niagara Mohawk Power Corp.; Notice of Filing

July 10, 1995.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on June 28, 1995, tendered for filing an agreement between Niagara Mohawk and CMEX Energy Inc. (CMEX) dated

June 19, 1995 providing for certain transmission services to CMEX.

Copies of this filing were served upon CMEX and the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 24, 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. 95–17258 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–294–001]

Northern Border Pipeline Company; Notice of Tariff Filing

July 10, 1995.

Take notice that on July 6, 1995, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute First Revised Sheet Number 277.

Northern Border states that the filing is in compliance with the Commission's order, issued June 28, 1995, in the above-referenced docket. Northern Border further states that the June 28 Order required Northern Border to revise its tariff language to conform with Order 577–A.

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 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before July 17, 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 and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17252 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1275–000]

Portland General Electric Company; Notice of Filing

July 10, 1995.

Take notice that on June 27, 1995, Portland General Electric Company (PGE), tendered for filing a Scheduling Services Agreement with Coastal Electric Services Company.

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 Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 21, 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. 95–17261 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1277–000]

Puget Sound Power & Light Company; Notice of Filing

July 10, 1995.

Take notice that on June 28, 1995, Puget Sound Power & Light Company (Puget) tendered for filing as an initial rate schedule a Transmission Agreement and a Construction Agreement (together, the ''Agreements'') between Puget and The City of Seattle acting by and through its City Light Department (Seattle). A copy of the filing was served upon Seattle.

Puget states that the Agreement provides for the interconnection of Seattle's South Fork Told River hydroelectric project, FERC Project No. 2959 (the Project) with Puget's transmission system and for wheeling of the net electrical output of the Project over Puget's transmission system to Seattle's system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 24, 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. 95–17260 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–46–000]

Questar Pipeline Co.; Notice of Tariff Filing

July 10, 1995.

Take notice that on July 6, 1995, Questar Pipeline Company, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 8 and Second Revised Sheet No. 8C, to be effective July 1, 1995.

Questar states that this filing updates its Index of Shippers by (1) reflecting information regarding firm transportation service agreements that were executed subsequent to Questar's February 17, 1995, filing in Docket No. GT95–23–000 and (2) correcting certain information applicable to Questar's storage customers.

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, N.E., Washington, D.C. 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 17, 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. 95–17256 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–381–000]

Tennessee Gas Pipeline Company; Notice of Filing of Petition for Clarification

July 10, 1995.

Take notice that on July 5, 1995, Tennessee Gas Pipeline Company (Tennessee) filed a petition for clarification requesting that the Commission clarify that Tennessee is authorized to retain, among others, two case-specific upstream transportation service agreements necessary to continue post-restructuring transportation service to its ''NOREX'' and Boundary Gas, Inc. (Boundary) customers. The two upstream transportation agreements are Rate Schedule X–48 with Consolidated Gas Supply Corporation for service to the Boundary customers, and Rate Schedule X–81 with Consolidated Natural Gas Transmission Company for service to the NOREX customers.

Tennessee states that it is clear from the orders issued in Docket Nos. RS92–23, *et al.* that the Commission intended to allow Tennessee to retain these upstream services post-restructuring but, due to inadvertent error, the actual rate schedules were mislabeled in Tennessee's filings, and consequently in the Commission's orders.

Tennessee states that copies of the filing have been mailed on all parties listed on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 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 17, 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. 95–17249 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–380–000]

Tennessee Gas Pipeline Company; Notice of Reconciliation Report

July 10, 1995.

Take notice that on July 5, 1995, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a Reconciliation Report in accordance with Article I, Section 4, of the ''Stipulation and Agreement'' approved by the Commission in *Tennessee Gas Pipeline Co.*, 69 FERC ¶ 61,203 (1994), *reh'g denied*, 71 FERC ¶ 61,021 (1995).

Tennessee states that the purpose of this filing is to report adjustments to the revenues and costs recorded in Tennessee's Account No. 191 during the period from March 1, 1994 through May 31, 1995. Tennessee reports that it has underrecovered its Account No. 191 balance as of May 31, 1995 by $20,332,420.

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 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 17, 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17250 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–149–006]

Transcontinental Gas Pipe Line Corp.; Notice of Refund Report

July 10, 1995.

Take notice that on June 14, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Federal Energy Regulatory Commission (Commission) a report summarizing refunds disbursed on May 31, 1995, in the amount of $7,041,267.61. Transco states that these refunds, including interest and principal, were made in compliance with an order issued by the Commission on May 1, 1995. That order denied rehearing of the Commission's February 13, 1995, order in Docket Nos. RP92–149–001, 002, and 003. The May 1 order directed Transco to refund to Columbia Gas Transmission Corporation (Columbia) Order 94 costs that Transco has collected from Columbia, plus interest from March 15, 1995.

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 Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 17, 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 information.

Lois D. Cashell,

Secretary.

[FR Doc. 95–17254 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–193–003]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

July 10, 1995.

Take notice that on July 6, 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.

Williston Basin states that, in accordance with the Commission's June 21, 1995 Order, the revised tariff sheets modify the time allowed for a shipper to execute a Service Agreement once it has been tendered to such shipper by Williston Basin.

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 Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 17, 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. 95–17253 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–329–001]

Wyoming Interstate Company, Ltd.; Notice of Tariff Compliance Filing

July 10, 1995.

Take notice that on July 5, 1995, Wyoming Interstate Company, Ltd. (WIC), tendered for filing revised tariff sheets, to its FERC Gas Tariffs, First Revised Volume No. 1, and FERC Gas Tariff, Second Revised Volume No. 2. The new tariff sheets are filed in accordance with the letter order issued June 21, 1995, in Docket No. PR95–329–000. In the June 21 order, the Commission conditioned acceptance of WIC's June 1, 1995 filing on a compliance filing by WIC to conform with Order No. 577–A. WIC has filed revisions to Sheet No. 26 of its Volume No. 1 Tariff, and Sheet No. 55 of its Volume No. 2 Tariff.

Accordingly, WIC submitted for filing Fourth Revised Sheet No. 26 of its Volume No. 1 Tariff and Fourth Revised Sheet No. 55 of its Volume No. 2 Tariff to become effective July 10, 1995, the effective date of Order No. 577–A.

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 17, 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. 95–17251 Filed 7–13–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4724–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 05, 1995 Through June 09, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (60 FR 19047).

Draft EISs

ERP No. D–AFS–A65161–00 Rating EC2, Gypsy Moth Management in the United States: A Cooperative Approach, Implementation, US.

Summary: EPA expressed environmental concerns about potential habitat and water quality impacts and insufficient information to predict project effects on nontarget species.

ERP No. D-AFS-G65062–NM Rating LO, Agua/Caballos Timber Sale, Harvesting Timber and Managing Existing Vegetation, Implementation, Carson National Forest, El Rito Ranger District, Taos County, NM.

Summary: EPA has no objections to the proposed project. However, EPA requests that additional information on cumulative impacts and environmental justice be included in the final EIS.

ERP No. D–AFS–J65230–WY Rating EO2, Tie Hack Dam and Reservoir Construction, Special-Use-Permit, NPDES and COE Section 404 Permits, Bighorn National Forest, Buffalo Ranger District, City of Buffalo, WY.

Summary: EPA expressed environmental objections to the proposed alternative due to potential adverse impacts to wetlands. EPA suggests that the final EIS explore additional alternatives of hydropower production. EPA believes that the conservation alternative could show greater water savings and would be more effective in meeting the purpose and need than stated in the draft EIS.

ERP No. D–AFS–J65232–UT Rating LO, Brian Head Recovery Project, Timber Harvest, Implementation, Dixie National Forest, Cadar City Ranger District, Iron County, UT.

Summary: EPA expressed lack of objections to the proposed project.

ERP No. D-AFS-L65238–WA Rating EC2, Thunder Mountain Fire Recovery and Salvage Project, Implementation, Okanogan National Forest, Tonasket and Methow Valley Ranger Districts, Okanogan County, WA.

Summary: EPA expressed environmental concerns regarding the existing conditions in the Chewuch River, Thirtymile Creek, Dog Creek, Windy Creek and Smarty Creek within the proposed project area and whether the proposed action will meet water quality standards.

ERP No. D–UAF–K11061–GU Rating EO2, Andersen Air Force Base (AFB) Solid Waste Management Facility, Construction, Island of Guam, GU.

Summary: EPA expressed environmental objections because the DEIS does not support statements regarding landfill location, unstable areas and monitorability of the groundwater. EPA has requested additional information including storm water permitting and air emissions.

ERP No. DS–DOE–L08050–WA Rating EC2, Puget Power Northwest Washington Electric Transmission Project, Updated Information, Construction and Operation, Whatcon and Skagit Counties, WA.

Summary: EPA expressed environmental concerns based on the project's impact on water quality.

Final EISs

ERP No. F–AFS–J65224–MT, Running Wolf Timber Sales, Implementation, Lewis and Clark National Forest, Judith Ranger District, Stanford, Judith Basin County, MT.

Summary: EPA expressed environmental concerns regarding water quality impacts, the adequacy of the water quality monitoring program and believes additional information is needed to fully assess all potential impacts of the proposed action.

ERP No. F–FHW–D40238–MD, US 29 Improvements, Sligo Creek Parkway to the Patuxent River Bridge, Funding and COE Section 404 Permit Issuance, Montgomery County, MD.

Summary: EPA expressed environmental concern regarding the mass transit HOV options and the use of old traffic data.

ERP No. F–FHW–E40742–NC, I–85 Greensboro Bypass Study Area Transportation Improvement, I–85 South of Greensboro to I–40/85 east of Greensboro, Funding, Possible COE Section 404 Permit, City of Greensboro, Guilford County, NC.

Summary: EPA continued to believe that the Grand/85 alternative would be the most environmental sound build alternative for meeting the project's

transportation objective. Although we still have concerns, instituting the identified environmental controls for construction and long term operation would make the proposed project acceptable.

Dated: July 11, 1995.

William D. Dickerson,

Director, NCD Compliance Division, Office of Federal Activities.

[FR Doc. 95–17342 Filed 7–13–95; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4724–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed July 03, 1995 Through July 07, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950295, Draft EIS, SFW, UT, Washington County Habitat Conservation Plan, Issuance of a Permit for Incidental Take of Mojave Desert Tortoise (Gopherus Agassizii), Upper Virgin River Recovery Unit, Washington County, UT, Due: August 28, 1995, Contact: Robert D. Williams (801) 524–5001.

EIS No. 950296, Draft EIS, GSA, OH, Cleveland United States Courthouse, Site Selection, Construction and Operation, Cuyahoga County, OH, Due: August 28, 1995, Contact: Jennifer Enyart (312) 886–5574.

EIS No. 950297, Final EIS, BLM, CA, Mesquite Regional Landfill Project, Implementation, Federal Land Exchange, Right-of-Way Approval, Conditional-Use-Permit and General Plan Amendment, Imperial County, CA, Due: August 14, 1995, Contact: Thomas Zale (619) 337–4400.

EIS No. 950298, Draft EIS, NOA, Programmatic EIS—Coastal Nonpoint Pollution Control Program, Implementation, Approval for 29 States and Territories Coastal Nonpoint Program, Due: August 28, 1995, Contact: W. Stanley Wilson (301) 713–3074.

EIS No. 950299, Draft EIS, USN, TX, Dallas Naval Air Station Disposal and Reuse, Implementation, City of Dallas, TX, Due: August 28, 1995, Contact: Darrell Molzan (803) 743–0796.

EIS No. 950300, Final EIS, AFS, CA, OR, Klamath National Forest Land and Resource Management Plan, Implementation, Siskiyou Co., CA and Jackson Co., OR, Due: August 14, 1995, Contact: Barbara Holder (916) 842–6131.

EIS No. 950301, Final EIS, FRC, VA, Gaston and Roanoke Rapids Project (FERC-No. 2009–003), Nonpoint Use of Project Lands and Water for the City of Virginia Beach Water Supply Project, License Issuance, Brunswick County, VA, Due: August 14, 1995, Contact: Steve Edmondson (202) 219–2653.

Amended Notices

EIS No. 950277, Draft EIS, FAA, WI, Dane County Regional Airport, Air Carrier Runway 3–21 Construction and Operation and Associated Actions, Airport Layout Plan Approval and Funding, Dane County, WI, Due: August 14, 1995, Contact: William J. Flanagan (612) 725–4463.

Published 6–30–95 Correction to Document status from Final to Draft EIS.

Dated: July 11, 1995.

William D. Dickerson,

Director, NCD Compliance Division, Office of Federal Activities.

[FR Doc. 95–17343 Filed 7–13–95; 8:45 am]

BILLING CODE 6560–50–U

[FRL-S257–7]

Peer Review Meeting on Eastern Columbia Plateau Sole Source Aquifer Determination

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: This notice announces a peer review meeting sponsored by the U.S. Environmental Protection Agency's (EPA's) Science Policy Council (SPC). This meeting is a peer review of scientific information underlying the sole source aquifer determination for the Eastern Columbia Plateau that will be made by the Regional Administrator of EPA's Region 10.

DATES: The meeting will held on July 26–27, 1995. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the Sheraton Tacoma Hotel in Tacoma, Washington. Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the meeting. To attend the meeting as an observer, contact Laurie Nutter, Eastern Research Group, Inc., 110 Hartwell Avenue, Lexington, Massachusetts, 02173–3198, Tel: 617/674–7320, Fax: 617/674–2906 by July 17, 1995. Space is limited.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Martha Sabol, U.S. EPA, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone (206) 553–1593. For other information about the peer review, contact Pam Pentz, U.S. EPA (8501), 401 M Street, SW, Washington, DC 20460, Telephone: (202) 260–6600.

SUPPLEMENTARY INFORMATION: On August 26, 1994, EPA proposed that the Eastern Columbia Plateau Aquifer System be designated as a sole source aquifer. EPA proposed the action in response to a January 1993 petition from the Palouse-Clearwater Environmental Institute of Moscow, Idaho. The petition requests EPA to make a determination under Section 1424(e) of the Safe Drinking Water Act that the aquifer system is the sole or principal source of drinking water for the area and which, if contaminated, would create a significant hazard to public health.

The original comment period was to close on October 14, 1994, but in response to public requests EPA extended the comment period twice: first until January 17, 1995, and then until February 17, 1995. Four public hearings were held throughout the proposed area (September 18, September 19, November 15, and November 16).

EPA received extensive comments, including many that cited technical grounds for taking issue with the vertical and lateral boundaries of the proposed area. On April 13, 1995, the Regional Administrator for Region 10, announced that EPA would undertake a peer review of technical information underlying the sole source aquifer designation in the Eastern Columbia Plateau aquifer system. EPA is asking the peer reviewers, who are experts in hydrogeology to evaluate EPA's technical analysis of certain issues relating to the Eastern Columbia Plateau aquifer system. Specifically, EPA is asking the peer reviewers to provide expert comment on the boundaries of the aquifer system, the vertical flow between the basalt units, and the applicability of the documents that EPA used in the development of its technical analysis. Following this meeting, EPA will use information and analyses developed by the peer reviewers, along with other considerations, to make a determination as to the sole source aquifer designation for the Eastern Columbia Plateau.

Dated: June 30, 1995.

Joseph K. Alexander,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–17319 Filed 7–13–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

July 7, 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 these submissions contact Judy Boley, Federal Communications Commission, (202) 418–0214. Persons wishing to comment on these information collections should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: None

Title: Application to Participate in an FCC MDS Auction

Form Number: FCC Form 175–M

Action: New collection

Respondents: Businesses or other for-profit

Frequency of Response: On occasion reporting requirement

Estmated Annual Burden: 1,600 responses, .50 hours average burden per response, 775 hours total annual burden

Needs and Uses: On 6/15/95, the Commission adopted a Report and Order in MM Docket No. 94–131 and PP Docket No. 93–253, Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service (MDS) and in the Instructional Television Fixed Service (ITFS) and Implementation of Section 309(j) of the Communications Act—Competitive Bidding. This Report and Order will streamline the procedures for filing MDS applications and facilitate the development and rapid deployment of wireless cable services. Among other things, this Report and Order establishes competitive bidding rules and procedures for the Multipoint Distribution Service. The Commission has determined that simultaneous multiple round bidding will be used in the MDS auctions. This auction method has been employed successfully in the broadband and narrowband PCS auctions. For the MDS auctions, we have determined that designated entities will only include small businesses. Due to the differing criteria for establishing designated entity status the Commission is creating a new FCC Form 175–M. This form will be similar to the current FCC Form 175 (3060–0600). The new FCC Form 175–M will be tailored for use by MDS applicants only. The FCC Form 175–S, Application to Participate in an FCC Auction—Supplemental Form (3060–0600) will be used as a continuation sheet. The information will be used by FCC staff to determine whether the applicant is legally, technically, and otherwise qualified to participate in the auction. The rules and requirements are also designed to ensure that the competitive bidding process is limited to serious, qualified applicants and to deter possible abuses of the bidding and licensing processes.

OMB Number: None

Title: Certification of Completion of Construction for a Multipoint Distribution Service

Form Number: FCC Form 304–A

Action: New collection

Respondents: Businesses or other for-profit

Frequency of Response: On occasion reporting requirement

Estmated Annual Burden: 100 responses, 0.5 hours average burden per response, 50 hours total annual burden

Needs and Uses: On 6/15/95, the Commission adopted a Report and Order in MM Docket No. 94–131 and PP Docket No. 93–253, Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service (MDS) and in the Instructional Television Fixed Service (ITFS) and Implementation of Section 309(j) of the Communications Act—Competitive Bidding. This Report and Order will streamline the procedures for filing MDS applications and facilitate the development and rapid deployment of wireless cable services. Among other things, this Report and Order adopted a new FCC Form 304. This new FCC Form 304–A is a component of the FCC Form 304. This new form will incorporate information currently on the FCC Form 494–A, Certification of Completion of Construction (3060–0403) and limit the form to only MDS applicants. All other services currently on the FCC Form 494–A will remain. Each licensee will specify as a condition that upon the completion of construction, the licensee must file with the Commission an FCC Form 304–A, certifying that the facilities as authorized have been completed and that the station is now operational and ready to provide service to the public. The conditional license shall be automatically forfeited upon the expiration of the construction period specified in the license unless within 5 days after the date an FCC Form 304–A has been filed with the Commission.

OMB Number: None

Title: Application for a Multipoint Distribution Service Authorization

Form Number: FCC Form 304

Action: New collection

Respondents: Businesses or other for-profit

Frequency of Response: On occasion reporting requirement

Estimated Annual Burden: 300 responses; 55 hours average burden per response; 16,500 hours total annual burden

Needs and Uses: On 6/15/95, the Commission adopted a Report and Order in MM Docket No. 94–131 and PP Docket No. 93–253, Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service (MDS) and in the Instructional Television Fixed Service (ITFS) and Implementation of Section 309(j) of the Communications Act—Competitive Bidding. This Report and Order will streamline the procedures for filing MDS applications and facilitate the development and rapid deployment of wireless cable services. Among other things, this Report and Order adopted a new FCC Form 304, Application for a Multipoint Distribution Service Authorization referred to in the Report and Order as the long-form application. This new form will incorporate information currently on the FCC Form 494, Application for a New or Modified Microwave Radio Station License Under Part 21 (OMB Control No. 3060–0402) and will add new data elements needed to expedite processing under the new filing procedures adopted in the Report and Order. The FCC Form 304 will be used by existing MDS operators to modify their stations or to add a signal booster station. It will also be used by some winning bidders in the competitive bidding process to propose facilities to provide wireless cable service over any usable MDS channels within their Basic Trading Area (BTA). All other services currently using the FCC Form 494 will continue to do so. This collection

of information will also include the burden for the technical rules involving the interference or engineering analysis requirements under Sections 21.902, 21.913 and 21.938. These analyses will not be submitted with the application but will be retained by the operator and must be made available to the Commission upon request. The data will be used by FCC staff to ensure that the applicant is legally, technically and otherwise qualified to become a Commission licensee. MDS/ITFS applicants/licensees will need this information to perform the necessary analyses of the potential for harmful interference to their facility.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–17242 Filed 7–13–95; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 2084]

Petition for Reconsideration of Actions in Rulemaking Proceedings

July 11, 1995.

Petition for reconsideration 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, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed July 31, 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: Rules and Policies Regarding Calling Number Identification Service—Caller ID. (CC Docket No. 91–281)

Number of Petitions Filed: 2

Subject: Local Exchange Carriers' Rates Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switch Transport. (CC Docket 94–97, Phase I)

Number of Petitions Filed: 2

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–17303 Filed 7–13–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Society Expeditions, Inc., Discoverer Reederei GmbH and Adventurer Cruises, Inc., 2001 Western Avenue, Suite 300, Seattle, Washington 98121
Vessel: WORLD DISCOVERER

Dated: July 10, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–17245 Filed 7–13–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Great Southern Bancorp; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-16690) published on page 35404 of the issue for Friday, July 7, 1995.

Under the Federal Reserve Bank of Atlanta, the entry for Great Southern Bancorp, West Palm Beach, Florida should be deleted.

Board of Governors of the Federal Reserve System, July 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17291 Filed 7–13–95; 8:45 am]

BILLING CODE 6210–01–F

Old National Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 7, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to merge with Shawnee Bancorp, Inc., Harrisburg, Illinois, and thereby indirectly acquire The Bank of Harrisburg, Harrisburg, Illinois.

Board of Governors of the Federal Reserve System, July 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17291 Filed 7–13–95; 8:45 am]

BILLING CODE 6210–01–F

Robert G. Sarver, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 28, 1995.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Robert G. Sarver, Scottsdale, Arizona; to acquire a total of 14.4 percent; Keefe Bruyette & Woods, New York, New York, to acquire a total of 9.9 percent; Simmons Family, Inc., Salt Lake City, Utah, to acquire a total of 9.9 percent; Robert H. McKee, Phoenix, Arizona, to acquire a total of 9.9 percent; Paul L. Baker, Tucson, Arizona, to acquire a total of 8.5 percent; Bell Family Trust, Glen W. Bell, Jr., Trustee, Rancho Santa Fe, California, to acquire a total of 7.5 percent; Millard R. Sheldin, Omaha, Nebraska, to acquire a total of 6 percent; Lawrence B. Robinson, La Jolla, California, to acquire a total of 6 percent; Larry Korman, Atco, New Jersey, to acquire a total of 5 percent; Zions Bancorporation, Salt Lake City, Utah, to acquire a total of 4.9 percent; Par Holdings, Inc., Scottsdale, Arizona, to acquire a total of 4 percent; R Capital Corporation, Cleveland, Ohio, to acquire a total of 3 percent; Albert L. Feldman, Omaha, Nebraska, to acquire a total of 3 percent; Thomas W. Rogers, Tucson, Arizona, to acquire a total of 2 percent; Donald R. Rogers, Tucson, Arizona, to acquire a total of 2 percent; Carol L. Hudson, Tucson, Arizona, to acquire a total of 2 percent; Allan W. Severson, La Mesa, California, to acquire a total of 1 percent; and Christopher L. Skillern, La Mesa, California, to acquire a total of 1 percent, of the voting shares of Bancomer Holding Company, Los Angeles, California, and thereby indirectly acquire Grossmont Bank, La Mesa, California.

Board of Governors of the Federal Reserve System, July 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17292 Filed 7–13–95; 8:45 am]

BILLING CODE 6210–01–F

Wachovia Corporation, 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 28, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Wachovia Corporation, Winston-Salem, North Carolina; to engage *de novo* through its subsidiary, Wachovia Capital Markets, Inc., Winston-Salem, North Carolina, in acting as investment or financial adviser, pursuant to § 225.25(b)(4) of the Board's Regulation Y; providing foreign exchange advisory and transactional services, pursuant to § 225.25(b)(17) of the Board's Regulation Y; and acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging for the transfer of title, control and risk of such real estate project to one or more investors, pursuant to § 225.25(b)(14) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Garrett Bancshares, Ltd., Bloomfield, Iowa; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17293 Filed 7–13–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those information collections recently submitted to OMB.

1. 1995 Short-term, General, and Other Special Hospital Civil Rights Compliance report—Short-term, general, and other special hospitals that are recipients of HHS funds are being requested to file a report providing information on their compliance with civil rights requirements. Those hospitals that received Hill-Burton assistance will simultaneously fulfill the current triennial community service reporting requirements by filing this report. The Public Health Service Act (Titles VI and XVI) requires that this information be obtained periodically to enable assessment of the compliance of recipient Hill-Burton health facilities with their community services assurances. Respondents: State or local governments, business or other for-profit, non-profit institutions; Total Number of Respondents: 4975; Frequency of Response: once every three years; Average Burden per Response: 32.5 hours; Estimated Annual Burden: 53,918 hours. OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619–1053. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503.

Dated: July 3, 1995.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 95–17307 Filed 7–13–95; 8:45 am]

BILLING CODE 4150–04–M

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 14% for the quarter ended June 30, 1995. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: July 6, 1995.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 95–17309 Filed 7–13–95; 8:45 am]

BILLING CODE 4150–04–M

Administration for Children and Families

Agency Information Collection Under OMB Review

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Administration for Children and Families (ACF) is publishing the following summary(ies). To request copies of the proposed collection of information and the related instructions, call the ACF Reports Clearance Officer on (202) 401–6465.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Proposed Project(s)

Title: Applications and Discontinuances for Aid to Families with Dependent Children (AFDC)

OMB No.: 0970–0003

Description: The information collected by Form ACF–3800 is needed to properly administer and monitor the Aid to Families with Dependent Children (AFDC) program. The affected public is comprised of State agencies administering and supervising the administration of the AFDC program.

Respondents: State governments

Title	Number of respondents	Number of responses per respondent	Average burden per response	Burden
ACF–3800	54	4	4	864
Estimated Total Annual Burden: 864.				

Dated: July 7, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–17335 Filed 7–13–95; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Under OMB Review

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Administration for Children and Families (ACF) is publishing the following summary(ies). To request copies of the proposed collection of information and the related instructions, call the ACF Reports Clearance Officer on (202) 401–6465.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Proposed Project(s)

Title: Statistical Report on Recipients Under Public Assistance

OMB No.: 0970–0008

Description: The information collected by Form ACF–3637 is needed to properly administer and monitor the Aid to Families with Dependent Children program by providing information on a quarterly basis on recipients and families in the AFDC and Adult Programs. This data is used by Congress, Federal agencies, and others.

Respondents: State governments

Title	Number of respondents	Number of responses per respondent	Average burden per response	Burden
ACF–3637	216	4	35	7,560
Estimated Total Annual Burden: 7,560.				

Dated: July 7, 1995.

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95–17336 Filed 7–13–95; 8:45 am]

BILLING CODE 4184–01–M

Revised Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs for Fiscal Year 1996

AGENCY: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of Revised Fiscal Year 1996 Federal Allotments to State Developmental Disabilities Councils and Protection and Advocacy Formula Grant Programs.

SUMMARY: This notice sets forth the revised Fiscal Year 1996 individual allotments and percentages to States administering the State Developmental Disabilities Councils and Protection and Advocacy programs, pursuant to Section 125 and Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (Act). This revision is required because the input of the population data for one of the States was in error. The revised amounts published herein supersede those published in the **Federal Register** on March 21, 1995, (54 FR 14943).

The amounts published herein are based upon Fiscal Year 1995 funding levels, and are contingent upon Congressional appropriations for Fiscal Year 1996. If Congress enacts and the President approves an amount different from the Fiscal Year 1995 appropriation, the allotments will be adjusted accordingly. These allotments reflect the appropriated funds allocated to the States based on the most recent data available for population, extent of need for services for persons with developmental disabilities, and the financial need of the States.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Bettye J. Mobley, Chief, Family Support Branch, Office of Financial Management, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone (202) 401–6955.

SUPPLEMENTARY INFORMATION: Section 125(a)(2) of the Act requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year. It should be noted that, as required, Palau's allotment has been adjusted to seventy-five percent of its Fiscal Year 1995 allotment.

The Administration on Developmental Disabilities has updated the data elements for issuance of Fiscal Year 1996 allotments for the Developmental Disabilities formula grant programs. The data elements used in the update are:

A. The number of beneficiaries in each State and Territory under the Childhood Disabilities Beneficiary Program, December 1993, are from Table 5.J10 of the ''Social Security Bulletin: Annual Statistical Supplement 1994'' issued by the Social Security Administration, U.S. Department of Health and Human Services. The numbers for the Northern Mariana Islands and the Trust Territories of the Pacific Islands, were obtained from the Social Security Administration;

B. State data on Average Per Capita Income, 1989–93, are from Table 2 of the ''Survey of Current Business,'' September 1994, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories also were obtained from that Bureau; and

C. State data on Total Population and Working Population (ages 18–64) as of July 1, 1993, are from ''Current Population Reports: Population Estimates and Projections, Series P–25, Number 1010, issued by the Bureau of the Census, U.S. Department of Commerce. Estimates for the Territories are no longer available, therefore, the Territories population data are from the 1990 Census Population Counts. The Territories' working populations were issued in the Bureau of Census report, ''General Characteristics Report: 1980,'' which includes the most recent data available from the Bureau.

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	State developmental disabilities councils	Percentage
Total	$70,438,000	100.000000
Alabama	1,350,256	1.916943
Alaska	420,475	.596943
Arizona	1,005,402	1.427357
Arkansas	768,612	1.091189
California	6,494,502	9.220168
Colorado	787,772	1.118391
Connecticut	698,526	.991689
Delaware	420,475	.596943
District of Columbia	420,475	.596943
Florida	3,117,398	4.425733

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	State developmental disabilities councils	Percentage
Georgia	1,728,262	2.453593
Hawaii	420,475	.596943
Idaho	420,475	.596943
Illinois	2,705,735	3.841300
Indiana	1,474,214	2.092924
Iowa	804,511	1.142155
Kansas	615,811	.874260
Kentucky	1,248,946	1.773114
Louisiana	1,432,280	2.033391
Maine	420,475	.596943
Maryland	979,617	1.390751
Massachusetts	1,344,089	1.908187
Michigan	2,480,119	3.520996
Minnesota	1,034,766	1.469045
Mississippi	949,468	1.347949
Missouri	1,341,411	1.904385
Montana	420,475	.596943
Nebraska	425,955	.604723
Nevada	420,475	.596943
New Hampshire	420,475	.596943
New Jersey	1,523,184	2.162446
New Mexico	479,429	.680640
New York	4,330,605	6.148109
North Carolina	1,822,621	2.587554
North Dakota	420,475	.596943
Ohio	2,950,353	4.188581
Oklahoma	921,778	1.308637
Oregon	746,859	1.060307
Pennsylvania	3,189,640	4.528294
Rhode Island	420,475	.596943
South Carolina	1,059,457	1.504099
South Dakota	420,475	.596943
Tennessee	1,473,381	2.091742
Texas	4,519,278	6.415966
Utah	549,665	.780353
Vermont	420,475	.596943
Virginia	1,440,243	2.044696
Washington	1,145,208	1.625838
West Virginia	813,508	1.154928
Wisconsin	1,321,045	1.875472
Wyoming	420,475	.596943
American Samoa	220,750	.313396
Guam	220,750	.313396
Northern Mariana Islands	220,750	.313396
Puerto Rico	2,428,881	3.448254
Palau	165,563	.235048
Virgin Islands	220,750	.313396

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	Protection and advocacy	Percentage
Total	[1] $25,911,318	100.000000
Alabama	439,900	1.697714
Alaska	254,508	.982227
Arizona	337,130	1.301092
Arkansas	256,076	.988279
California	2,304,146	8.892431
Colorado	272,686	1.052382
Connecticut	258,379	.997167
Delaware	254,508	.982227
District of Columbia	254,508	.982227
Florida	1,048,692	4.047235
Georgia	596,126	2.300639
Hawaii	254,508	.982227
Idaho	254,508	.982227
Illinois	904,717	3.491590
Indiana	510,086	1.968584

FY 1996 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	Protection and advocacy	Percentage
Iowa	264,641	1.021334
Kansas	254,508	.982227
Kentucky	403,708	1.558037
Louisiana	465,263	1.795598
Maine	254,508	.982227
Maryland	334,983	1.292806
Massachusetts	441,992	1.705787
Michigan	836,270	3.227431
Minnesota	354,899	1.369668
Mississippi	315,378	1.217144
Missouri	458,338	1.768872
Montana	254,508	.982227
Nebraska	254,508	.982227
Nevada	254,508	.982227
New Hampshire	254,508	.982227
New Jersey	504,403	1.946651
New Mexico	254,508	.982227
New York	1,379,169	5.322651
North Carolina	630,628	2.433794
North Dakota	254,508	.982227
Ohio	998,081	3.851911
Oklahoma	304,757	1.176154
Oregon	261,963	1.010998
Pennsylvania	1,037,225	4.002980
Rhode Island	254,508	.982227
South Carolina	365,671	1.411240
South Dakota	254,508	.982227
Tennessee	491,491	1.896820
Texas	1,492,807	5.761216
Utah	254,508	.982227
Vermont	254,508	.982227
Virginia	498,317	1.923163
Washington	382,580	1.476498
West Virginia	276,040	1.065326
Wisconsin	447,725	1.727913
Wyoming	254,508	.982227
American Samoa	136,161	.525489
Guam	136,161	.525489
Northern Mariana Islands	136,161	.525489
Puerto Rico	809,142	3.122736
Palau	102,121	.394117
Virgin Islands	136,161	.525489

[1] This amount is $806,682 less than the 1995 appropriation level. These funds are set aside for funding technical assistance and American Indian Consortiums. Public Law 103–230 authorizes spending up to two percent (2%) of the amount appropriated under Section 143 to fund technical assistance. American Indian Consortiums are eligible to receive the minimum amount under Section 142(c)(1)(A)(i). Unused funds will be reallotted in accordance with Section 142(c)(1) of the Act.

Dated: July 7, 1995.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 95–17337 Filed 7–13–95; 8:45 am]

BILLING CODE 4184–01–P

Centers for Disease Control and Prevention

[Announcement 547]

RIN 0905-ZA94

Community Coalition Partnership Programs for the Prevention of Teen Pregnancy

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for cooperative agreements to support the efforts of ''hub'' organizations to strengthen and evaluate the effectiveness of their community program to prevent initial and repeat teen pregnancies and related problems. These cooperative agreements will support demonstration projects to plan for the implementation of appropriate and effective prevention intervention strategies for reaching the greatest proportion of teenagers in communities with high rates of teen pregnancy. ''Hub'' organizations are also encouraged, to the extent that it is feasible and desirable within their communities, to establish linkages with and participate in existing community-based efforts funded by the Federal government or others to prevent HIV/AIDS, sexually transmitted diseases, and first and repeat pregnancies among teenagers.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention

objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement directly addresses national objectives related to the priority areas of Family Planning and Educational and Community-Based Programs. Changes in the teen sexual behaviors will also have a positive impact on the achievement of HIV Infection and Sexually Transmitted Diseases national objectives. (For ordering a copy of ''Healthy People 2000,'' see the section **Where To Obtain Additional Information**.)

Authority

This program is authorized under Section 317(k)(2) of the Public Health Service Act, as amended [42 U.S.C. 247b(k)(2)]. Applicable program regulations are found in 42 CFR Part 51b—Project Grants for Preventive Health Services.

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, which prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by ''Hub'' organizations which are local public and nonprofit private social service, professional, or voluntary organizations that serve youth; and among others may include local affiliates of national organizations, hospitals, or local health, education, social service, mental health, or other local public service agencies, including local councils of Indian Tribes.

Eligible ''Hub'' organizations must have the following characteristics:

1. Serve communities (1) of at least 200,000 people and have (2) teen birth rates that are at least 50 percent above the national average of 62.1 births per 1,000 women 15–19 years of age—that is, communities that have birth rates of 93 births per 1000 among women who are 15–19 years of age, or higher. These data must be documented by a letter from the local health department that is attached with the Executive Summary section of the application.

2. The eligible ''Hub'' organization must be the lead organization for an existing teen pregnancy prevention community coalition of three or more private nonprofit and/or local public organizations. The applicant must provide copies of formal agreements that document a history of collaboration to provide services, assistance, and opportunities to teens who live, study, and/or work in the community for the purpose of preventing initial and repeat pregnancies. (Copies of the formal agreements must be attached with the Executive Summary.)

3. A community is a specific area within which the ''hub'' organization and its partners will focus their efforts to help prevent teen pregnancies. This area must be defined by one or more contiguous neighborhoods, school districts, zip codes, or census tracks. The definition and/or description of the community must be provided with the Executive Summary section.

4. Eligibility characteristics must be clearly specified in the Executive Summary section of the application.

Availability of Funds

$3.25 million to $4.5 million is available in FY 1995 to fund approximately 12 demonstration projects for the development of Community Coalition Partnerships. It is expected that the average award will be $270,000, ranging from $150,000 to $300,000. It is expected the awards will begin on or about September 30, 1995, and will be made for a 12-month budget period within a project period of up to 2 years. Funding estimates may vary and are subject to change.

Funds may be used to facilitate the strengthening and expansion of existing partnership coalitions; the planning and coordination of coalition program activities; and the documentation and evaluation of progress. This may include paying for staff time. Funds may not be used for facilities, direct services, or research.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds. CDC anticipates a new, competitive program announcement for the availability of funds during FY 1997 to support the implementation of community coalition partnership programs for the prevention of teen pregnancy.

Purpose

These cooperative agreement awards are to support the efforts of ''hub'' organizations to enhance their capacity to strengthen and evaluate the effectiveness of coalition partnership programs; and, to develop ''Community Action Plans'' for the implementation of comprehensive community programs for the prevention of initial and repeat teen pregnancies and related problems.

Program Requirements

''Hub'' organizations should seek to involve all relevant organizations in the community to work in partnership to prevent teen pregnancies. The community coalition partnership program should seek to reach the greatest proportion of teens within the community, giving emphasis to those teens who are in high risk situations. ''Hub'' organizations are encouraged, to the extent that it is feasible and desirable within their communities, to establish linkages, and to work in concert with existing community-based efforts funded by the Federal government or others to prevent HIV/AIDS, sexually transmitted diseases, and first and repeat pregnancies among teenagers, as a means to strengthen the program to prevent teen pregnancy.

''Hub'' organizations will work with current and/or new partner organizations to enhance the effectiveness of their teen pregnancy prevention efforts, and to increase the number of teens reached. Programs will involve teens in community service, job skills development, and other opportunities that build their self-esteem, self-sufficiency, and belief in themselves and their futures. In so doing, programs should strive to provide teens who are not yet sexually experienced with a strong incentive to remain abstinent, and teens who are sexually experienced with a strong incentive to delay pregnancies and childbearing until they are ready and able to assume the role and responsibilities of parents. For those teens who are sexually active, programs will promote the consistent and effective use of appropriate contraceptives, and will facilitate family planning counseling and services.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

The ''hub'' organization will coordinate the efforts of coalition members and facilitate the development of partnerships among members in support of the community teen pregnancy prevention program. During the first year, each ''hub'' organization, will work with partner organizations and involve teens in a meaningful way, to:

1. Plan for the implementation of the general approach described above by:

a. Conducting a needs assessment to determine (1) the numbers and rates of

teen pregnancies and associated demographic and economic characteristics; (2) why some teens are getting pregnant and others are not;

(3) the perceived needs of teens; (4) the extent to which these needs are met in the community, or the extent to which program gaps exist; (5) the extent to which social norms support postponing teen pregnancy; and (6) the extent to which teen services, assistance, and opportunities are appealing, accessible, affordable, sufficiently intense, are in sufficient quantity and duration, provide for adequate continuity in ''care providers'', and are known to teens throughout the community.

b. Identifying effective intervention methods and adapting them for use with diverse groups of teens who live, study, and/or work in the program's community such that they build on the cultures of the teens; and preparing for the use of these interventions in a variety of community settings that might include, but are not limited to schools, after-school programs, youth clubs or organizations, clinical or social service settings, local media, communities of faith, work-sites that employ teens, and community volunteer service programs.

c. Specifying criteria that will be used to identify teens who are at greatest risk of becoming pregnant or getting someone pregnant, and a systematic approach to using these criteria as a means of linking teens to appropriate prevention services, assistance, and/or opportunities.

d. Field testing intervention components and modifying the components based on the results.

e. Prioritizing the gaps in services, assistance, opportunities, and social norms that need to be addressed, as well as the groups of teens most in need.

f. Developing a community action plan that establishes realistic objectives, partner roles, sources of sustainable funding, coordination mechanisms, approaches to targeting resources and services, schedules for accomplishing tasks and a delineation of responsibilities, and plans for evaluating progress and indicators of effectiveness.

2. Provide a full-time position with the responsibility, authority, professional training, and experience needed for leadership and coordination of program activities among coalition partners.

3. Serve as liaison between the coalition and its community partners, and CDC and its national partners.

4. Assess and document progress made, and plan for the evaluation of indicators of program effectiveness in collaboration with CDC.

5. Share information about program design, implementation, and effectiveness with other recipients, other communities, and CDC and its national partners through site visits; demonstration, training, and dissemination workshops; and other means.

6. Participate in at least two workshops with other recipients, CDC, and CDC's national partners for the purposes of supporting the development of recipient community coalition partnership programs and developing strategies for nationwide replication of effective programs.

B. CDC Activities

1. Provide consultation and technical assistance to recipients with respect to program activities.

2. Facilitate the development of a national partnership between private and public sector organizations in support of community coalition partnership programs to prevent teen pregnancy and related problems.

3. Coordinate the planning and support of at least two planning, progress evaluation, demonstration, training, and/or dissemination workshops together with recipients and national partners.

4. Promote and collaborate in the transfer and dissemination of information, methods, and findings developed as part of this program.

Evaluation Criteria (Total of 100 Points)

Applications will be reviewed and evaluated according to the following criteria:

A. Define Teen Pregnancy Problem and Current Prevention Efforts (25 points)

The extent to which the applicant substantiates the community's teen pregnancy problem and identifies target populations of teens to be reached according to the level of risk of pregnancy that is associated with their living situation. The extent to which the applicant identifies gaps in current intervention components and demonstrates tangible, realistic potential that the existing interventions can be effectively strengthened or improved.

B. Existing Coalition Program to Prevent Teen Pregnancy (10 points)

The extent to which the existing coalition has a unified, well organized effort that is focused on clear goals, objectives, and activities related to the prevention of teen pregnancies; represents the combined efforts of three or more community organizations; provides appropriate support for current activities; and demonstrates a long-term commitment to the existing program.

C. Leadership Capability, Capacity, and Experience of the ''Hub'' Organization (10 points)

The extent to which the applicant demonstrates sufficient leadership capability and capacity to efficiently and effectively use the resources requested.

D. Proposed Goals, Objectives, Activities, and Evaluation (30 points)

The extent to which the applicant has submitted specific, measurable, realistic, goals and objectives that utilize a systematic approach to reaching a large proportion of teenagers in the community. Activities appear likely to lead to the accomplishment of goals and objectives; proposed indicators of program progress and effectiveness appear implementable, incorporate the use of baseline information, and represent accepted approaches to program evaluation; the operational plan provides ample opportunity for the involvement of coalition partners, including teen councils and other teen groups, and proposes other appropriate means of obtaining input from teens into the design and development of the Community Action Plan and program; there is evidence that proposed intervention components are effective, and that they are well matched to the diverse groups of teens targeted in the proposal; and efforts are proposed to extend the use of effective small scale intervention approaches to a broader scale.

E. Program Management and Staffing Plan (5 points)

The extent to which the roles, responsibilities, lines of authority, and approach to managing the coalition partners are described; staffing, job descriptions, organizational chart, and resumes for proposed and current staff indicate an ability to carry out the proposed program.

F. Evidence of Partner Support (15 points)

The extent to which partners stipulate in written letters of support and agreement the delineation of responsibilities, commitment of resources, and a time frame for the support of the coalition partnership program. These letters of support and agreement should further describe the leadership role played by the ''hub'' organization in the past and present with respect to forging agreed upon goals, objectives, and operational plans; providing direction and oversight to the implementation of operational plans;

mobilizing community resources; and serving as the public relations representative for the coalition.

G. Sharing of Experience and Information (5 points)

Provide a written statement agreeing to share written program descriptions, intervention protocols, evaluation protocols, coalition management methods, training materials, and other useful tools and information through CDC-sponsored workshops and other approaches to dissemination, with other cooperative agreement recipients, CDC and its national partners, and other communities seeking to develop their own teen pregnancy prevention partnership programs.

H. Budget and Accompanying Justification (Not Weighted)

The extent to which the applicant provides a detailed, itemized budget, with accompanying justification, that is consistent with the stated objectives and planned program activities.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If SPOCs or tribal governments have any process recommendations on applications submitted to CDC, they should forward them to Clara M. Jenkins, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention(CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305. The due date for state process recommendations is 30 days after the application deadline date for new awards [the appropriation for these awards was received late in the fiscal year and would not allow for an application receipt date which would accommodate the 60 day State recommendation process within FY 1995]. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' for State or tribal process recommendations it receives after that date.

Public Health Systems Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

a. A copy of the face page of the application (SF 424).

b. A summary of the project that should be titled ''Public Health System Impact Statement'' (PHSIS), not exceed one page, and include the following:

(1) A description of the population to be served;

(2) A summary of the services to be provided;

(3) A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

HIV/AIDS Requirements

Recipients must comply with the document entitled ''Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions'' (June 15, 1992), a copy of which is included in the application kit. In complying with the requirements for a program review panel, recipients are encouraged to use an existing program review panel such as the one created by the State health department's HIV/AIDS prevention program. If the recipient forms its own program review panel, at least one member must be an employee (or a designated representative) of a government health department consistent with the content guidelines. The names of the review panel members must be listed on the Assurance of Compliance Form CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved, this includes conference agendas. Before funds can be used to obtain HIV/AIDS-related materials, determine whether suitable materials are already available at the CDC National AIDS Clearinghouse.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Control Number 0937–0189) must be submitted to Clara M. Jenkins, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, GA 30305, on or before August 21, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 547. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all documents, business

management technical assistance may be obtained from Locke Thompson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, GA 30305, telephone (404) 842–6595. Programmatic technical assistance may be obtained from Michael E. Dalmat, Dr.P.H., Division of Reproductive Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mail Stop K–20, Atlanta, GA 30341–3724, telephone (404) 488–5136.

Please refer to Announcement Number 547 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: July 10, 1995.

Arthur C. Jackson,

Associate Director for Management and Operations, Centers for Disease Control And Prevention (CDC).

[FR Doc. 95–17415 Filed 7–13–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 91N–0450]

Guideline for Quality Assurance in Blood Establishments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guideline entitled ''Guideline for Quality Assurance in Blood Establishments.'' This guideline is intended to assist manufacturers of blood and blood components, including blood banks, blood centers, transfusion services, and plasmapheresis centers, in developing quality assurance (QA) programs that are consistent with recognized principles of QA and current good manufacturing practice (CGMP). This guideline revises the draft ''Guideline for Quality Assurance in Blood Establishments,'' dated June 17, 1993, and provides general information on procedures and practices that may be useful to blood establishments in developing and administering a QA program.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the ''Guideline for Quality Assurance in Blood Establishments'' to the Congressional and Consumer Affairs Branch (HFM–12), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200 North, Rockville, MD 20852–1448, 301–594–1800. Send two self-addressed adhesive labels to assist that office in processing your requests. Persons with access to the INTERNET may request the guideline be sent by return E-mail by sending a message to ''GDE—QA@A1.CBER.FDA.GOV''. The guideline may also be obtained through INTERNET via File Transfer Protocol (FTP). Requestors should connect to the Center for Drug Evaluation and Research (CDER) FTP using the FTP. The Center for Biologics Evaluation and Research (CBER) documents are maintained in a subdirectory called CBER on the server, ''CDV2.CBER.FDA.GOV''. The ''READ.ME'' file in that subdirectory describes the available documents, which may be available as an ASCII text file (*.TXT), or a WordPerfect 5.1 document (*.w51), or both. A sample dialogue for obtaining the READ.ME file with a test based FTP program would be:

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FTP CDV2.CBER.FDA.GOV
LOGIN ANONYMOUS
<ANY PASSWORD>
BINARY
CD CBER
GET READ.ME
EXIT
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The guideline may also be obtained by calling the CBER FAX Information System (FAX—ON—DEMAND) at 301–594–1939 from a FAX machine with a touch tone phone attached or built-in. Submit written comments on this guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The ''Guideline for Quality Assurance in Blood Establishments'' and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–594–3074.

SUPPLEMENTARY INFORMATION: On January 21 through 22, 1992, FDA sponsored a public workshop on QA in the manufacture of blood and blood products and provided a background information document on quality assurance to all registrants. That workshop was announced in the **Federal Register** on December 13, 1991 (56 FR 65094). FDA developed the ''Draft Guideline for Quality Assurance in Blood Establishments,'' dated June 17, 1993, following the meeting, after considering the discussions at the workshop and comments received. FDA announced the availability of the draft guideline in the **Federal Register** on July 2, 1993 (58 FR 35959), and solicited comments. FDA has revised the draft guideline in response to public comment. The revisions are minor and intended to clarify the document. This guideline, dated July 14, 1995, provides general information on procedures and practices and may be useful to blood establishments in developing and administering a QA program.

To ensure the continued safety of the nation's blood supply, it is essential that blood establishments implement effective control over manufacturing processes and systems. FDA believes that this can be accomplished by each blood establishment developing a well planned, written, and managed QA program designed to recognize and prevent the causes of recurrent deficiencies in blood establishment performance. The emphasis of such a QA program is on preventing errors rather than detecting them retrospectively. The potential public health consequences require that all establishments, regardless of size, invest in QA.

The guideline includes discussions of the following: (1) The general concepts of a quality control/assurance program; (2) the function and reporting responsibilities of the QA unit; (3) the responsibilities of the QA unit in such areas as standard operating procedures, training and education, competency evaluation, proficiency testing, validation, equipment, error/accident reports, records management, lot release procedures and QA audits; and (4) the

biological product and CGMP regulations for blood and blood components in 21 CFR parts 600 through 680, and the CGMP regulations in 21 CFR parts 210 through 211. In addition, the guideline contains a glossary, a reference page, and an appendix that provides examples of the regulations in 21 CFR parts 210, 211, and 21 CFR parts 600 through 680 supplementing each other.

This document is not being issued under the authority of 21 CFR 10.90(b) because FDA is in the process of revising this section. This document, although called a guideline, does not bind the agency and does not create or confer any rights, privileges, or benefits for or on any person. Blood establishments may follow the guideline or may choose to use alternative procedures not provided in the guideline. If a blood establishment chooses to use alternative procedures, the establishment may wish to discuss the matter further with the agency to prevent expenditure of resources on activities that may be unacceptable to FDA.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Continued comment by the blood industry is encouraged, and comments will be continuously accepted by the Dockets Management Branch.

FDA periodically will review written comments on the guideline to determine whether future revisions to the guideline are warranted.

Dated: July 11, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–17346 Filed 7–13–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93E–0076]

Determination of Regulatory Review Period for Purposes of Patent Extension; RENORMAX®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for RENORMAX® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product RENORMAX® (spirapril hydrochloride). RENORMAX® is indicated for the treatment of hypertension. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for RENORMAX® (U.S. Patent No. 4,470,972) from Schering Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 12, 1995, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of RENORMAX® represented the first permitted commercial marketing or use of the procduct. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for RENORMAX® is 3,996 days. Of this time, 2,901 days occurred during the testing phase of the regulatory review period, while 1,095 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: January 22, 1984. FDA has verified the applicant's claim that the date that the investigational new drug application (IND) became effective was on January 22, 1984.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: December 31, 1991. FDA has verified the applicant's claim that the new drug application (NDA) for RENORMAX® (NDA 20–240) was initially submitted on December 31, 1991.

3. *The date the application was approved*: December 29, 1994. FDA has verified the applicant's claim that NDA 20–240 was approved on December 29, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent term restoration.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 12, 1995, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 15, 1996, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition

must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 30, 1995.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 95–17345 Filed 7–13–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: HIV-Associated Pathogens of Lung: Life Cycle Regulation.

Date: July 31–August 1, 1995.

Time: 7:30 p.m.

Place: Gaithersburg Marriott Washingtonian Center, Gaithersburg, Maryland.

Contact Person: Jon Ranhand, Ph.D., Rockledge Building II, 6701 Rockledge Drive, Room 7093, Bethesda, Maryland 20892–7924, (301) 435–0280.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: July 5, 1995.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 95–17285 Filed 7–13–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 12, 1995.

Time: 1 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 24, 1995.

Time: 3 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: William H. Radcliffe, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 26–July 28, 1995.

Time: 9 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 31, 1995.

Time: 9 a.m.

Place: The Latham Hotel, 3000 M Street, N.W., Washington, DC 20007.

Contact Person: Lawrence E. Chaitkin, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: August 7, 1995.

Time: 1 p.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, Small Business Innovation Research; 93.242, Mental Health Research Grants; 93.121, Scientist Development Awards; 93.282, Mental Health Research Service Awards for Research Training.)

Dated: July 10, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–17384 Filed 7–12–95; 8:45 am]

BILLING CODE 4140–01–M

Office of Refugee Resettlement

Refugee Resettlement Program: Allocations to States of FY 1995 Funds for Refugee Social Services and for Refugees Who Are Former Political Prisoners From Vietnam

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Final notice of allocations to States of FY 1995 funds for refugee[1] social services and for refugees who are former political prisoners from Vietnam.

SUMMARY: This notice establishes the allocations to States of FY 1995 funds for social services under the Refugee Resettlement Program (RRP). In order to help meet the special needs of former political prisoners from Vietnam, the Director has added to the formula allocation $2,000,000 in funds

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the social service program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

previously set aside for social services discretionary projects.

EFFECTIVE DATE: July 14, 1995.

ADDRESSES: Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401–9250.

SUPPLEMENTARY INFORMATION: Notice of the proposed social service allocations to States was published in the **Federal Register** on March 8, 1995 (60 FR 12775). The population estimates that were used in the proposed notice have been adjusted as a result of additional population information submitted by 10 States.

I. Amounts For Allocation

The Office of Refugee Resettlement (ORR) has available $80,802,000 in FY 1995 refugee social service funds as part of the FY 1995 appropriation for the Department of Health and Human Services (Pub. L. 103–333).

Of the total of $80,802,000, the Director of ORR is making available to States $68,681,700 (85%) under the allocation formula set out in this notice. These funds are available for the purpose of providing social services to refugees. In addition, the Director of ORR is making available $2,000,000 from discretionary social service funds to be allocated under the formula in this notice for additional services to former political prisoners from Vietnam. Although we had indicated in the FY 1994 social service allocations notice that FY 1994 would be the last year in which a special set-aside would be allocated for additional services for former political prisoners from Vietnam, we are continuing this special set-aside in FY 1995 due to continued arrivals of this population in FY 1995.

A. Discretionary Social Service Funds for Vietnamese Political Prisoners

In recognition of the special vulnerability of refugees who are former political prisoners from Vietnam, the Director of ORR is setting aside $2,000,000 from discretionary social service funds to be allocated under the formula set forth in this announcement, based on the number of actual political prisoner arrivals in FY 1994. This formula allocation is shown separately in Table 1 (cols. 7 and 8). States are required to use this allocation to provide additional services, as described below, to recent arrivals from Vietnam who are former political prisoners (FPPs) and members of their families.

Allowable services for the above-cited funds for political prisoners include the following direct services: (1) Specialized orientation and adjustment services, including peer support activities and (2) specialized employment-related services, as needed. Funds may also be used for the costs of leadership development training, including the costs of travel to attend FPP conferences, for the purpose of facilitating the ability of former political prisoners to continue the FPP services that were begun under this program after the set-aside program ends. Adjustment services include any service listed under 45 CFR 400.155(c) of the ORR regulations. Under no circumstances may these funds be used for direct cash payments or stipends (other than for travel costs to conferences), for the purchase of advertising space or air time, or for services covered under the Department of State Reception and Placement Cooperative Agreements.

Allowable services under this allocation for Vietnamese political prisoners are intended to supplement, not to supplant, those services provided to refugees in general under the social service formula allocation, discussed below.

ORR intends to provide technical assistance to States and organizations that request it to assure effective program development and implementation.

Because these funds are to provide specifically for services for former political prisoners from Vietnam, States which allocate social service funds to other local administrative jurisdictions, such as counties, shall do so for these funds, using a formula which reflects arrivals of this target population during FY 1994.

ORR strongly encourages States and other contracting jurisdictions, in selecting service providers for the above, to award these funds, to the extent possible, to qualified refugee mutual assistance associations (MAAs) with experience serving the target population. All contractors receiving these funds should have Vietnamese language capacity and Vietnamese cultural understanding.

States are required to provide to ORR program performance information on the Vietnamese political prisoner program that meets the reporting requirements contained in 45 CFR 92.40, under the terms and conditions of the social services grant awards to States. The information to be contained in the narrative portion of State quarterly performance reports must include: (1) Names of service contractors; (2) categories of activities provided; (3) numbers of persons served; and (4) outcomes, to the extent possible.

B. Refugee Social Service Funds

The population figures for the social service allocation include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program or indicate in its refugee program State plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants as well as refugees.)

The Director is allocating $68,681,700 to States on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1994 (including a floor amount for States which have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that the ''funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.''

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I, ''Allocation Amounts'' (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) For a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

ORR has consistently supported floors for small States in order to provide sufficient funds to carry out a minimum service program. Given the range in

numbers of refugees in the small States, we have concluded that a variable floor, as established in the FY 1991 notice, will be more reflective of needs than previous across-the-board floors.

The $12,120,300 in remaining social service funds (15% of the total funds available) is expected to be used by ORR on a discretionary basis to provide funds for individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program. Grant announcements on discretionary initiatives will be issued separately.

Population to be Served

Although the allocation formula is based on the 3-year refugee population, in accordance with the current requirements of 45 CFR part 400 subpart I—Refugee Social Services, States are not required to limit social service programs to refugees who have been in the U.S. only 3 years. In keeping with 45 CFR 400.147(a), a State must allocate an appropriate portion of its social service funds, based on population and service needs, as determined by the State, for services to newly arriving refugees who have been in the U.S. less than one year.

While 45 CFR 400.147(b) requires that in providing employability services, a State must give priority to a refugee who is receiving cash assistance, social service programs should not be limited exclusively to refugees who are cash assistance recipients. If a State intends to provide services to refugees who have been in the U.S. more than 3 years, 45 CFR 400.147(c) requires the State to specify and justify as part of its Annual Services Plan those funds that it proposes to use to provide services to those refugees.

However, effective October 1, 1995, the current requirements under § 400.147 will no longer be in effect and will be replaced by new provisions in accordance with the final rule published in the **Federal Register** on June 28, 1995, (60 FR 33584). Under the new provisions, States will be required to provide services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) All newly arriving refugees during their first year in the U.S., who apply for services; (b) refugees who are receiving cash assistance; (c) unemployed refugees who are not receiving cash assistance; and (d) employed refugees in need of services to retain employment or to attain economic independence.

ORR expects States to ensure that refugee social services are made available to special populations such as Amerasians and former political prisoners from Vietnam, in addition to special funding that ORR may designate to address the special needs of these populations.

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations at 45 CFR 400.208, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. No. 100–461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

Service Priorities

Refugee social service funding should be used to assist refugee families to achieve economic independence. To this end, ORR expects States to ensure that a coherent plan of services is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. Each service plan should address a family's needs for both employment-related services and other needed social services.

Reflecting section 412(a)(1)(A)(iv) of the INA, the Director expects States to ''insure that women have the same opportunities as men to participate in training and instruction.'' In addition, States are expected to make sure that services are provided in a manner that encourages the use of bilingual women on service agency staffs to ensure adequate service access by refugee women. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit, particularly in the case of large families. States are expected to make every effort to assure the availability of day care services in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the refugee social services program. Refugees who are participating in employment services or have accepted employment are eligible for day care services. For an employed refugee, day care funded by refugee social service dollars must be limited to one year after the refugee becomes employed. States are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are expected to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with 45 CFR 400.146, if a State's cash assistance dependency rate for refugees (as defined in section 400.146(b)) is 55% or more, funds awarded under this notice (with the exception of the political prisoner set-aside) are subject to a requirement that at least 85% of the State's award be used for employability services as set forth in section 400.154. (Beginning October 1, 1995, States will no longer have to adhere to this requirement since the final rule eliminates this requirement.) ORR expects these funds to be used for services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs in less than one year as part of a plan to achieve self-sufficiency. This reflects the Congressional objective that ''employable refugees should be placed on jobs as soon as possible after their arrival in the United States'' and that social service funds be focused on ''employment-related services, English-as-a-second-language training (in non-work hours where possible), and case-management services'' (INA, section 412(a)(1)(B)). If refugee social service funds are used for the provision of English language training, such training should be provided concurrently, rather than sequentially, with employment or with other employment-related services, to the maximum extent possible. ORR also encourages the continued provision of services after a refugee has entered a job to help the refugee retain employment or move to a better job.

Since current welfare dependency data are not available, those States that historically have had dependency rates at 55% and above are invited to submit a request for a waiver of the 85% requirement if they can provide reliable documentation that demonstrates a lower dependency rate.

ORR will consider granting a waiver of the 85% provision if a State meets one of the following conditions:

1. The State demonstrates to the satisfaction of the Director of ORR that the dependency rate of refugees who have been in the U.S. 24 months or less is below 55% in the State.

2. The State demonstrates to the satisfaction of the Director that (a) less than 85% of the State's social service allocation is sufficient to meet all employment-related needs of the State's refugees and (b) there are non-employment-related service needs

which are so extreme as to justify an allowance above the basic 15%. Or

3. In accordance with section 412(c)(1)(C) of the INA, the State submits to the Director a plan (established by or in consultation with local governments) which the Director determines provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

Refugee social services should be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population. Refugee-specific social services should be provided which are specifically designed to meet refugee needs and are in keeping with the rules and objectives of the refugee program, particularly during a refugee's initial years of resettlement. When planning State refugee services, States are strongly encouraged to take into account the reception and placement (R & P) services provided by local resettlement agencies in order to utilize these resources in the overall program design and to ensure the provision of seamless services to refugees.

In order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR encourages States and counties to promote and give special consideration to the provision of refugee social services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in alternative projects. Section 412(e)(7)(A) of the INA provides that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (50 FR 24583, June 11, 1985). The notice on alternative projects does not contain provisions for the allocation of additional social service funds beyond the amounts established in this notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds being allocated under the present notice.

Funding to MAAs

ORR no longer provides set-aside funds to refugee mutual assistance associations as a separate component under the social service notice; instead we have folded these funds into the social service formula allocation to States. Elimination of the MAA set-aside, however, does not represent any reduction in ORR's commitment to MAAs as important participants in refugee resettlement. ORR believes that the continued and/or increased utilization of qualified refugee mutual assistance associations in the delivery of social services helps to ensure the provision of culturally and linguistically appropriate services as well as increasing the effectiveness of the overall service system. Therefore, ORR expects States to use MAAs as service providers to the maximum extent possible. ORR strongly encourages States when contracting for services, including employment services, to give consideration to the special strengths of MAAs, whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also expects States to continue to assist MAAs in seeking other public and/or private funds for the provision of services to refugee clients.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

State Administration

States are reminded that under current regulations at 45 CFR 400.206 and 400.207, States have the flexibility to charge the following types of administrative costs against their refugee program social service grants, if they so choose: direct and indirect administrative costs incurred for the overall management and operation of the State refugee program, including its coordination, planning, policy and program development, oversight and monitoring, data collection and reporting, and travel. See also State Transmittal No. 88–40.

II. Discussion of Comments Received

We received 8 letters of comment in response to the notice of proposed FY 1995 allocations to States for refugee social services. The comments are summarized below and are followed in each case by the Department's response.

Comment: Six commenters made comments regarding requirements for the set-aside of discretionary funds for services to former political prisoners (FPP) from Vietnam. Four commenters suggested that funds from the set-aside be made available to provide leadership development training opportunities for former political prisoners (FPPs). One of these commenters recommended that training be provided to former political prisoners who arrived in the early 1990's to provide services to newly arrived FPPs in order to expand current programs and to prepare for the closing of funded services. Another commenter suggested training be provided to volunteers such as detainees, lawyers, doctors, and community leaders to form a detainee support group to help FPPs move from dependency to self-sufficiency. Two commenters suggested that funds be made available for the costs of travel to attend FPP conferences and meetings.

A fifth commenter recommended that the notice include an expectation by ORR that agencies receiving FPP awards should participate in a planning process that ensures that other service providers, such as voluntary agencies, have input in the design of proposed services and in a coordinated referral system once an award is made.

A sixth commenter recommended that counties which administer FPP programs be allowed 15 percent for administrative costs and that States be allowed no more than 5 percent for administrative costs.

Response: In consideration of the comments, we have included leadership development training as an allowable activity under the FPP set-aside, including the costs of travel and attendance of FPP leadership at FPP conferences and meetings. Leadership training should focus on enabling participants to continue the activities that were begun under this program after ORR funding ends.

Although we encourage coordination and collaboration between service providers with regard to both planning the design of services and coordinating referrals, we do not believe that the last year of the FPP set-aside is an appropriate time to introduce a new requirement.

Regarding the distribution of administrative costs between county and State, we have no specific guidance regarding this issue and believe this is an issue that needs to be resolved between the county and the State.

Comment: One commenter suggested that the notice be clarified to state that social service funds may be used to provide services to unemployed refugees who are not receiving cash assistance as long as refugees who are receiving cash assistance are given priority for services. The commenter suggested that States should be required to provide services to refugees not receiving cash assistance as a way to keep these refugees from needing to access welfare.

Response: We believe that the notice is clear that social service funds may be used to provide services to unemployed refugees who are not receiving cash assistance. The notice, under the section ''Population to be Served,'' states that ''[w]hile 45 CFR 400.147(b) requires that in providing employability services, a State must give priority to a refugee who is receiving cash assistance, social service programs should not be limited exclusively to refugees who are cash assistance recipients.''

As the wording indicates, States may, and are encouraged to, provide services to unemployed refugees who are not receiving cash assistance. However, States are not required to provide services to such refugees. States are required only to give priority in providing services to refugees who are receiving cash assistance.

Effective October 1, 1995, however, in keeping with provisions in the final rule, States will be required to provide services to refugees according to a specific order of priority. Under the new rule, unemployed refugees who are not receiving cash assistance will be the third priority group after new arrivals and cash assistance recipients.

Comment: One commenter suggested that the notice include, in addition to the provision for developing a service plan for refugees accessing ORR-funded services, a requirement that States ensure a case management system in which the service plan's objectives are closely monitored and coordinated within the service delivery community.

Response: We agree that case management services are important to coordinate and monitor the objectives of a client service plan. Therefore, we strongly encourage States to provide such services. However, we do not believe case management services should be imposed on States as a mandatory requirement; we believe instead that States should have the flexibility to make their own service choices, based on local circumstances.

Comment: One commenter observed that the notice included the requirement that States must have an approved State plan for the Cuban/Haitian Entrant program in order to use ORR funds to provide services to entrants. The commenter suggested that the distinction and the additional plan are no longer appropriate. With larger numbers of Cubans being admitted, the commenter indicated an expectation that Cubans will be placed in more States than was previously the case; some of these States will have little or no tradition of receiving this population. The commenter suggested that access to services for Cubans and Haitians should be facilitated regardless of whether the State in which they are placed does or does not have an approved plan.

Response: In order to provide services to Cuban and Haitian entrants, a State must either have a separate Cuban/Haitian entrant program State plan or indicate in its refugee program State plan that Cuban and Haitian entrants will be served. According to our records, 34 States now have approved State plans to provide services to Cuban and Haitian entrants. An additional three States, which are not participating in the refugee program, have privately administered refugee program projects which can serve Cuban and Haitian entrants.

The requirement for a plan helps to ensure both that States are prepared to provide appropriate services to entrants and that they are prepared for increased numbers of entrants. We believe, therefore, that the fact that larger numbers of Cubans are being admitted makes it more important and appropriate, not less appropriate, that States have plans for serving this population. Finally, because 34 States have already met the requirement for having approved State plans, we do not believe the requirement for a State plan impedes this population's access to services. For these reasons, we do not intend to abolish the requirement for an approved State plan for this population.

Comment: One commenter recommended that the formula for allocating social service funds should be more flexible in order to accommodate unanticipated arrivals that represent an impact on the current year's funding allocation. The commenter suggested that there should be an automatic, formulated adjustment made to States' allocations when arrivals in the current year greatly exceed the pattern of the previous three years.

Response: As the notice states, the allocation formula used for social service funds is required by the Immigration and Nationality Act (INA). Section 412(c)(1)(B) of the INA states that social service funds ''* * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.'' No change, therefore, can be made to the formula for allocating social service funds without a statutory change.

It should also be noted that, when arrivals in a State greatly exceed the pattern of the previous three years, the higher number of arrivals is incorporated in the next year's formula. A State with high numbers of unanticipated arrivals receives an allocation in the next year that is proportionately higher than it would otherwise have been. The formula does, therefore, accommodate, as quickly as possible within statutory limitations, the impact of unanticipated arrivals.

Furthermore, ORR makes available discretionary grants to States to fund social services for large numbers of unanticipated arrivals for whom the existing social service system cannot respond adequately because available ORR funding is already committed. This program is intended to provide a bridge between the increased need for services that results from increases in arrivals and the time when a State will have incorporated services for these new arrivals into their existing social service funded network. This program, by

providing funding for the types of activities generally funded by States under their social services formula allocation, mitigates against any adverse effect on States that the statutorily mandated social service allocation formula might otherwise have when States experience unanticipated arrivals or increases in arrivals to communities where adequate services may not exist.

Comment: Two commenters addressed the issue of ORR's use of 15 percent of social service funds for discretionary grants. One commenter expressed opposition to the use of 15% discretionary funds to non-impacted counties and States and recommended that these funds be distributed by formula to impacted areas. One commenter recommended that States should have a role in the development and selection of projects to be funded using discretionary funds. The commenter also suggested that there should be greater lead time allowed for the development of proposals, that the criteria by which proposals are evaluated should be meaningful, and that the criteria should incorporate input from the States involved.

Response: We continue to believe that it is necessary to maintain a portion of social service funds for discretionary use in order to carry out national initiatives and special projects that respond to changing needs and circumstances in the refugee program. Regarding more State involvement in discretionary funding, since States are frequently competitors for ORR discretionary funds, along with other applicants, it is not possible to involve States in funding decisions without creating a conflict of interest, a violation of Federal grant rules. We fully agree that sufficient lead time is necessary to allow refugee community groups adequate time to develop proposals. We are committed to improving the process each year to allow as much lead time as possible for potential applicants. We also agree that the use of meaningful evaluation criteria is essential for the review of grant applications. While we believe such evaluation criteria are already included in our grant announcements, we would welcome specific suggestions for evaluation criteria that States and other interested parties may have for use in the future.

Comment: One commenter suggested that ORR reiterate in the notice its expectation that States consider the views of local providers, including voluntary agencies, in formulating State social service plans.

Response: We concur with the commenter that States should consider the views of local providers, including voluntary agencies, in formulating State social service plans. The final rule that was published on June 28, 1995, contains a provision that would require States to develop annual service plans on the basis of a local consultative process, effective October 1, 1995.

Comment: Two commenters made comments regarding State administrative costs. One commenter objected to unlimited State administrative costs for social services. The commenter recommended capping administrative costs at 5 percent for any State receiving more than $12 million in social service funds and allowing counties a maximum of 15 percent for administrative costs. Another commenter recommended that ORR consider ways to eliminate unnecessary administrative costs and suggested that one approach might be to limit the amount a State can charge for the administration of the refugee program.

Response: Since the statute does not specify a limitation on the amount of social service funds that can be used for administrative costs, we have not imposed a limit on States, choosing instead to allow States to make that determination. In regard to the percentage of funds that counties may use for administrative costs, this is an issue that needs to be resolved between county and State, not ORR. All costs must meet Federal grant requirements. Regarding the suggestion that ORR consider limiting the amount a State may charge for the administration of the refugee program in general, States are reimbursed 100%, under current regulations, for reasonable and necessary identifiable administrative costs of providing assistance and services in the refugee program. Under the final rule published on June 28, 1995, ORR will review the issue of what constitutes reasonable and allowable administrative costs in the refugee program and, if needed, develop guidelines defining reasonable and allowable costs in consultation with States. We do not intend, however, to impose a cap on what a State may charge in administrative costs.

Comment: One commenter objected to the allotment of a floor amount of social service funds to States with small refugee populations. In particular, the commenter suggested that States with less than 1,000 refugees should not be included in the allocation.

Response: We do not concur with the commenter's suggestion that States with less than 1,000 refugees should not receive a funding allocation. If we implemented this suggestion, 15 States would not receive social service funding. Such a policy would run counter to the Federal commitment to provide a program of assistance and services to refugees throughout the country.

Comment: One commenter requested that the population floor for States receiving allocations from the discretionary funds set-aside for services to former political prisoners be lowered from 320 FPP arrivals to 300 FPP arrivals.

Response: In response to this comment, we have decided to lower the population floor to 300 former political prisoners. In the notice of proposed allocations we stated that we did not intend to make FPP allocations to States with fewer than 320 FPPs because we believed the resulting level of funding would be insignificant. In reducing the floor in response to this comment, however, we have taken into consideration that the only State requesting a change in the floor received an allocation for an FPP program in previous years. We also took into consideration that, in a small State receiving a relatively small social service allocation, 300 or more FPPs might have a more significant impact on services than would be the case in a larger State with a larger social services allocation.

III. Allocation Formula

Of the funds available for FY 1995 for social services, $68,681,700 is allocated to States in accordance with the formula specified below. A State's allowable allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees and Cuban/Haitian entrants who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated and the number of Amerasians from Vietnam eligible for refugee social services, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1994, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

Allocations for political prisoners are based on FY 1994 arrival numbers for this group in each State from the Refugee Data Center and are limited to States with 300 or more political prisoner arrivals. We have limited the population base to FY 1994 political prisoner arrival numbers because these

funds are intended to serve recent arrivals. We have not included States with fewer than 300 former political prisoners in the political prisoner allocations formula in order to ensure that the resulting level of funding for each State receiving funds is sufficient to provide effective employment-oriented programs to assist FPPs. In States with fewer than 300 FPPs, we believe the small number of political prisoners could be adequately served under the State's refugee social services program.

IV. Basis of Population Estimates

The population estimates for the allocation of funds in FY 1995 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1994, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Vietnam, and Cuban and Haitian entrants.

For fiscal year 1995, ORR's formula allocations for the States for social services are based on the numbers of refugees and Amerasians who arrived, and on the numbers of entrants who arrived or were resettled, during the preceding three fiscal years: 1992, 1993, and 1994, based on final arrival data by State. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1991, and September 30, 1994, who are thought to be living in each State as of October 1, 1994. Refugees admitted under the Federal Government's private-sector initiative are not included, since their assistance and services are to be provided by the private sponsoring organizations under an agreement with the Department of State.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 1994. The total migration reported by each State was summed, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1994, of refugees (col. 1), entrants (col. 2), and total refugees and entrants (col. 3); the formula amounts which the population estimates yield (col. 4); and the allocation amounts after allowing for the minimum amounts (col. 5). Table 1 also shows the number of former political prisoner arrivals in FY 1994 (col. 6); and the allocation amounts for services to this population (col. 7).

V. Allocation Amounts

Funding subsequent to the publication of this notice will be contingent upon the submittal and approval of a State annual services plan, as required by 45 CFR 400.11(b)(2). The following amounts are allocated for refugee social services in FY 1995:

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 1995; AND FORMER POLITICAL PRISONER ARRIVALS AND ALLOCATIONS FOR FY 1995.

State	Refugees (1)	Entrants (2)	Total population (3)	Formula amount (4)	Allocation (5)	Former political prisoner arrivals from Vietnam in FY 1994 (6)	Former political prisoner allocation (7)
Alabama	746	22	768	$133,380	$133,380	18	$0
Alaska [a]	143	1	144	25,009	75,000	23	0
Arizona	3,692	158	3,850	668,638	668,638	292	0
Arkansas	303	1	304	52,796	94,113	84	0
California [b]	89,172	692	89,864	15,606,873	15,606,873	11,760	871,014
Colorado	3,874	3	3,877	673,327	673,327	360	26,664
Connecticut	3,348	131	3,479	604,205	604,205	158	0
Delaware	132	12	144	25,009	75,000	5	0
Dist. of Columbia	1,874	3	1,877	325,983	325,983	274	0
Florida	12,686	26,102	38,788	6,736,395	6,736,395	651	48,217
Georgia	9,366	85	9,451	1,641,375	1,641,375	1,768	130,948
Hawaii	956	0	956	166,031	166,031	175	0
Idaho	998	4	1,002	174,019	174,019	87	0
Illinois	13,534	141	13,675	2,374,967	2,374,967	522	38,662
Indiana	1,137	12	1,149	199,549	199,549	55	0
Iowa	3,120	2	3,122	542,204	542,204	315	23,331
Kansas	2,240	4	2,244	389,720	389,720	355	26,293
Kentucky [c]	1,890	28	1,918	333,103	333,103	202	0
Louisiana	2,276	110	2,386	414,382	414,382	451	33,404
Maine	574	0	574	99,688	100,000	0	0
Maryland	7,988	81	8,069	1,401,361	1,401,361	347	25,701
Massachusetts	11,413	357	11,770	2,044,121	2,044,121	780	57,771
Michigan	7,766	39	7,805	1,355,511	1,355,511	332	24,590
Minnesota	9,490	2	9,492	1,648,496	1,648,496	464	34,367
Mississippi	128	8	136	23,619	75,000	38	0
Missouri	5,278	18	5,296	919,768	919,768	371	27,478
Montana	154	0	154	26,746	75,000	3	0
Nebraska	1,880	0	1,880	326,504	326,504	354	26,219
Nevada [c]	703	470	1,173	203,717	203,717	9	0
New Hampshire	579	0	579	100,556	100,556	197	0
New Jersey	7,357	761	8,118	1,409,870	1,409,870	266	0

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 1995; AND FORMER POLITICAL PRISONER ARRIVALS AND ALLOCATIONS FOR FY 1995.—Continued

State	Refugees (1)	Entrants (2)	Total population (3)	Formula amount (4)	Allocation (5)	Former political prisoner arrivals from Vietnam in FY 1994 (6)	Former political prisoner allocation (7)
New Mexico	1,143	604	1,747	303,405	303,405	95	0
New York	70,088	1,010	71,098	12,347,742	12,347,742	534	39,551
North Carolina	3,051	23	3,074	533,868	533,868	314	23,257
North Dakota	1,150	0	1,150	199,723	199,723	26	0
Ohio	6,035	46	6,081	1,056,100	1,056,100	179	0
Oklahoma	1,379	3	1,382	240,015	240,015	348	25,775
Oregon	5,831	91	5,922	1,028,486	1,028,486	783	57,994
Pennsylvania	11,016	100	11,116	1,930,540	1,930,540	360	26,664
Rhode Island	934	11	945	164,120	164,120	12	0
South Carolina	488	2	490	85,099	100,000	113	0
South Dakota	765	0	765	132,859	132,859	8	0
Tennessee	3,395	32	3,427	595,174	595,174	262	0
Texas	17,519	523	18,042	3,133,393	3,133,393	3,248	240,566
Utah	1,609	0	1,609	279,438	279,438	220	0
Vermont	733	0	733	127,302	127,302	73	0
Virginia	6,056	32	6,088	1,057,316	1,057,316	676	50,068
Washington	19,424	1	19,425	3,373,581	3,373,581	1,910	141,466
West Virginia	63	0	63	10,941	75,000	0	0
Wisconsin	5,986	5	5,991	1,040,470	1,040,470	20	0
Wyoming	6	0	6	1,042	75,000	0	0
Total	361,468	31,730	393,198	$68,287,536	$68,681,700	29,897	$2,000,000

[a] The Alaska allocation has been awarded for a Wilson/Fish demonstration project.
[b] A portion of the California allocation is expected to be awarded to continue a Wilson/Fish project in San Diego.
[c] The allocation for Kentucky and Nevada is expected to be awarded to continue a Wilson/Fish project.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

[Catalog of Federal Domestic Assistance No. 93.566 Refugee Assistance—State Administered Programs]

Dated: July 5, 1995.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 95–17338 Filed 7–13–95; 8:45 am]

BILLING CODE 4184–01–P

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 60 FR 8410, February 14, 1995) is amended to reflect the revision of the functional statement of the Office of AIDS Research (OAR) within the Office of the Director, National Institutes of Health (NIH). This revision will reflect OAR's broadened responsibilities as mandated by the NIH Revitalization Act of 1993 (Pub. L. 103–43).

Section HN–B, Organization and Functions, is amended as follows: Under the heading *Office of the Director, NIH(HNA), Office of AIDS Research (HNA5),* delete the functional statement in its entirety and insert the following:

Office of AIDS Research (HNA5). (1) Develops a comprehensive strategic plan that identifies and establishes objectives, priorities, and policy statements governing the conduct and support of all NIH AIDS research activities; (2) develops and presents to OMB and the President an annual scientifically justified budget estimate for NIH AIDS-related research activities; (3) submits an alternate AIDS budget to the Secretary, DHHS, and the Director, NIH, in accordance with the strategic plan; (4) receives and disburses all appropriated funds for NIH AIDS research activities to the NIH Institutes, Centers, and Divisions (ICDs) in accordance with the strategic plan; (5) directs the planning, coordination, and integration of all AIDS research activities across and throughout the NIH ICDs; (6) evaluates NIH HIV/AIDS research programs developed for the strategic plan and carried out by the ICDs; (7) administers a discretionary fund for the support, through the ICDs, of AIDS research; (8) advises the NIH Director and senior staff on the development of NIH-wide policy issues related to AIDS research, and serves as principal liaison with other agencies of the PHS, DHHS, Federal Government, and the Office for National AIDS Policy; (9) represents the NIH Director on all outside AIDS-related committees requiring NIH participation; (10) provide staff support to the OAR Advisory Council, NIH AIDS Executive Committee, and the Coordinating Committees for each AIDS research discipline at NIH; (11) develops policy on laboratory safety for AIDS researchers and monitors the AIDS surveillance program; (12) develops and maintains an information data base on intramural/extramural AIDS activities and prepares special or recurring reports as needed; (13) develops information strategies to assure that the public is informed of NIH AIDS research activities; (14) recommends solutions to issues arising from NIH intramural/extramural AIDS research; (15)

facilitates collaboration in AIDS research between government, industry, and universities; and (16) fosters and develops plans for NIH involvement in international AIDS research activities.

Dated: July 5, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–17308 Filed 7–13–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–45]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact David J. Pollack, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with sections 2905 and 2906 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160 (Pryor Act Amendment) and with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the April 21, 1993 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

These properties reviewed are listed as suitable/available and unsuitable. In accordance with the Pryor Act Amendment the suitable properties will be made available for use to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Please be advised, in accordance with the provisions of the Pryor Act Amendment, that if no expressions of interest or applications are received by the Department of Health and Human Services (HHS) during the 60 day period, these properties will no longer be available for use to assist the homeless. In the case of buildings and properties for which no such notice is received, these buildings and properties shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and properties. These buildings and properties shall be available for a submission by such redevelopment authority exclusively for one year. Buildings and properties available for a redevelopment authority shall not be available for use to assist the homeless. If a redevelopment authority does not express an interest in the use of the buildings or properties or commence the use of buildings or properties within the applicable time period such buildings and properties shall then be republished as properties available for use to assist the homeless pursuant to Section 501 of the Stewart B. McKinney Homeless Assistance Act.

Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to David J. Pollack at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Air Force: John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 696–5581; (This is not a toll-free number).

Dated: July 7, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 07/14/95

Suitable/Available Properties

BUILDINGS (by State)

California

9 Dormitories
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530001
Status: Pryor Amendment
Base closure Number of Units: 9
Comment: 14754–25693 sq. ft., Bldgs. 1210. 1214, 1216, 1218, 1220, 1222, 1224, 1234 and 2750

2 Dining Facilities
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530002
Status: Pryor Amendment
Base closure Number of Units: 2
Comment: 14955 & 32886 sq. ft., Bldgs. 1226 and 2774

4 Offices
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530003
Status: Pryor Amendment
Base closure Number of Units: 4
Comment: 6064–25693 sq. ft., Bldgs. 1228, 1230, 1236 and 3860

6 Classrooms
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530004
Status: Pryor Amendment
Base closure Number of Units: 6
Comment: 5877–29816 sq. ft., Bldgs. 2785, 2860, 2880, 3750, 3785 and 3875

Bldg. 2890
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-

Landholding Agency: Air Force–BC
Property Number: 199530005
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 8642 sq. ft., most recent use—photo lab

Bldg. 2898
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530006
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 2452 sq. ft., most recent use—vehicle maintenance

Bldg. 3790
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530007
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 4598 sq. ft., most recent use—child care center

Bldg. 3800
Mather Air Force Base
Sacramento Co: Sacramento CA 95655-
Landholding Agency: Air Force–BC
Property Number: 199530008
Status: Pryor Amendment
Base closure Number of Units: 1
Comment: 7021 sq. ft., most recent use—gym.

[FR Doc. 95–17223 Filed 7–13–95; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. FR–3776–N–02]

Notice of Public Meeting on the Fair Housing Initiatives Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of public meeting on the Fair Housing Initiatives Program (FHIP).

SUMMARY: This Notice invites interested parties to attend a public meeting to comment on the Department's administration of FHIP funding.

DATES: The public meeting will be held on Friday, July 21, 1995, at 1 pm.

ADDRESSES: Interested persons are invited to attend in Room 5202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Maxine Cunningham, Director, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street SW., Washington, DC 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In anticipation of the next round of funding under the Fair Housing Initiatives Program, the Department is holding a public meeting to invite and consider comment from potential applicants, prior grantees and applicants, and any other interested parties, on the administration of FHIP funding. The meeting will be held on Friday, July 21, 1995, at 1 pm., in Room 5202, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Visitors must enter the building from the South Entrance and must have a photo ID to be admitted.

The Department is especially interested in comments on the application procedures for funding in general, and on the content of FHIP Notices of Funding Availability (NOFAs) in particular. The Department will consider the comments made at this public meeting when it formulates plans for the disposition of funds appropriated for Fiscal Year 1996.

Dated: July 10, 1995.

Elizabeth K. Julian,

Acting Deputy Assistant Secretary for Policy and Initiatives, Fair Housing and Equal Opportunity.

[FR Doc. 95–17246 Filed 7–13–95; 8:45 am]

BILLING CODE 4210–28–P

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3934–D–01]

Redelegation of Authority

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

ACTION: Notice of redelegation of authority.

SUMMARY: In this notice, the Assistant Secretary for Housing—Federal Housing Commissioner redelegates authority to the Multifamily Housing Director for each HUD local field office to approve secondary financing from public bodies, under Section 202 of the Housing Act of 1959, 12 U.S.C. 1701q, and under Section 811 of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8013.

EFFECTIVE DATE: June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Aretha Williams, Office of Elderly and Assisted Housing, Room 6116, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2866, or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This redelegation is consistent with HUD's field reorganization in which local field offices have been given greater authority to operate HUD programs. It is issued in accordance with HUD policy as recently reaffirmed by the issuance of Notice H 95–38 (HUD). HUD's policy is that sponsors of Section 202 and 811 projects may receive approval from HUD to obtain secondary financing. In order to expedite the handling of requests and delivery of services, the authority to approve the secondary financing from public bodies is being redelegated to the Multifamily Housing Director for each local field office. Prior to approving such secondary financing from public bodies, the Multifamily Housing Director shall insure that the Assistant General Counsel for the geographical area has determined that the secondary financing documents are legally acceptable.

Accordingly, the Assistant Secretary for Housing—Federal Housing Commissioner redelegates authority as follows:

Section A. Authority Redelegated

The authority to approve secondary financing from public bodies for projects, under Section 202 of the Housing Act of 1959, 12 U.S.C. 1701q, and Section 811 of the Cranston-Gonzalez National Affordable Housing Act, 41 U.S.C. 8013, is redelegated to the Multifamily Housing Director for each local field office.

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

Dated: June 30, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–17283 Filed 7–13–95; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–04–5440–10–B026]

Mesquite Regional Class III Landfill; Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that a joint Final Environmental Impact Statement and Environmental Impact Report (EIS/EIR) has been prepared by

the Bureau of Land Management and the County of Imperial for the proposed Mesquite Regional Class III Landfill. The proposed federal action analyzes the environmental effects of a land exchange for approximately 1,750 acres, rights of way for a railroad spur and a gas pipeline plus an amendment to the California Desert Conservation Area Plan.

The Draft EIS/EIR was released on April 8, 1994, with a 90 day public review period. Two public hearings were held during the public comment period to receive verbal testimony regarding the Draft document's adequacy or accuracy. The first hearing was held at 7 p.m. PDT, Wednesday, May 25, 1994, at the El Centro Community Center, 375 South First Street, El Centro, California 92243. The second hearing was held at 7 p.m. PDT, Thursday, May 26, 1994, at the Desert Expo Center, Fine Arts Building, 46–350 Arabia Street, Indio, California 92201. Written comments were accepted through July 6, 1994. Responses to all public comments and statements given at the various public hearings are included as part of the Final EIS/EIR. Public comments were considered during preparation of the Final EIS/EIR.

DATES: For Public Comments: A 30-day public review period has been established for this document. Written comments concerning the adequacy or accuracy of the Final EIS/EIR must be filed no later than August 14, 1995.

ADDRESSES: Written comments must be filed no later than August 14, 1995, and should be addressed to: Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243.

FOR ADDITIONAL INFORMATION CONTACT: Thomas Zale, Multi-Resources Staff Chief, Bureau of Land Management, El Centro Resource Area, 1661 South 4th Street, El Centro, California, 92243.

SUPPLEMENTARY INFORMATION: Gold Fields Mining Co. (Gold Fields), Western Waste Industries, and S.P. Environmental Systems have formed a (Partnership) that would own and develop the proposed landfill located contiguous to the site of the currently operating Mesquite Gold Mine and Ore Processing Facility (Mesquite Mine) in eastern Imperial County. The proposed project would include the unloading and loading of Municipal Solid Waste (MSW) residue containers, placement of MSW into the landfill, rail and equipment maintenance, landfill gas recovery and destruction by flaring or utilization of energy recovery techniques, leachate collection and processing and waste water treatment. Temporary storage of recyclable materials from originating transportation operations (in accordance with AB939) would also be provided.

The proposed project would involve 4,250 acres, of which 2,290 acres would be utilized for the landfill footprint and ancillary facilities. The proposed landfill is designed to accommodate up to 600 million tons of MSW residue and would have an operational life of 100 years. MSW would be collected from population centers in Southern California, including Imperial County, by local collection vehicles and taken to existing or future transfer stations/material recovery facilities (MRFs) where it would be sorted and processed to remove recyclables, hazardous materials, and other unacceptable wastes in accordance with AB939. From these locations, MSW residue would be transferred to railroad loading intermodals where it would be loaded for rail haulage to the Mesquite Regional Landfill project site. Truck transfer of Imperial County MSW residue could also occur (based on future decisions made by local officials) after processing at local transfer stations/MRFs. The estimated rate of growth of daily MSW volumes would be 4,000 tons per day (tpd) for Year 1 of operations, increasing up to 20,000 tpd after Year 7. The estimated daily number of trains that would be required would be one train during Year 1 (4,000 tpd), increasing to 5 trains after Year 7 (20,000 tpd). The proposed maximum daily volume of MSW residue would be 20,000 tons per day averaged over a two week, 12 day period. The actual rate of growth and operational life of the landfill will depend upon market conditions for MSW disposal in communities that choose to use the regional landfill.

In addition to the No Action Alternative, four alternatives to the proposed action are considered in the Final EIS/EIR and include: Smaller Landfill Footprint (Alternative I); Decreased Disposal Rate (Alternative II); Alternative Mesquite Regional Landfill Site (Alternative III); and Larger Project (increased maximum disposal rate and larger landfill footprint) (Alternative IV). The Final EIS/EIR analyzes the effects of the proposed action and alternatives on such environmental issues including but not limited to: air quality, social and economic impacts, ground and surface water quality, endangered and other special status plants and animals, cultural or historical and visual resources.

Dated: June 23, 1995.

G. Ben Koski,

Area Manager.

[FR Doc. 95–16778 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–40–P

[AZ–024–05–1430–01; AZA–12731]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Maricopa County, Arizona, have been examined and found suitable for classification for conveyance to the Deer Valley Unified School District under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, *et seq.*). The Deer Valley Unified School District proposes to use the lands for a school facility and community recreational facilities.

Gila and Salt River Meridian, Arizona

T. 5 N., R. 3 E.,

Sec. 12, lots 6, 7, 11, 14, 15, 16, 18, 19, NE¼ SW¼ NW¼, NW¼ SE¼ NW¼.

Containing 60.10 acres more or less.

The lands are not needed for Federal purposes. Conveyance of these lands is consistent with current BLM land use planning and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for power line purposes granted to the Arizona Public Service Company by Right-of-way AZA–16829.

5. Those rights for telephone line purposes granted to U.S. West Communications Inc. by Right-of-Way AZA–17050.

6. Those rights for access road purposes granted to the Maricopa County Highway Department by Right-of-way AZA–22667.

7. Those rights for access road purposes granted to the Maricopa County Highway Department by Right-of-way AZA–23666.

FOR FURTHER INFORMATION CONTACT: Adrian A. Garcia, Bureau of Land Management, Phoenix Resource Area office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Telephone (602) 780–8090.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this notice, interested parties may submit comments regarding the proposed conveyance or classification of the lands to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a school facility and community recreational facilities. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a school facility and community recreational facilities.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication in the **Federal Register**.

Dated: July 7, 1995.

David J. Miller,

Associate District Manager.

[FR Doc. 95–17243 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–32–M

[CA–930–5410–00–B056; CACA 34048]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Segregation.

SUMMARY: The private land described in this notice, aggregating 149.61 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Marcia Sieckman, California State Office, Federal Office Building, 2800 Cottage Way, Room E–2845, Sacramento, California 95825, (916) 979–2858. Serial No. CACA 34048.

T. 30 N., R. 8 W., Mount Diablo Meridian

Sec. 14, Parcel 1 as shown and designated upon that certain Parcel Map #349–79 for John and Kathleen Bejarano filed for record in the office of the County Recorder on September 2, 1981 in Book 22 of Parcel Maps at page 43, Shasta County Records. County—Shasta.

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: July 6, 1995.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 95–17244 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–40–P

[OR–090–95–6350–00–G5–130]

Notice of Availability of Approved Resource Management Plan and Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Approved Resource Management Plan and Record of Decision for the Eugene BLM District, Oregon.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (40 CFR 1550.2), and the Federal Land Policy and Management Act of 1976, (43 CFR 1610.2 (g)), the Department of the Interior, Bureau of Land Management (BLM), Eugene District provides notice of availability of the Approved Resource Management Plan (ARMP) and Record of Decision (ROD) for the Eugene District. In addition to describing the decisions, the ARMP will provide the framework to guide land and resource allocations and management direction for the next 10 to 20 years in the Eugene District. This ARMP supersedes the existing Eugene District Management Framework Plan (1983), and other related documents for managing approximately 318,000 acres of mostly forested public land and 1,299 acres of non-federal surface ownership with federal mineral estate administered by the Bureau of Land Management in Benton, Douglas, Lane, and Linn counties in Oregon.

ADDRESSES: Copies of the ARMP/ROD are available upon request by contacting the Eugene District Office, Bureau of Land Management, 2890 Chad Drive, Eugene, Oregon 97408–7336. This document has been sent to all those individuals and groups who were on the mailing list for the Proposed Eugene District Resource Management Plan/Final Environmental Impact Statement. The full supporting record for the ARMP is available for inspection in the Eugene District Office at the address shown above. Copies of the draft RMP/EIS and proposed RMP/final EIS are also available for inspection in the public room on the 7th floor of the BLM Oregon/Washington State Office, 1515 SW Fifth Street, Portland, Oregon, and public libraries in Eugene/Springfield during normal hours.

FOR FURTHER INFORMATION CONTACT: Judy Nelson, District Manager, Eugene District Office, Bureau of Land Management. She can be reached by telephone at 503–683–6600 or by FAX at 503–683–6981.

SUPPLEMENTARY INFORMATION: The Eugene District ARMP/ROD is essentially the same as the Eugene District Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS). Virtually no changes to the proposed decisions have been made, except for some clarifying language in response to the nine valid protests BLM received on the Eugene District PRMP/FEIS and as a result of

ongoing staff review. The clarifying language concerns:

—Revisions intended to strengthen the link between the ARMP and the 1994 *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (Northwest Forest Plan/ROD).

—Revisions that incorporate guidelines issued by the Regional Ecosystem Office since the issuance of the 1994 Record of Decision named above. Such guidelines may clarify or interpret the 1994 Record of Decision.

Seven alternatives that encompass a spectrum of realistic management options were considered in the planning process. The final plan is a mixture of the management objectives and actions that, in the opinion of the BLM, best resolve the issues and concerns that originally initiated the preparation of the plan and also meet the plan elements or adopt decisions made in the Northwest Forest Plan/ROD. The Northwest Forest Plan/ROD was signed by the Secretary of the Interior who directed the BLM to adopt it in its Resource Management Plans for western Oregon. Furthermore, those decisions were upheld by the United States District Court for the Western District of Washington on December 21, 1994.

Ecosystem Management and Forest Product Production: The ARMP/ROD responds to the need for a healthy forest ecosystem with habitat that will support populations of native species (particularly those associated with late-successional and old growth forests). It also responds to the need for a sustainable supply of timber and other forest products that will help maintain the stability of local and regional economies, and contribute valuable resources to the national economy on a predictable and long-term basis. BLM administered lands are primarily allocated to Riparian Reserves, Late-Successional Reserves, General Forest Management Areas, Connectivity/Diversity Blocks, and Adaptive Management Areas. An Aquatic Conservation Strategy will be applied to all lands and waters under BLM jurisdiction.

Approximately 69,000 acres will be managed for timber production. The Allowable Sale Quantity will be 6.1 million cubic feet (36 million board feet). To contribute to biological diversity, standing trees, snags, and down dead woody material will be retained. A process for monitoring, evaluating, and amending or revising the plan is described.

Areas of Critical Environmental Concern (ACEC): The ARMP/ROD will continue the designation of seven Areas of Critical Environmental Concern (ACEC), five ACEC/Research Natural Areas (RNA), two ACEC/Outstanding Natural Areas (ONA), and one Environmental Education Area (EEA). The ARMP/ROD designates or redesignates the following ACECs and RNAs with the noted restrictions.

Area name	Approx. acres	Timber/ veg. harv.	OHV use	Min. loc.	Min. lease	Min. salable
Coburg Hills, Cottage Grove Lake, and Dorena Lake Relict Forest Islands ACEC	876	P	P	P	open-NSO	P
Cougar Mtn. Yew ACEC	10	P	P	P	open-NSO	P
Grassy Mtn. ACEC	74	P	P	P	open-NSO	P
Hult Marsh ACEC	167	P	R	P	open-NSO	P
Long Tom ACEC	7	R	P	P	open-NSO	P
Camas Swale ACEC/RNA	314	P	P	P	open-NSO	P
Fox Hollow ACEC/RNA	160	P	P	P	open-NSO	P
Horse Rock Ridge ACEC/RNA	378	P	P	P	open-NSO	P
Mohawk ACEC/RNA	292	P	P	P	open-NSO	P
Upper Elk Meadows ACEC/RNA	223	P	P	P	open-NSO	P
Heceta Sand Dunes ACEC/ONA	218	P	P	P	open-NSO	P
Lake Creek Falls ACEC/ONA	58	P	R	P	open-NSO	P
McGowan Creek EEA	79	P	P	P	open-NSO	P

P = Use is prohibited.
R = Use is allowed but with restrictions.
NSO = No surface occupancy.

Wild and Scenic Rivers: Approximately 39 miles of river found eligible for designation and studied by BLM are found not suitable for designation. Three river segments (involving approximately 70 miles) have been determined to be administratively eligible for further consideration for designation as a component of the National Wild and Scenic Rivers System under recreational river classifications, pending other interagency suitability studies. All administratively suitable or eligible (pending further study) river segments will be managed under BLM interim management guidelines pending further legislative or administrative consideration, as applicable. The supporting records for the ARMP/ROD, document those river or stream segment analyses.

Off Highway Vehicle (OHV) Use: The ARMP/ROD makes the following designations for OHV management in the District: approximately 80 acres will be open; 314,800 acres will be restricted to designated existing roads and trails and/or seasonally closed; and 3,120 acres will be closed to all use, except for specified administrative or emergency uses. The closed areas include administratively withdrawn areas such as seed orchards and progeny test sites, and various ACECs. In addition, the ARMP/ROD provides for road closures to meet ecosystem management objectives. Such closures may be permanent or seasonal, and will be affected by use of signs, gates, barriers, or total road deconstruction and site restoration.

Land Tenure Adjustment: The ARMP/ROD identifies approximately 78,175 acres of BLM administered lands that will be retained in public ownership; 238,398 acres of BLM lands that may be considered for exchange under prescribed circumstances; and 36 acres of BLM lands that may be available for sale or disposal under other authorized processes. The ARMP also provides

criteria for the acquisition of lands, or interests in lands, where such acquisition would meet objectives of the various resource programs. The plan allocates approximately 1,367 acres as right-of-way exclusion areas and 151,091 acres as right-of-way avoidance areas.

Special Recreation and Visual Resource Management Areas: The ARMP/ROD identifies seven Special Recreation Management Areas (SRMA), including one existing (Shotgun Recreation Site) and six new SRMA (Upper Lake Creek, Lower Lake Creek, Gilkey Creek, Row River, McKenzie River, Siuslaw River). The existing SRMA totals approximately 277 acres and the new SRMAs total approximately 24,454 acres. The ARMP/ROD allocates approximately 1,265 acres of BLM administered lands for 39 existing or potential recreation sites. The plan also allocates lands for 26 existing or potential trails, totaling approximately 102 miles. The plan also identifies management objectives for three Visual Resource Management classifications.

Mineral and Energy Resource Management: Most BLM administered lands will remain available for mineral leasing and location of mining claims, but 52 acres are closed to leasing for oil and gas resources by law, and 15,230 acres will be closed to location of claims.

Dated: June 13, 1995.

Judy Ellen Nelson,

Eugene District Manager.

[FR Doc. 95–15708 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–33–P

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement and Receipt of an Application for an Incidental Take Permit for Desert Tortoises in Washington County, Utah

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Washington County, Utah (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicant has been assigned Permit Number PRT–803842. The proposed permit would authorize the incidental take of the threatened desert tortoise (*Gopherus agassizii*).

The Service announces that the Applicant's incidental take permit application, draft environmental impact statement, and Washington County Habitat Conservation Plan are available for public review. Copies of the above documents have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies. This notice is provided pursuant to section 10(c) of the Act, and National Environmental Policy Act regulations (40 CFR 1506.6). Comments are requested.

DATES: Written comments on the draft environmental impact statement, incidental take permit application, and habitat conservation plan must be received on or before August 28, 1995.

ADDRESSES: Requests for any of the above documents and comments or materials concerning them should be sent to the Assistant Field Supervisor, Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115. The documents and comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Assistant Field Supervisor (see **ADDRESSES** above) (telephone 801–524–5001, facsimile 801–524–5021).

SUPPLEMENTARY INFORMATION: Section 9 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), prohibits the ''taking'' of any threatened or endangered species, including the desert tortoise. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take threatened and endangered wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are at 50 CFR 17.22.

Washington County, Utah (Applicant) submitted an application to the Service for a permit to incidentally take desert tortoise, pursuant to section 10(a)(1)(B) of the Act, in association with various private projects in Washington County. The proposed permit would allow incidental take of desert tortoise for a period of 20 years, resulting from development of up to 12,298 acres of private lands in the vicinity of the Upper Virgin River Desert Tortoise Recovery Unit in Washington County. The Upper Virgin River Desert Tortoise Recovery Unit is described in the Desert Tortoise Recovery Plan published by the Service, and contains desert tortoise habitat ranging from west of the town of Ivins on the west to the town of Springdale on the east, but does not include the Beaver Dam Slope Desert Wildlife Management Area of the Northeastern Mojave Desert Tortoise Recovery Unit. The Beaver Dam Slope Desert Wildlife Management Area, located in the extreme southwestern corner of the State of Utah, is not addressed in this permit application. The permit application was received on June 15, 1995, and was accompanied by the Washington County Habitat Conservation Plan (HCP), which describes the Applicant's proposed measures to minimize, monitor, and mitigate the impacts of their proposed take on the desert tortoise.

The Applicant proposes to minimize incidental take through design of a desert habitat reserve of the largest size practicable that will meet recommendations for the Upper Virgin River Recovery Unit, as detailed in the Desert Tortoise Recovery Plan. Other methods to minimize incidental take will include fencing, law enforcement, education, and translocation research. Fencing is an important component of both minimization and mitigation measures, as it will be designed to minimize desert tortoise mortality, including human-caused injury and death. As mitigation, fencing will also serve to enhance habitat within the proposed reserve, allowing habitat preservation and rehabilitation.

Consolidation of desert habitat into a reserve managed for desert tortoise and other species, and removal of competing uses will comprise the primary mitigation for proposed take. The Applicant proposes establishment of a 60,969-acre desert habitat reserve, within the Upper Virgin River Desert Tortoise Recovery Unit. The proposed reserve extends from the western boundary of the Paiute Indian tribal lands on the west to the City of Hurricane on the east. Within this area, uses will be carefully controlled and all management actions will place desert tortoise and desert tortoise habitat conservation as the highest priority. The reserve also will provide habitat for numerous Federal candidate and State sensitive species. Outside the reserve, Federal activities in desert tortoise habitat will be subject to the Act section 7 consultations with the Service. Mitigation for the proposed take also will include fencing of plant reserve areas for endangered plant species, purchase of cattle grazing permits, and mineral right withdrawal within the desert habitat reserve.

For implementation and monitoring of minimization and mitigation actions, the Applicant will collect a county-wide fee of 0.2 percent of building construction costs for all new

residential, commercial, and industrial construction, along with a county-wide fee of $250/acre for platted subdivisions, condominiums, townhomes, and planned unit developments. The implementing agreement describes the mechanisms of implementation of the measures in the HCP.

Three alternatives are under consideration in the draft Washington County Habitat Conservation Plan Environmental Impact Statement (Statement). Issuance of the permit with the mitigation, minimization, and monitoring measures outlined in the HCP is the Service's preferred action and is discussed above. The Statement also outlines alternative measures that may be considered by the Service in issuing the permit. The second alternative analyzed is somewhat similar to the first alternative, except that a smaller desert habitat reserve is proposed. The proposed reserve under this alternative is 44,451 acres, and the incidental take area is 15,128 acres. Unlike the preferred alternative, and counter to what is recommended in the desert Tortoise Recovery Plan, this alternative excludes Zones 1 and 2 (west of Utah Highway 18) from the reserve. This alternative was not identified as the preferred alternative primarily because the small size of the reserve would not allow for the long-term survival of the desert tortoise, and accordingly, would preclude the possibility of recovery of the species (i.e., removal from the endangered species list). The third alternative selected for detailed evaluation is an alternative of no action. The No Action alternative was not identified as the preferred alternative because it would diffuse existing regional conservation planning efforts for the desert tortoise and possible concentrate activity on individual project needs and not meet the purpose and need of the Applicant. Development of private lands in desert tortoise habitat would be governed by the Act section 7 (if applicable) and section 9. Additionally, the No Action alternative would not provide the benefits of long-term recovery efforts for the desert tortoise identified in the HCP. Without protection, this population of desert tortoise would likely not persist in proximity to these urban areas over the long-term without comprehensive, long-term conservation measures.

In the development of the Statement, the Service initiated action to ensure compliance with the purpose and intent of National Environmental Policy Act (NEPA). Scoping activities were undertaken preparatory to development of the Statement with a variety of Federal , State, and local entities. A Notice of Intent to prepare the Statement was published on December 2, 1991 (56 FR 61259), five public scoping meetings pursuant to NEPA were held in December 1991 in Washington County, and an additional public open house and question-and-answer session was held in St. George, Utah, on February 22, 1995. The purpose of this meeting was to update the public on changes made to the previous draft of the HCP.

Key issues addressed in the Statement include: (1) Impacts to the economy of Washington County, (2) Impacts on threatened, endangered, and sensitive species, (3) impacts on multiple-use activities in reserve areas, (4) impacts on State school trust lands, (5) impacts to private landowners, (6) impacts to livestock grazing and other agricultural practices, and (7) impacts on Virgin River flows.

The underlying goal of the proposed action is to develop and implement a program designed to ensure the continued existence of the species, while resolving potential conflicts that may arise from otherwise lawful private projects. The HCP creates an ongoing administration for the purposes of minimizing, mitigating, and monitoring impacts on the desert tortoise, as well as a framework for providing protection for candidate and sensitive species.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Dated: June 27, 1995.

Terry T. Terrell,

Deputy Regional Director.

[FR Doc. 95–16788 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Maine Acadian Culture Preservation Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that the Maine Acadian Culture Preservation Commission will meet on Thursday, August 17, 1995. The meeting will convene at 7:00 p.m. in the chapel of the former church now maintained as a cultural center by *l'association culturelle et historique—Mont Carmel* on U.S. Route 1 in Lille, Aroostook County, Maine. Lille, on the banks of the St. John River, is located midway between Van Buren and Madawaska, Maine.

The eleven-member Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (Pub. L. 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

—The development and implementation of an interpretive program of Acadian culture in the state of Maine; and

—The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review and approval of the summary report of the meeting held April 7, 1995.
2. Report on the commission workshop held at Roosevelt Campobello International Historic Park and visit to Saint Croix Island International Historic Site, June 21—23, 1995.
3. Reports of Maine Acadian Culture Preservation Commission working groups.
4. Report of the National Park Service planning team and project staff.
5. Opportunity for public comment.
6. Proposed agenda, place, and date of the next Commission meeting.

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5472.

Dated: July 7, 1995.

George Price,

Acting Deputy Field Director.

[FR Doc. 95–17300 Filed 7–13–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32732]

East Penn Railways, Inc.—Modified Rail Certificate

On June 26, 1996, East Penn Railways, Inc. (EPRY), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, subpart C, to operate three rail lines as follows: (1) The Perkiomen Branch, USRA Line No. 906, between milepost 22.38 at

Pennsburg, PA and milepost 38.23 at Emmaus Jct., Emmaus, PA, a distance of 15.85 miles, in Berks, Lehigh, and Montgomery Counties, PA; (2) the Colebrookdale Industrial Track (Boyertown Branch), USRA Line No. 909, between milepost 0.00 at Colebrookdale Jct. (Pottstown, PA), to milepost 8.60 at Boyertown, PA, a distance of 8.60 miles, in Berks and Montgomery Counties, PA; and (3) the Kutztown Branch, USRA Line No. 910, between milepost 0.17 at Topton, PA, and milepost 4.29 at Kutztown, PA, a distance of 4.12 miles, in Berks County, PA.

The lines were acquired by the Commonwealth of Pennsylvania in 1982 and were formerly operated by Blue Mountain and Reading Railroad Company.[1] They connect with Consolidated Rail Corporation at Topton, Emmaus, and Pottstown, PA. EPRY has entered into three simultaneously executed 5-year agreements with Pennsylvania effective July 1, 1995 and extending to June 30, 2000. This transaction is related to a notice of exemption concurrently filed in *John C. Nolan—Continuance In Control Exemption—East Penn Railways, Inc.*, Finance Docket No. 32733.

The Commission will serve a copy of this notice on the Association of American Railroads (Car Service Division), as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Decided: July 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–17329 Filed 7–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32733]

John C. Nolan—Continuance in Control Exemption—East Penn Railways, Inc.

John C. Nolan (Nolan) has filed a notice of exemption to continue in control of East Penn Railways, Inc. (EPRY), upon EPRY becoming a class III rail carrier. EPRY has concurrently filed a notice for a modified certificate of public convenience and necessity in *East Penn Railways, Inc.—Modified Rail Certificate*, Finance Docket No. 32732, to operate as a rail common carrier in Pennsylvania.

Nolan also owns and controls the Bristol Industrial Terminal Railway, a class III rail carrier. Nolan indicates that: (1) The properties operated by the affiliated railroads will not connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any other railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Walter A. Stapleton, 143A Green Mountain Road, Claremont, NH 03743.

Decided: July 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–17328 Filed 7–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32706]

Wisconsin & Southern Railroad Co.—Lease and Operation Exemption—Soo Line Railroad Company, d/b/a CP Rail System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the requirements of 49 U.S.C. 11343–45 Wisconsin & Southern Railroad Company's lease and operation of the Lease Lines located in Milwaukee, WI and operation of non-exclusive operating rights of the OP Lines also located in Milwaukee. The Lease Lines are currently owned and operated by the Soo Line Railroad Company, d/b/a CP Rail System (CPRS). Petitioner asserts that the OP Lines are currently owned by the Chicago Milwaukee Corporation (CMC) and are operated by CPRS pursuant to an agreement between CMC and CPRS. The total trackage subject to exemption under this proceeding is 8.14 miles. The exemption is subject to standard labor protective conditions.

DATES: This exemption will be effective on August 3, 1995. Petitions to stay must be filed by July 24, 1995. Petitions to reopen must be filed by August 3, 1995.

ADDRESSES: Send pleadings referring to Finance Docket No. 32706 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue NW., Washington, DC 20423; and (2) Robert A. Wimbish, Rea, Cross & Auchincloss, Suite 420, 1920 N Street, NW, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [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, N.W., 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 28, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–17327 Filed 7–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–167 (Sub-No. 1148)]

Consolidated Rail Corporation—Abandonment—Between Walkers Mill and Burgettstown, in Allegheny and Washington Counties, PA

The Commission has issued a decision and certificate of interim trail use and abandonment authorizing Consolidated Rail Corporation (Conrail) to abandon its Carnegie Secondary line between milepost 11.00 at Walkers Mill, and milepost 26.70 at Burgettstown, a total of 15.7 miles in Allegheny and Washington Counties, PA. The abandonment is subject to a trail use condition, a public use condition, and standard labor protective conditions. The abandonment certificate will become effective on August 13, 1995, unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

[1] *See Blue Mountain and Reading Railroad Company Modified Rail Certificate*, Finance Docket No. 30305 (Sub-No. 1) (ICC served June 13, 1990).

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days after publication of this notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: ''Office of Proceedings, AB–OFA.'' Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: July 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–17332 Filed 7–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–55 (Sub-No. 510X)]

CSX Transportation, Inc.—Abandonment Exemption—in St. Clair County, MI

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.5 miles of its float operation over the St. Clair River between milepost CBD–90.01 at Port Huron and the United States-Canada Boundary line, in St. Clair County, MI.[1]

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 13, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by July 26, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 3, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc. 500 Water Street, J150 , Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 19, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 10, 1995.

[1] The full scope of the operation extends to milepost CUB–70.33 at Sarnia in the Province of Ontario, Canada. The Commission does not have jurisdiction to exempt operations outside of the United States. CSXT must file its request for any necessary approvals relating to service in Canada with the National Transportation Agency of Canada.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues, whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–17330 Filed 7–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–55 (Sub-No. 508X)]

CSX Transportation, Inc.—Abandonment Exemption—in Dickenson County, VA

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon 4.1-miles of rail line between milepost ZN–2.2 near Nora and milepost ZN–6.3 at the end of the Nora Branch, in Dickenson County, VA.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in complainant's favor within the last 2 years; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1152.50(d)(1) (notice to government agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether employees are adequately protected, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective August 13, 1995, unless stayed or a statement of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] statements of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking

[1] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

requests under 49 CFR 1152.29[3] must be filed by July 26, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 3, 1995. An original and 10 copies of any such filing must be sent to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, one copy must be served on Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Commission's Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 19, 1995. A copy of the EA may be obtained by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–17331 Filed 7–13–95; 8:45 am]

BILLING CODE 7035–01–P

[3] The Commission will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2)(B), notice is hereby given that a proposed Consent Decree in *United States* v. *American National Can Company, et al.,* Civil Action No. 95–585–CIV–5–16, was lodged on July 5, 1995, with the United States District Court for the Middle District of Florida. That action was brought pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), and the Resource Conservation and Recovery Act (''RCRA'') for cleanup and cost recovery at the Yellow Water Road Superfund site near Baldwin, Florida.

Pursuant to the Consent Decree, the settling parties will perform remedial actions at the site selected by the Environmental Protection Agency for soil and groundwater, will reimburse the United States for its past costs expended at the site, and agree to pay future costs incurred by the United States. Among the settling parties are the United States Department of Defense, and other agencies, who will participate in the cleanup and reimbursement of costs, and will take on responsibility for the site 30 years after the effective date of the Consent Decree. The Consent Decree includes a covenant not to sue by the United States under sections 106 and 107 of CERCLA and under section 7003 of RCRA.

As provided in 28 CFR 50.7 and 42 U.S.C. 9622(d)(2)(B), the Department of Justice will receive comments from persons who are not named as parties to this action relating to the proposed Consent Decree for a period of thirty days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *American National Can Company, et al.,* D.J. Ref. 90–11–3–178B. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA.

The proposed Consent Decree may be examined at the office of the United States Attorney, 200 W. Forsyth St., Suite 700, Jacksonville, Florida 32201, and at the Region IV office of the U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. A copy of the proposed Consent Decree may also be examined at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005 (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $32.50 for a copy of the consent decree (25 cents per page reproduction costs, without any appendices to the Decree), or $86.00 for a copy of the consent decree and all appendices, payable to ''Consent Decree Library.''

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–17339 Filed 7–13–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed consent decree in *United States* v. *Olin Corporation,* Civil Action No. 95–0256–BH–S was lodged on July 5, 1995, with the United States District Court for the Southern District of Alabama, Southern Division. This agreement resolves a judicial enforcement action brought by the United States against Olin Corporation pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, for injunctive relief, and for the recovery of response costs incurred and to be incurred by the United States in connection with the first Operable Unit (''OU1'') at the Olin Chemical/McIntosh Plant Superfund Site, in McIntosh, Washington County, Alabama.

Under the proposed Consent Decree, the United States has obtained 100 percent of its past response costs incurred with respect to response actions conducted at OU1, including prejudgment interest, and has obtained a commitment for payment of all EPA's future oversight costs with respect to OU1. Olin Corporation will also assume full responsibility for the remedy to be conducted at OU1 pursuant to the Record of Decision executed by EPA on December 16, 1994.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Olin Corporation,* DOJ Ref. # 90–11–2–1001.

The proposed consent decree may be examined at the office of the United States Attorney, 1st Union Building, 1441 Main Street, Suite 500, Columbia, South Carolina; the Region IV Office of the Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; and the Consent Decree

Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $18.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–17340 Filed 7–13–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with United States Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States of America* v. *Ike Parker, Jr., and Maumee Haulers, Inc.,* Case No. 91CV 7482 Carr, J. (N.D. Ohio.), was lodged with the United States District Court for the Northern District of Ohio, Western Division, on July 7, 1995.

The proposed consent decree addresses the defendants' violations of sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 & 1344, by their discharges of fill material into approximately 13 acres of wetlands that are part of a 40.15 acre site (the ''Site,'' more particularly described in the proposed consent decree), located in Lucas County, Ohio. The proposed consent decree requires the defendants to pay a $1,000 civil penalty to the Treasury of the United States of America. The proposed consent decree also requires the defendants to transfer the Site to the State of Ohio (or to its nominee), which will exchange such property for other less-disturbed wetland property in the area, which the State will then restore and maintain in perpetuity as a wetlands nature preserve.

The Department of Justice will receive, for a period of thirty (30) days from the date this notice is published, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Attention: Martin F. McDermott, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986, and should refer to *United States* v. *Ike Parker, Jr., et al.,* DJ Reference No. 90–1–1–4001.

The proposed consent decree may be examined at the Clerk's Office, United States District Court, U.S. Courthouse, 1716 Spielbusch Avenue, Toledo, Ohio 43264, or may be obtained from Martin F. McDermott at the above address.

Letitia J. Grishaw,

Chief, Environmental Defense Section, United States Department of Justice, Environment and Natural Resources Division.

[FR Doc. 95–17341 Filed 7–13–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume III

Georgia
GA950084 (Jul. 14, 1994)

Modification to General Wage Determinations Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of

publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York
NY950008 (Feb. 10, 1995)
NY950020 (Feb. 10, 1995)
NY950031 (Feb. 10, 1995)
NY950037 (Feb. 10, 1995)
NY950050 (Feb. 10, 1995)
Vermont
VT950002 (Feb. 10, 1995)
VT950026 (Jun. 09, 1995)
VT950027 (Jun. 09, 1995)
VT950028 (Jun. 09, 1995)
VT950029 (Jun. 09, 1995)
VT950030 (Jun. 09, 1995)
VT950032 (Jun. 09, 1995)
VT950033 (Jun. 09, 1995)
VT950034 (Jun. 09, 1995)
VT950035 (Jun. 09, 1995)
VT950037 (Jun. 09, 1995)
VT950038 (Jun. 09, 1995)

Volume II

None

Volume III

Georgia
GA950003 (Feb. 10, 1995)
GA950040 (Feb. 10, 1995)
South Carolina
SC950001 (Feb. 10, 1995)
SC950003 (Feb. 10, 1995)
SC950004 (Feb. 10, 1995)
SC950007 (Feb. 10, 1995)
SC950019 (Feb. 10, 1995)
SC950024 (Feb. 10, 1995)
SC950028 (Feb. 10, 1995)
SC950030 (Feb. 10, 1995)
SC950033 (Feb. 10, 1995)

Volume IV

Illinois
IL950001 (Feb. 10, 1995)
IL950002 (Feb. 10, 1995)
IL950003 (Feb. 10, 1995)
IL950005 (Feb. 10, 1995)
IL950006 (Feb. 10, 1995)
IL950007 (Feb. 10, 1995)
IL950008 (Feb. 10, 1995)
IL950009 (Feb. 10, 1995)
IL950011 (Feb. 10, 1995)
IL950012 (Feb. 10, 1995)
IL950013 (Feb. 10, 1995)
IL950014 (Feb. 10, 1995)
IL950015 (Feb. 10, 1995)
IL950016 (Feb. 10, 1995)
IL950017 (Feb. 10, 1995)
IL950022 (Feb. 10, 1995)
IL950023 (Feb. 10, 1995)
IL950027 (Feb. 10, 1995)
IL950029 (Feb. 10, 1995)
IL950032 (Feb. 10, 1995)
IL950046 (Feb. 10, 1995)
IL950051 (Feb. 10, 1995)
IL950071 (Feb. 10, 1995)
IL950073 (Feb. 10, 1995)
IL950082 (Feb. 10, 1995)
IL950090 (Feb. 10, 1995)
IL950096 (Feb. 10, 1995)
IL950098 (Feb. 10, 1995)
Indiana
IN950001 (Feb. 10, 1995)
IN950005 (Feb. 10, 1995)

Volume V

Louisiana
LA950001 (Feb. 10, 1995)
LA950004 (Feb. 10, 1995)
LA950005 (Feb. 10, 1995)
LA950009 (Feb. 10, 1995)
LA950012 (Feb. 10, 1995)
LA950014 (Feb. 10, 1995)
LA950018 (Feb. 10, 1995)
Nebraska
NE950001 (Feb. 10, 1995)
NE950059 (Apr. 28, 1995)
Texas
TX950001 (Feb. 10, 1995)

Volume VI

Colorado
CO950008 (Feb. 10, 1995)
South Dakota
SD950005 (Feb. 10, 1995)
SD950006 (Feb. 10, 1995)
SD950010 (Feb. 10, 1995)
SD950011 (Feb. 10, 1995)
SD950014 (Feb. 10, 1995)
SD950016 (Feb. 10, 1995)
SD950017 (Feb. 10, 1995)
SD950018 (Feb. 10, 1995)
SD950022 (Feb. 10, 1995)
SD950026 (Feb. 10, 1995)
SD950041 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which included all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 7th day of July 1995.

Alan L. Moss,

Director, Division of Wage Determination.

[FR Doc. 95–17081 Filed 7–13–95; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–054]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: August 2, 1995, 9 a.m. to 12:30 p.m.; and August 3, 1995, 9 a.m. to 3 p.m.

ADDRESSES: National Aeronautics and Space Administration, Program Review Center, Ninth Floor, Room 9H40, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Anne L. Accola, Code Z, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0682.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Strategic Management status
—Space Station program status and reports
—Reusable Launch Vehicle ad hoc team report and plan
—Systems Concepts and Analysis Group
—NASA response to prior Council recommendations
—Committee reports
—Findings and recommendations discussion

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: July 10, 1995.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 95–17312 Filed 7–13–95; 8:45 am]

BILLING CODE 7510–01–M

Procurement Policies and Practices; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: NASA will conduct an open forum meeting to solicit questions,

views and opinions of interested persons or firms concerning NASA's procurement policies and practices. The purpose of the meeting is to have an open discussion between NASA's Associate Administrator for Procurement, industry, and the public.

DATES: August 31, 1995, from 2 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Von Karman Auditorium located at the Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California, 91109.

FOR FURTHER INFORMATION CONTACT: Lydia Casarez, NASA Management Office—Jet Propulsion Laboratory, Code 180–801, 4800 Oak Grove Drive, Pasadena, CA 91109, (818) 354–5359.

SUPPLEMENTARY INFORMATION:

Format

There will be a presentation by the Associate Administrator for Procurement, followed by a question and answer period. Procurement issues will be discussed including NASA policies used in the award and administration of contracts.

Admittance

Doors will open at 1:30 p.m. Admittance will be on a first-come, first-served basis. Auditorium capacity is limited to approximately 225 persons; therefore, a maximum of two representatives per firm is requested. No reservations will be accepted. Questions for the open forum should be presented at the meeting and should not be submitted in advance. Position papers are not being solicited.

Initiatives

In addition to the general discussion mentioned above, NASA invites comments or questions relative to its ongoing Procurement Initiatives, some of which include the following:

Cost Control. NASA is developing this initiative to increase the emphasis on cost control with its contractors and within the agency.

Source Selection. NASA is working to reduce the time and effort that contractors and source selection personnel spend on a contract.

Performance Based Contracting. NASA's newest procurement initiative is focused on structuring an acquisition around the purpose of the work to be performed instead of how the work is to be performed or broad and imprecise statements of work.

Change Order Reduction and Process Change. NASA is attempting to improve overall change order management through the use of better technical direction, realistic cost estimates and more effective and timely negotiations.

Award Fee Initiative. NASA has published regulations for Award Fee policy at 48 CFR part 1816, subpart 4.

MidRange Procurement Procedure. A test program for a third category of procurements between $25,000 and $500,000 (annually) has been implemented at all NASA Centers.

Procurement Reinvention Laboratory. The NASA Headquarters Acquisition Division is participating in this initiative which grew out of the National Performance Review. This Procurement Reinvention Laboratory is one of several Procurement Reinvention Labs underway across the Government.

Deidre A. Lee,

Associate Administrator for Procurement.

[FR Doc. 95–17238 Filed 7–13–95; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298]

Nebraska Public Power District; Cooper Nuclear Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of Appendix J to 10 CFR Part 50 to the Nebraska Public Power District (the licensee) for the Cooper Nuclear Station (CNS), located in Nemaha County, Nebraska.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from the requirements of Section III.D.2(a) of Appendix J to 10 CFR Part 50, to allow Type B testing (local leak rate testing) of the drywell head and manport primary containment penetrations to be deferred from the current due date of July 17, 1995, until the next refueling outage, which is scheduled to commence on October 13, 1995.

The proposed action is in accordance with the licensee's request for exemption dated December 27, 1994.

The Need for the Proposed Action

The proposed action is needed to avoid a plant shutdown solely for the performance of two Type B tests of the subject penetrations. Plant shutdown is undesirable because it subjects the reactor and its supporting systems to transients which increase the potential for malfunctions that may challenge safety systems. Additionally, every shutdown and restart results in radiation exposure for plant workers a they perform shutdown and restart related tasks in radiation areas in various parts of the plant.

There is no overriding technical need for the Type B tests. The tests are intended to detect local leaks and to measure leakage across each pressure-containing or leakage-limiting boundary for certain reactor containment penetrations, thereby providing assurance that maximum allowable containment leakage rates are not exceeded. Section III.D.2(a) of Appendix J to 10 CFR Part 50 requires that Type B leak rate tests, except for airlocks, be performed during reactor shutdown for refueling, or at other convenient intervals, but in no case at intervals greater than two years. The requested exemption for an extension of the 2-year surveillance interval would allow these penetrations to be tested at the next refueling outage, scheduled to commence on October 13, 1995. The current 2-year interval ends on July 17, 1995, when the plan this expected to be at power. The current operating cycle for CNS commenced on August 1, 1993, and has included an extended, unplanned outage of nearly nine months (May 25, 1994, through February 21, 1995). This factor, along with the anticipated load demand and fuel capacity, has resulted in the rescheduling of the next refueling outage to October 1995.

In its December 27, 1994, exemption request, the licensee cited several factors to demonstrate that a high level of confidence exists that the subject penetrations will still be capable of performing their intended function if the required testing is deferred for a short time. The drywell head and manport penetrations have never failed a Type B local leak rate test in the more than 20 years the plant has been operating; therefore, the potential for any significant degradation of the penetrations during the few months that the tests would be deferred is extremely low. Although the drywell head seal is made from a silicone rubber compound and environmental conditions such as heat and radiation have been shown to case degradation in silicone compounds, the current operating cycle will consist of a maximum of 18 months of power operation. Typically, the seal is expected to function for a much longer period, as Appendix J allows up to 2 years of power operation between tests. Finally, gross failure of the penetrations is highly unlikely, as the drywell head and manport penetrations

are not active components, and therefore, are not subject to active failure criteria.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed exemption is appropriate. The exemption would allow a one-time schedular exemption from Appendix J to 10 CFR Part 50 to allow the Type B testing of two primary containment penetrations to be deferred until the next refueling outage, resulting in approximately three additional months of plant operation beyond the date that those penetrations are currently required to be tested.

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 areas 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 that 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 requested exemption. 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 the Cooper Nuclear Station, dated February 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on July 5, 1995, the staff consulted with the Nebraska State official, Ms. Julia Schmidt, Division of Radiological Health, Nebraska Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's request for exemption dated December 27, 1994, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the Commission's Local Public Document Room at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 10th day of July 1995.

For the Nuclear Regulatory Commission.

James R. Hall, Sr.,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–17296 Filed 7–13–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–315]

In the Matter of: Indiana Michigan Power Company (D.C. Cook Nuclear Plant, Unit 1); Exemption

I

Indiana Michigan Power Company (IMPCo, the licensee) is the holder of Facility Operating License No. DPR–58 which authorizes operation of the Donald C. Cook Unit 1 Nuclear Plant at steady-state reactor power levels not in excess of 3250 megawatts thermal. The Cook 1 facility is a pressurized water reactor located at the licensee's site in Berrien County, Michigan. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Pursuant to 10 CFR 50.12(a), the NRC may grant exemptions from the requirements of the regulations (1) which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) where special circumstances are present.

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs), at approximately equal intervals during each 10-year service period of the primary containment. The third test of each set shall be conducted when the plant is shut down for the 10-year inservice inspection required by 10 CFR 50.55a.

III

By letter dated March 17, 1995, IMPCo requested temporary relief from the requirement to perform a set of three Type A tests at approximately equal intervals during each 10-year service period of the primary containment. The requested exemption would permit a one-time interval extension of the third Type A test by approximately 20 months (from the 1995 refueling outage, currently scheduled to begin in September 1995, to the 1997 refueling outage) and would permit the third Type A test of the second 10-year inservice inspection period to not correspond with the end of the current American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) inservice inspection interval.

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii), as the basis for the exemption. In addition, the licensee states that the exemption would eliminate a cost of $130,000 for the Type A test which is not necessary to achieve the underlying purpose of the rule. 10 CFR Part 50 Appendix J, states that the purpose of the Type A, B, and C tests is to assure that leakage through the primary containment shall not exceed the allowable leakage rate values as specified in the technical specifications or associated bases. IMPCo points out that the existing Type B and C testing programs are not being modified by this request and will continue to effectively detect containment leakage caused by the degradation of active containment isolation components as well as containment penetrations. It has been the experience at the D.C. Cook Plant that during the six Type A tests conducted from 1974 to date, any significant containment leakage paths are detected by the Type B and C testing. The Type A test results have only been confirmatory of the results of the Type B and C test results. The testing history, structural capability of the containment, and the risk assessment establish that there is

significant assurance that the extended interval between Type A tests will not adversely impact the leak-tight integrity of the containment and that performance of the Type A test is not necessary to meet the underlying purpose of Appendix J.

IV

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 states that a set of three Type A leakage rate tests shall be performed at approximately equal intervals during each 10-year service period.

The licensee proposes an exemption to this section which would provide a one-time interval extension for the Type A test by approximately 20 months. The Commission has determined, for the reasons discussed below, that pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of the requirement to perform Type A containment leak rate tests at intervals during the 10-year service period is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing. The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee has a good record of ensuring a leak-tight containment.

The licensee notes that the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee has stated that it will perform the general containment inspection although it is required by Appendix J (Section V.A.) to be performed only in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The Cook containment structure consists of a reinforced concrete cylindrical structure with a hemispherical dome. The interior of the containment has a welded steel liner, with a minimum thickness of ⅜ inch at the dome and wall and ¼ inch at the bottom, which is attached to the inside face of the concrete shell to ensure a high degree of leak tightness.

The NRC staff has also made use of the information in a draft staff report, NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The ILRT, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by Local Leak Rate Tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The Cook Plant experience has also been consistent with these results.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1L_a$. Of these, only nine were not Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493). Therefore, based on these considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at the D.C. Cook Plant would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule. Therefore, special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii).

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption as described in Section III above is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances as provided in 10 CFR 50.12(a)(2)(ii) are present justifying the exemption.

Based on the generic and plant-specific data, the NRC staff finds the basis for the licensee's proposed one-time schedular exemption to allow an extension of one cycle for the performance of the Appendix J, Type A test, provided that the general containment inspection is performed, to be acceptable, pursuant to 10 CFR 50.12(a) (1) and (2).

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption will not have a significant effect on the quality of the human environment (60 FR 32354).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of July 1995.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–17294 Filed 7–13–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–280]

In the Matter of: Virginia Electric Power Company (Surry Power Station Unit No. 1); Exemption

I

Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. DPR–37, which authorizes operation of Surry Power Station, Unit 1 (the facility), at a steady-state reactor power level not in excess of 2441 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Surry County, Virginia. The license provide among other things, that it is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of

three Type A containment integrated leakage rate tests (ILRTs) of the primary containment, at approximately equal intervals during each 10-year service period. The third test of each set shall be conducted when the plant is shut down for the 10-year inservice inspection program.

III

By letter dated April 28, 1995, the licensee requested temporary relief from the requirement to perform a set of three Type A tests at approximately equal intervals during each 10-year service period of the primary containment. The requested exemption would permit a one-time interval extension of the third Type A test by approximately 18 months (from the October 1995 refueling outage, to the February 1997 refueling outage) and would permit the third Type A test of the second 10-year inservice inspection period to not correspond with the end of the current American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) inservice inspection interval.

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii), as the basis for the exemption. The licensee points out that the existing Type B and C testing programs are not being modified by this request and will continue to effectively detect containment leakage caused by the degradation of active containment isolation components as well as containment penetrations. It has been the experience at Surry Unit 1 during the Type A tests conducted from 1986 to date, that the Type A tests have not identified any significant sources of leakage in addition to those found by the Type B and C tests.

During operation, the Surry Unit 1 containment is maintained at a subatmospheric pressure (approximately 10.0 psia) which provides a good indication of the containment integrity. Technical Specifications require the containment to be subatmospheric whenever Reactor Coolant System temperature and pressure exceeds 350 °F and 450 psig, respectively. Containment air partial pressure is monitored in the control room to ensure Technical Specification compliance. If the containment air partial pressure increases above the established Technical Specification limit, the unit is required to shut down.

IV

In the licensee's April 28, 1995, exemption request, the licensee stated that special circumstance 50.12(a)(2)(ii) is applicable to this situation, i.e., that application of the regulation is not necessary to achieve the underlying purpose of the rule.

Appendix J states that the leakage test requirements provide for periodic verification by tests of the leak tight integrity of the primary reactor containment. Appendix J further states that the purpose of the tests ''is to assure that leakage through the primary reactor containment shall not exceed the allowable leakage rate values as specified in the Technical Specifications or associated bases''. Thus, the underlying purpose of the requirement to perform type A containment leak rate tests at intervals during the 10-year service period is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee's record of ensuring a leak-tight containment has improved markedly since 1986. All ''as-found'' Type A tests since 1986 have passed and the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee will perform the general containment inspection although it is only required by Appendix J (Section V.A.) to be performed in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The Surry Unit 1 containment is of the subatmospheric design. During operation,the containment is maintained at a subatmospheric pressure (approximately 10 psia) which provides for constant monitoring of the containment integrity and further obviates the need for Type A testing at this time. If the containment air partial pressure exceeds the established Technical Specification limit, the unit must be shut down.

The NRC staff has also made use of a draft staff report, NUREG–1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1.0L_a$. Of these, only nine were not due to Type B or C leakage penalties. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493). Therefore, based on those considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at Surry, Unit 1, would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not needed to achieve the underlying purpose of the rule.

Based on generic and plant specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a schedular extension of one cycle for the performance of the Appendix Type A test, provided that the general containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 35439).

This Exemption is effective upon issuance and shall expire at the completion of the 1997 refueling outage.

Dated at Rockville, Maryland, this 7th day of July 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 95–17295 Filed 7–13–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Financial Management; Equipment Capitalization Threshold Waivers for Universities and Non-Profit Organizations (OMB Circulars A–21 and A–122)

AGENCY: Office of Federal Financial Management, OMB.

ACTION: Notice.

SUMMARY: This Notice provides a copy of an Office of Management and Budget (OMB) memorandum to the agencies regarding equipment capitalization threshold waivers under OMB cost principles circulars for universities (OMB Circular A–21, ''Cost Principles for Educational Institutions'') and non-profit organizations (OMB Circular A–122, ''Cost Principles for Non-Profit Organizations'').

DATES: The effective date is June 29, 1995.

FOR FURTHER INFORMATION CONTACT: Non-Federal organizations should contact their cognizant Federal agency. Federal agencies should contact the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Room 6025 New Executive Office Building, Washington, DC 20503. Telephone (202) 395–3993.

SUPPLEMENTARY INFORMATION: This Notice provides a copy of a July 29, 1995 Office of Management and Budget (OMB) memorandum to the agencies entitled ''Equipment Capitalization Threshold Waivers Under OMB Cost Principles Circulars for Universities and Non-Profit Organizations.''

Norwood J. Jackson, Jr.,

Acting Controller.

Herein follows the text of the Office of Management and Budget's memorandum to the agencies:

June 29, 1995.

Memorandum for the Heads of Executive Departments and Establishments

From: Alice M. Rivlin, Director

Subject: Equipment Capitalization Threshold Waivers under OMB Cost Principles Circulars for Universities and Non-Profit Organizations

This memorandum authorizes Federal agencies with cost negotiation cognizance to increase the equipment cost threshold for capitalization from $500 to $5000 under Office of Management and Budget (OMB) Circulars A–21, ''Cost Principles for Educational Institutions,'' and A–122, ''Cost Principles for Non-Profit Organizations.'' However, this waiver authority does not extend to nonprofit organizations subject to Circular A–122 that are also subject to Cost Accounting Standards 9904.404 and 9904.409.

This waiver authority is provided at the request of the Department of Health and Human Services and the Department of Defense, Office of Naval Research, the major Federal cost cognizant agencies. The increased capitalization thresholds under Circulars A–21 and A–122 provide conformity with Circular A–87, ''Cost Principles for State, Local, and Indian Tribal Governments,'' Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Non-Profit Organizations,'' and the agencies' Grants Management Common Rule, all of which have a $5000 capitalization threshold.

OMB has proposed revising the equipment capitalization threshold under Circular A–21, and is preparing a similar proposal for Circular A–122. However, we do not expect to publish final notices of revised threshold amounts until other issues to be included in the same notices have been resolved. We expect this waiver to reduce the accounting and recordkeeping requirements for many recipients of sponsored agreements and to eliminate any confusion that may result from different capitalization thresholds.

If you have any questions concerning this waiver, please call OMB Deputy Controller, Norwood J. Jackson, Jr., at (202) 395–3993.

[FR Doc. 95–17274 Filed 7–13–95; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of RI 20–001

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for a reclearance of an information collection. RI 20–1, Application for Minimum Annuity, is completed by annuitants to determine if they quality for minimum annuity under certain provisions of 5 U.S.C. 8345(f).

Approximately 50 RI 20–1s are completed annually. We estimate that it takes 15 minutes to fill out the form. The annual burden is 13 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8564.

DATES: Comments on this proposal should be received on or before August 13, 1995.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Service, Operations Support Division, U.S. Office of Personnel Management, 1900 E. Street, NW., Room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and, Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Forms Analysis and Design, (202) 606–0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–17279 Filed 7–13–95; 8:45 am]

BILLING CODE 6325–01–M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer who Contributes to a Multiemployer Plan; Associated Wholesale Grocers, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Associated Wholesale Grocers, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Central States Southeast and Southwest Areas Pension Plan. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not result in a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five-plan-year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Before granting an exemption the PBGC is required to give interested persons an opportunity to

comment on the exemption request. The purpose of this notice is to advise interested persons of the exemption request and solicit their views on it.

DATES: Comments must be submitted on or before August 28, 1995.

ADDRESSES: All written comments (at least three copies) should be addressed to: Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street, N.W., Washington, D.C. 20005–4026, or hand-delivered to Suite 340 at the above address between 9 a.m. and 4 p.m., Monday though Friday. The non-confidential portions of the request for an exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, at the above address, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gennice D. Brickhouse, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, N.W., Washington, D.C. 20005–4025; telephone 202–326–4029 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (''ERISA'' or the ''Act''), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transactions satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C. Sections 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 C.F.R. part 2643), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (29 C.F.R. 2643.12–2643.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. section 552(b)(4) (the Freedom of Information Act).

Under section 2643.3 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Associated Wholesale Grocers, Inc. (the ''Buyer''), for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of certain assets of Homeland Stores, Inc. (the ''Seller''), on April 21, 1995. In support of the request, the Buyer represents among other things that:

1. On February 6, 1995, the Buyer and the Seller entered into an Asset Purchase Agreement for the Buyer to purchase, among other things, assets of the Seller in the form of a distribution center located in Oklahoma City and a number of retail stores located in Oklahoma. The final closing of the transaction occurred on April 21, 1995.

2. Pursuant to a collective bargaining agreement, the Seller contributes to the Central States Southeast and Southwest Areas Pension Fund (the ''Plan'') for employees at operations subject to the sale.

3. The Buyer is a privately owned cooperative with 300 to 400 members whose principal business is the operation of independent distribution centers. Pursuant to collective bargaining agreements, the Buyer is also a contributing employer under the Plan.

4. On or about April 21, 1995, Buyer and Seller also entered into a Supply Agreement under which the Buyer will supply grocery and other items to the Seller for use in the retail grocery stores that are being retained by the Seller. In addition, the Seller will become a member of the Buyer's cooperative after the sale.

5. It is anticipated that the Buyer will enter into a collective bargaining agreement whereby the Buyer will be required to contribute to the Plan for substantially the same number of contributions base units with respect to employees of the Seller who work at operations subject to the sale.

6. The Supplemental Agreement further provides that the Seller agrees to be secondarily liable for any withdrawal

liability it would have had with respect to the sold operations (if not for section 4204) should the Buyer withdraw from the Plan within the five plan years following the sale and fail to pay withdrawal liability.

7. The estimated amount of the unfunded vested benefits allocated to the Seller with respect to the operations subject to the sale is $4,282,764.37, and the estimated amount of the unfunded vested benefits allocable to the Buyer with respect to its operations covered under the Plan is $14,230,560.30.

8. The amount of the bond/escrow that would be required under section 4204(a)(1)(B) of ERISA is approximately $1,000,000.

9. The Buyer submitted financial statements that show that it meets the net income test described in 29 C.F.R. section 2643.14(a)(1), and the net tangible asset test described in 29 C.F.R. section 2643.14(a)(2)(ii), with respect to the amount of unfunded vested benefits allocable to the operations subject to the sale and its pre-sale operations. The Buyer has requested confidential treatment of these statements on the ground that they are confidential within the meaning of 5 U.S.C. section 552.

10. The Buyer has sent by certified mail, return receipt requested, a complete copy of the request, excluding the agreements between the Seller and Buyer, certain exhibits, financial statements of the Buyer, and certain financial data recited in the request, to the Plan and the collective bargaining representative of the Seller.

Comments

All interested persons are invited to submit written comments on the pending exemption request to the above address.

All comments will be made a part of the record. Comments received, as well as the relevant non-confidential information submitted in support of the request, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 10th day of July, 1995.

Martin Slate,

Executive Director.

[FR Doc. 95–17310 Filed 7–13–95; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35940; File No. SR–DTC–95–07]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to DTC's Short Position Reclamation Procedures

July 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 20, 1995, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–95–07) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through December 31, 1995.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks permanent approval of DTC's existing procedures to recall securities deliveries which have created short positions as a result of call lotteries or rejected deposits. The Commission previously granted temporary approval to proposed rule changes establishing DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries.[2] The Commission also previously granted temporary approval to expand the procedures to recall securities deliveries which have created short positions as a result of rejected deposits.[3]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] For a complete description and discussion of the procedures designed to eliminate short positions caused by call lotteries, refer to Securities Exchange Act Release Nos. 30552 (April 2, 1992), 57 FR 12352 [File No. SR–DTC–90–02] (order granting temporary approval through April 1, 1994, of DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries) and 35034 (November 30, 1994), 59 FR 63396 [File Nos. SR–DTC–94–08 SR–DTC–94–09] (order granting temporary approval through May 1, 1995, of DTC's procedures to recall certain deliveries which have created short positions as a result of call lotteries and rejected deposits).

[3] Securities Exchange Act Release No. 35034.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule change

The proposed rule change seeks permanent approval of procedures that: (1) Enable participants to recall book-entry deliveries of callable securities[5] if the participant's account became short as a result of deliveries made between the call publication date[6] and the date of DTC's call lottery[7] and (2) enable participants to recall securities deliveries which have created short positions as a result of rejected deposits.[8]

Pursuant to DTC's proposal, a participant with a short position created either because of a delivery made between the call publication date and

[4] The Commission has modified the text of the summaries submitted by DTC.

[5] Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity date at a specified price.

[6] The call publication date is the date on which the issuer gives notice of redemption.

[7] DTC has established a lottery process to allocate called securities in a partially called issue among participants having positions in the issue. DTC allocates the called securities among participants that had positions in the issue on the call publication date rather than on the day when the lottery is held. For a description of DTC's lottery processing procedures, refer to Securities Exchange Act Release No. 21523 (November 27, 1984), 49 FR 47352 [File No. SR–DTC–84–09] (notice of filing and immediate effectiveness of proposed rule change).

[8] Under DTC procedures, a participant depositing securities receives immediate credit in its securities account (*i.e.*, before the certificates are sent to the transfer agent for transfer and registration in DTC's nominee name). Once the participant's account is credited, the securities are available to the depositing participants for deliveries, withdrawals, and pledges. If the transfer agent rejects a deposit after the depositing participant has made a book-entry delivery of the credited securities, elimination of the credit from the participant's account may create a short position. If the securities are rejected by the transfer agent after ninety days of the deposit for registered securities and after nine months for bearer securities, the participant will not be able to recall the book-entry delivery and the participant's account will remain short.

the date of DTC's lottery or because of a rejected deposit may initiate the recall process within ten business days of the creation of the short position by sending a broadcast message directly to the receiver of the book-entry delivery. Participants will be able to transmit this message through DTC's Participant Terminal System network. The receiving participant will have five business days to comply with the recall request if it has a position in that security at DTC. If the receiving participant no longer has such a position at DTC, it must comply with the recall request within fifteen business days. If the short position is less than the amount of the delivery, the receiver has the option to return the entire delivery or just a portion equal to the delivering participant's short position. If the receiving participant does not comply with the recall request within the applicable time, the recalling participant may request DTC's intervention.[9] Recalls will reverse only the book-entry delivery while the original transaction still must be settled by the delivering and receiving participants (*i.e.*, the delivering participant must deliver securities to the receiving participant).

DTC believes that the reclamation procedures have been effective in reducing short positions caused by call lotteries. Through March 31, 1995, a total of 265 short positions valued at $48.3 million have been eliminated pursuant to the rule. As of March 31, 1995, DTC's 256 participants carried a total of 968 short positions valued at approximately $37.4 million.[10] The proposed rule change is part of a program that is being implemented at the request of participants and securities industry groups to eliminate short positions.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal seeks to make permanent procedures that should help reduce the number of short positions created either by call lotteries or by rejected deposits and thus should assure the safeguarding of securities and funds which are in the custody and control of DTC or for which DTC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[11] The Commission believes that DTC's short position reclamation procedures are consistent with DTC's obligations under Section 17A(b)(3)(F) because the proposed procedures should help DTC assure the safeguarding of securities and funds by reducing the number of outstanding short positions at DTC created either by call lotteries or by rejected deposits.

Under DTC's procedures, participants are obligated to cover their short positions immediately. As an incentive to cover the short position as soon as possible and as a cushion to protect DTC in the event of a sharp rise in the market price of the security, DTC participants are assessed a daily charge of 130% of the market value of each security for which the participant has a short position at DTC.[12] By assessing a 130% daily charge to short positions in a participant's account, DTC limits its risk of loss to instances when there is a rise in the market price of the security above 130%. With this rule change, DTC should further reduce its risk of loss by allowing DTC participants to recall certain deliveries which have resulted in short positions which should further reduce the total number of outstanding short positions. Thus, the proposal is consistent with Section 17A(b)(3)(F)[13] of the Act in that it should help DTC to reduce its risk of loss and thereby should enhance DTC's ability to safeguard securities and funds under its control.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow DTC participants to continue to utilize without any disruption the reclamation procedures for short positions created by call lotteries or by rejected deposits.

However, the Commission realizes that the proposed reclamation procedures could cause broker-dealers inadvertently to create possession or control deficits.[14] Therefore, the Commission believes that the proposed rule change should be carefully monitored before the procedures become permanent. For this reason, the Commission is temporarily approving the proposed rule change through December 31, 1995.

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 in 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 DTC. All submissions should refer to the file number SR–DTC–95–07

[9] The intervention request must be submitted to DTC no later than twenty-five days after the original reclamation request was made.

[10] For the purposes of this filing, DTC defines the term ''short position'' to mean a separate entry (line item) representing a participant's obligation to deliver to DTC one or more securities in a specific issue. Letter from Piku K. Thakkar, Assistant Counsel, DTC, to Chris Concannon, Commission (May 26, 1995).

[11] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[12] Securities Exchange Act Release No. 26896 (June 5, 1989), 54 FR 25185 [Filed No. SR–DTC–89–07] (order approving a proposed rule change concerning invitations to tender to cover short positions).

[13] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[14] The Commission is concerned with the proposal's impact on broker-dealer's compliance with Rule 15c3–3 under the Act [17 CFR 240.15c3–3]. This rule requires broker-dealers to obtain and thereafter to maintain physical possession or control of fully-paid securities and excess margin securities carried by a broker-dealer for the account of a customer [17 CFR 240.15c3–3(b)(1)]. If as a result of a recall procedure, DTC reverses the delivery of a security that is a fully-paid or excess margin security at the receiving broker-deficit in the number of securities that should be under its physical possession or control.

and should be submitted by August 4, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–07) be, and hereby is, approved through December 31, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–17264 Filed 7–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35937; International Series Release No. 825; File No. SR–OCC–95–05]

Self-Regulatory Organizations; the Options Clearing Corp.; Filing of Proposed Rule Change Seeking Approval to Issue, Clear, and Settle Customized Foreign Currency Options on the Italian Lira and Spanish Peseta

July 5, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 4, 1995, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will enable OCC to issue, clear, and settle option transactions where the Italian lira or the Spanish peseta is either the trading currency or the underlying currency.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, OCC will issue, clear, and settle option transactions where the Italian lira or the Spanish paseta is either the trading currency or the underlying currency. The Philadelphia Stock Exchange (''PHLX'') has proposed to list and trade such foreign currency options through its customized options facility.[3]

The PHLX rule filings propose to enable its members to trade customized contracts between the lira or the peseta and any other approved currency. Currently, OCC has approval to list and clear flexibly structured option contracts on any combination of the following currencies: (1) Australian dollars, (2) British pounds, (3) Canadian dollars, (4) German marks, (5) European Economic Community currency units, (6) French francs, (7) Japanese yen, (8) Swiss francs, and (9) United States dollars. OCC is now proposing to add the Italian lira and the Spanish peseta to that list of approved currencies.

Options on the lira or the peseta will be cleared and settled in accordance with the clearance and settlement mechanisms already in place for flexibly structured foreign currency options and for cross-rate foreign currency options. In addition, options on the lira or the peseta will be margined like OCC's existing foreign currency and cross-rate foreign currency option contracts. Accordingly, OCC has determined that no changes to its by-laws or rules are necessary to accommodate these new contracts.

OCC believes the proposed rule change is consistent with the requirements of section 17A of the Act[4] and the rules and regulations thereunder because the proposal will provide for the prompt and accurate clearance and settlement of transactions in options on the Italian lira and the Spanish peseta and will provide for the safeguarding of related securities and funds. The proposed rule change meets such requirements by establishing a framework in which existing and reliable OCC systems, rules, and procedures are extended to the processing of these new currency contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC believes that no burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 OCC 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–95–05 and should be submitted by August 4, 1995.

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[15] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the language in these sections.

[3] For a discussion of the PHLX proposals, refer to Securities Exchange Act Release Nos. 35678 (May 4, 1995), 60 FR 24945 (File No. SR–PHLX–95–20) (notice of proposed rule change to list and trade options on the Italian lira) and 35677 (May 4, 1995), 60 FR 24941 (File No. SR–PHLX–95–21) (notice of proposed rule change to list and trade options on the Spanish peseta).

[4] 15 U.S.C. 78q–1 (1988).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–17265 Filed 7–13–95; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–13452]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Paxson Communications Corporation, Class A Common Stock, $.01 Par Value)

July 10, 1995.

Paxson Communications Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it is voluntarily delisting the Security from the BSE. The reason for delisting is that the Security will begin trading on the American Stock Exchange, Inc. on July 10, 1995, at the beginning of trading, and maintenance of listings on both exchanges will be both too costly and too burdensome for the Company.

Any interested person may, on or before July 28, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–17263 Filed 7–13–95; 8:45 am]

BILLING CODE 8010–01–M

[5] 17CFR 200.30–3(a)(12) (1994).

[Release No. 35–26327]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 7, 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 31, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company (70–8309)

The Southern Company (''Southern''), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a), 6(b), 7, 32 and 33 of the Act and rule 53 thereunder.

By order dated March 15, 1994(HCAR No. 26004), Southern was authorized to issue and sell from time to time prior to April 1, 1996, short-term and term loan notes to lenders and/or commercial paper to dealers in an aggregate principal amount at any time outstanding of $500 million. Southern was also authorized to use the proceeds of such borrowings or commercial paper sales to make investments in subsidiaries, to the extent authorized to do so in separate filings, and in subsidiaries that are exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs''); provided that, at any point in time, the outstanding amount of borrowings and/or proceeds of commercial paper sales used for such purpose, the proceeds of sales of additional common stock used to make such investments, and the aggregate principal amount of the securities of such entities in respect of which Southern has issued any guaranty may not, in the aggregate, exceed $500 million.

Southern now seeks approval to issue and sell short-term and term loan notes to lenders and/or commercial paper to dealers from time to time prior to April 1, 2000, in an aggregate principal amount at any time outstanding not to exceed $1 billion; and to use the net proceeds thereof to make investments in subsidiaries (to the extent authorized in separate filings) and in EWGs and FUCOs; provided that, at any time, the net proceeds of such borrowings and/or commercial paper sales used to make investments in EWGs and FUCOs, plus the amount of such investments using the proceeds of additional common stock sales and the principal amount of outstanding securities of such entities that are guaranteed by Southern (as authorized in separate proceedings) shall not, in the aggregate, exceed the greater of (i) $1.072 billion, and (ii) the difference, at any point in time, between 50% of Southern's ''consolidated retained earnings'' and Southern's ''aggregate investment,'' each as determined in accordance with rule 53(a). At March 31, 1995, 50% of Southern's consolidated retained earnings was about $1.572 billion and Southern had invested, directly or indirectly, an aggregate of $500.1 million in EWGs and FUCOs.

Southern also proposes that term loan notes issued to lenders may have maturities of up to seven years. Southern has not proposed any other changes or modifications to the terms of borrowings or commercial paper sales.

The Southern Company (70–8277)

The Southern Company (''Southern''), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a), 7, 12(b), 32 and 33 of the Act and rules 45 and 53 thereunder.

By order dated January 25, 1994 (HCAR No. 25980) (''Order''), the Commission authorized Southern, among other things, to issue and sell in one or more transactions from time to time through December 31, 1996, up to ten million shares of its authorized shares of common stock, $5 par value, as such number of shares may be

adjusted for any subsequent share split (''Common Stock''). Since issuance of the Order, Southern effected an authorized 2-for-1 stock split. As adjusted for the share split, 9.4 million shares of the additional Common Stock remain unsold.

The Order further authorized Southern to guarantee, from time to time through December 31, 1996, the securities of any associate exempt wholesale generators (''EWGs'') or foreign utility companies (''FUCOs'') in an aggregate principal amount at any time outstanding not to exceed $500 million, provided that any guarantees outstanding on that date would terminate or expire in accordance with their terms. In addition, the net proceeds of sales of the additional Common Stock used to make investments in any EWGs or FUCOs and the aggregate principal amount of the securities of such entities in respect of which Southern has issued any guarantee would not, in the aggregate, exceed $500 million.

Southern now proposes to issue and sell in one or more transactions from time to time through December 31, 1999, up to 25 million additional shares of its Common Stock, inclusive of the remaining 9.4 million shares that Southern is authorized to issue and sell under the Order. Some or all of the Common Stock may be issued and sold through a primary shelf registration program in accordance with rule 415 under the Securities Act of 1933, as amended, or otherwise to, or through, one or more underwriters of dealers for resale in one or more public offerings, or to investors directly or through agents.

In addition, Southern proposes to increase its authority to guarantee, from time to time through December 31, 1999, the securities of one or more EWGs or FUCOs from $500 million up to an aggregate principal amount at any time outstanding not to exceed $1.2 billion; provided that the sum of (1) the principal amount of securities of EWGs and FUCOs in respect of which guarantees are at any time outstanding, (2) the net proceeds from sale of the 25 million shares of Common Stock invested directly or indirectly by Southern in EWGs and FUCOs, as herein proposed, (3) the net proceeds of additional shares of Common Stock invested directly or indirectly in EWGs and FUCOs, as authorized in File No. 70–8435, and (4) the proceeds of short-term and term loan borrowings and/or commercial paper sales by Southern at any time invested in EWGs and FUCOs, as authorized in File No. 70–8309, shall not, in the aggregate, exceed the greater of (i) $1.072 billion, and (ii) the difference, at any point in time, between 50% of Southern's ''consolidated retained earnings,'' and its ''aggregate investment,'' each as determined in accordance with Rule 53(a). At March 31, 1995, 50% of Southern's consolidated retained earnings was about $1.572 billion and Southern had invested, directly or indirectly, an aggregate of $500.1 million in EWGs and FUCOs.

Southern also proposes to use the net proceeds of the additional Common Stock, together with other available funds, to make additional investments in other subsidiary companies, to the extent authorized in separate proceedings.

Allegheny Power System, Inc., et al. (70–8411)

Allegheny Power System, Inc. (''APS''), 12 East 49th Street, New York, New York 10017, a registered holding company, and AYP Capital, Inc. (''AYP Capital''), 12 East 49th Street, New York, New York 10017, a nonutility subsidiary company of APS, have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and Rules 45, 50, 53, 87, 90 and 91 thereunder.

By order dated July 14, 1994 (HCAR No. 26085), APS was authorized to organize and finance AYP Capital to invest in (i) companies engaged in new technologies related to the core utility business of APS and (ii) companies for the acquisition and ownership of exempt wholesale generators (''EWGs'').

By order dated February 3, 1995 (HCAR No. 26229), AYP was authorized to engage in the development, acquisition, construction, ownership and operation of EWGs and in development activities with respect to: (i) Qualifying cogeneration facilities and small power production facilities (''SPPs''); (ii) nonqualifying cogeneration facilities, nonqualifying SPPs and independent power production facilities (''IPPs'') located within the service territories of APS public utility subsidiary companies; (iii) EWGs; (iv) companies involved in new technologies related to the core business of APS; and (v) foreign utility companies (''FUCOs''). AYP Capital was also authorized to consult for nonaffiliate companies. APS was authorized to increase its investment in AYP Capital from $500,000 to $3 million.

The post-effective amendment seeks Commission authorization to:

(i) Allow AYP Capital to engage in activities related to the development, acquisition, ownership, construction and operation of FUCOs;

(ii) Allow AYP Capital to engage in activities related to the development, acquisition, ownership, construction and operation of qualifying cogeneration facilities and SPPs;

(iii) Allow APS and AYP Capital to acquire the securities of companies (''Project NEWCOs'') that own FUCOs and EWGs;

(iv) Allow AYP Capital or one or more special purpose subsidiaries (''EMS NEWCOs'') to provide energy management services and demand side management services to nonassociates and to associate companies;

(v) Allow AYP Capital or one or more special purpose subsidiaries (''Factor NEWCOs'') to factor the accounts receivable of associate and nonassociate utility companies and similar companies or effect securitizations of accounts receivable of such companies;

(vi) Allow AYP Capital to enter into one or more investment limited partnership agreements; [1]

(vii) Allow AYP Capital or one or more special purpose subsidiaries (''Broker NEWCOs'') to engage in brokering of energy-related commodities and financial instruments to nonassociates and to associate companies;

(viii) Allow AYP Capital or one or more Brokering NEWCOs to engage in power brokering, power marketing and related activities;

(ix) Allow AYP Capital or one or more special purpose subsidiaries (''Real Estate NEWCOs'') to engage in activities relative to the real estate portfolio of APS and its associate companies;

(x) Allow AYP Capital or one or more special purpose subsidiaries (''Technology NEWCOs'') to engage in the marketing, sale and installation of power quality devices to customers of associate and nonassociate utility companies;

(xi) Allow AYP Capital or one or more special purpose subsidiaries (''Telecommunications NEWCOs'') to provide telecommunications services to nonassociates and to associate companies;

(xii) Allow AYP Capital or one or more special purpose subsidiaries

[1] The investment objective of any partnership will be to invest principally in securities of businesses engaged in activities in those product and market areas that AYP has determined meet its business objectives in the area of new and emerging energy technologies related to APS' core business. One such partnership may be with Advent International Corporation (''Advent''). The post-effective amendment states that ''(b)ecause of the need for quick response in the area of venture capital, AYP * * * does not intend to seek prior Commission approval before investing in a company identified by Advent.''

(''Environmental NEWCOs'') to provide environmental services to nonassociates;

(xiii) Allow AYP Capital or one or more special purpose subsidiaries (''Laboratory NEWCOs'') to sell chemical laboratory services to nonassociates and to associate companies; and

(xiv) Allow APS to increase its investment in AYP Capital or for AYP Capital to incur debt that might be guaranteed by APS, in each case to enable AYP Capital to engage in these activities and to enable AYP Capital to organize Project NEWCOs, EMS NEWCOs, Factor NEWCOs, Brokering NEWCOs, Real Estate NEWCOs, Technology NEWCOs, Telecommunications NEWCOs, Environmental NEWCOs and Laboratory NEWCOs and to make investments in all such NEWCOs to enable them to engage in such activities; to allow Project NEWCOs to finance their activities through securities issued to third parties; and to allow APS and AYP Capital to issue guarantees for AYP Capital and NEWCOs.

APS proposes to invest in AYP Capital up to an aggregate of $100 million through December 31, 1999 through a combination of: (i) Purchases of common stock, (ii) cash capital contributions and (iii) loans. In addition, AYP Capital proposes to obtain loans from banks or issue other recourse obligations which could be guaranteed by APS. Such borrowings by AYP Capital from third parties that are guaranteed by APS would be subject to the $100 million investment authority.

Loans from APS would mature by December 31, 2004 and would bear a fixed interest rate equal to a rate not above the prime rate in effect on the date of the loan at a bank designated by APS. Notes issued to APS, at the option of APS, could be converted to capital contributions to AYP Capital. Loans from third parties would mature by December 31, 2004 and would bear a fixed interest rate not above 3% over the prime rate at a U.S. money center bank to be designated by APS. Notes sold to such parties could be guaranteed by APS.

AYP Capital, through December 31, 1999, would organize and invest in NEWCOs through (i) purchases of capital stock or, in the case of Project NEWCOs, partnership interests or trust certificates, (ii) capital contributions, and (iii) loans and conversion of such loans to capital contributions. APS and AYP Capital propose that amounts permitted to be invested by APS and AYP Capital shall be permitted to be reinvested by AYP Capital in NEWCOs. NEWCOs also would obtain loans from banks that might be guaranteed by APS or AYP Capital. Loans from third parties would be subject to the $100 million investment authority. Loans to NEWCOs would be subject to the parameters applicable to loans to AYP Capital except that guarantees of loans also might be made by AYP Capital.

APS and AYP Capital, through December 31, 1999, would guarantee or act as surety on bonds, indebtedness and performance and other obligations issued or undertaken by AYP Capital or NEWCOs. Such guarantees, indemnifications and sureties will be subject to the $100 million investment authority.

APS and AYP Capital also seek Commission authorization for Project NEWCOs to issue equity and debt securities through December 31, 1999 to third parties, with no recourse to AYP Capital, to finance EWGs and FUCOs (''Exempt Subsidiaries''). Such nonrecourse debt securities would not exceed $200 million. Equity securities could include shares of capital stock, partnership interests or trust certificates. Nonrecourse debt securities could include secured and unsecured promissory notes, subordinated notes, bonds or other evidences of indebtedness. Securities could be denominated in either U.S. dollars or foreign currencies.

Evidence of indebtedness would mature within thirty years and would bear interest at a rate not to exceed: (i) 6.5% over the yield to maturity on an actively traded, non-callable, U.S. Treasury note with maturity equal to the average life of such indebtedness (''Applicable Treasury Rate''), for fixed-rate indebtedness, and 6.5% over the then applicable prime rate at a U.S. money center bank to be designated by APS (''Applicable Prime Rate''), for floating-rate indebtedness, if such indebtedness is U.S. dollar denominated; and (ii) at a fixed or floating rate which, when adjusted for inflation, would be equivalent to a rate on a U.S. dollar denominated borrowing of identical average life that does not exceed 10% over the Applicable Treasury Rate or Applicable Prime Rate, if such indebtedness is denominated in non-U.S. currency.

The issuance of nonrecourse debt securities by Project NEWCOs could include security interests in their assets. Such security interests could take the form of a pledge of the shares or other equity securities of an Exempt Subsidiary that it owns or a collateral assignment of its rights under and interests in other property.

AYP Capital anticipates that NEWCOs might not have paid employees, in which case personnel employed by Allegheny Power Service Corporation (''APSC''), a wholly owned subsidiary of APS, would provide a wide range of services to such NEWCOs pursuant to a service agreement. Under these service agreements, NEWCOs would reimburse APSC for the cost of services provided.

The Southern Company, et al. (70–8435)

The Southern Company (''Southern''), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, Atlanta, Georgia, and its subsidiaries, Alabama Power Company, 600 North 18th Street, Birmingham, Alabama 35291, Georgia Power Company, 333 Piedmont Avenue, NE., Atlanta, Georgia 30308, Gulf Power Company, 500 Bayfront Parkway, Pensacola, Florida 32501, Mississippi Power Company, 2992 West Beach, Gulfport, Mississippi 39501, Savannah Electric and Power Company, 600 Bay Street East, Savannah, Georgia 31401, Southern Company Services, Inc., 64 Perimeter Center East, Atlanta, Georgia 30346, Southern Electric International, Inc., 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338, Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Birmingham, Alabama 35204 and Southern Electric Generating Company, 600 North 18th Street, Birmingham, Alabama 35291, a subsidiary of Alabama Power Company and Georgia Power Company, have filed with this Commission under sections 6(a), 7, 32 and 33 of the Public Utility Holding Company Act of 1935, as amended (''Act'') and rules 53 and 54 thereunder a post-effective amendment to their application-declaration previously filed under sections 6(a), 7, 9(a), 10, 32 and 33 and rules 53 and 54 thereunder.

By order dated August 5, 1994 (HCAR No. 26098) (''1994 Order''), Southern was authorized to issue and sell in one or more transactions from time-to-time through December 31, 1997, an aggregate of 37 million shares of its authorized shares of common stock, $5 par value, as such number of shares may be adjusted for any subsequent share split, pursuant to its Dividend Reinvestment and Stock Purchase Plan, The Southern Company Employee Savings Plan, and the Employee Stock Ownership Plan of the Southern Company System (''Plans''). At May 31, 1995, there were 25,026,688 shares of the additional common stock remaining unsold under the Plans. Under the 1994 Order, Southern was authorized: (1) to use the proceeds from the sale of the additional common stock, together with

other available funds, to make investments in subsidiaries, to the extent authorized in separate proceedings; and (2) to use up to $500 million of the proceeds of the additional common stock to make investments in one or more ''exempt wholesale generators'' (''EWG'') and ''foreign utility companies'' (''FUCO''), as those terms are defined in sections 32 and 33 of the act, respectively.

Southern is now seeking approval to use the proceeds of the additional common stock to make investments, directly or indirectly, in the securities of one or more EWGs or FUCOs, provided that the net proceeds from sales of common stock used to make such investments, when added to such investments using other authorized sources of funds, will not, in the aggregate, exceed the greater of: (1) $1.072 billion; and (2) the difference, at any point in time, between 50% of Southern's ''consolidated retained earnings'' and Southern's ''aggregate investment,'' each as determined under rule 53(a). At March 31, 1995, 50% of Southern's ''consolidated retained earnings'' was about $1.572 billion and its ''aggregate investment'' in EWGs and FUCOs was about $500.1 million. No other changes to the terms of the 1994 Order have been requested by the Applicants.

SIGCORP, Inc., et al. (70–8635)

SIGCORP, Inc., 20 N.W. Fourth Street, Evansville, Indiana 47741–0001, a wholly owned subsidiary of Southern Indiana Gas and Electric Company (''SIGECO''), an Indiana public-utility holding company exempt from registration under section 3(a)(1) of the Act by order and pursuant to rule 2, has filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act to acquire all of the outstanding common stock of SIGECO and, indirectly, SIGECO's 33% interest in Community Natural Gas Company, Inc. (''Community'') and SIGECO's 100% interest in Lincoln Natural Gas Company (''Lincoln''), both gas utility subsidiary companies of SIGECO.

SIGCORP requests an order approving the proposed acquisition of SIGECO, Community and Lincoln under sections 9(a) and 10, and granting an exemption under section 3(a)(1) from all provisions of the Act except 9(a)(2) following the acquisition. SIGCORP's proposed acquisition is part of a corporate restructuring in which SIGCORP will become a holding company over SIGECO. SIGCORP states that the proposed restructuring is intended to permit it to participate in independent power projects, energy marketing activities and other non-regulated and nonutility businesses without the need for prior regulatory approvals, to increase financial flexibility, to enhance managerial accountability for separate business activities, and to protect SIGECO and its ratepayers from the risks and costs of nonutility projects.

SIGCORP was incorporated under Indiana law to carry out the restructuring and presently does not conduct any business or own any utility assets. SIGECO is a gas and electric public-utility company engaged in the generation, transmission, distribution and sale of electric energy and the purchase of natural gas and its transportation, distribution and sale in a service area which covers ten counties in southwestern Indiana.[2] In addition to Community[3] and Lincoln,[4] SIGECO also owns 1.5% of the outstanding capital stock of Ohio Valley Electric Corporation (''OVEC'').[5] SIGECO engages in certain nonutility businesses through four wholly owned subsidiaries, each of which is an Indiana corporation.[6]

The acquisition will be accomplished through an exchange (''Exchange'') of each outstanding share of SIGECO common stock for one share of SIGCORP common stock. As a result of the Exchange, each share of SIGECO common stock will be exchanged automatically with one share of SIGCORP. After the Exchange, SIGECO will continue to conduct its utility business as a wholly owned subsidiary of SIGCORP. Following the Exchange, SIGECO will transfer its common stock holdings in its four nonutility subsidiaries to SIGCORP.

SIGCORP states that there will be no exchange of, or any changes to, SIGECO's outstanding preferred stock and debt securities.

SIGCORP states that following the Exchange, it will be a public-utility holding company entitled to an exemption under section 3(a)(1) of the Act from all the provisions of the Act except for section 9(a)(2) because it and each of its public utility subsidiaries from which it derives a material part of its income will be predominately intrastate in character and will carry on their business substantially in Indiana.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–17266 Filed 7–13–95; 8:45 am]

BILLING CODE 8010–01–M

[2] SIGECO provides electricity to approximately 118,992 residential, commercial, industrial, public street and highway lighting and municipal customers, and supplies natural gas service to approximately 102,929 residential, commercial, industrial and public authority customers through 2,644 miles of gas transmission and distribution lines. The only property SIGECO owns outside of Indiana is approximately eight miles of electric transmission line, located in Kentucky and interconnected with Louisville Gas and Electric Company's transmission system at Cloverport, Kentucky. SIGECO does not distribute any electric energy in Kentucky.

[3] Community is an Indiana corporation that owns and operates a small gas distribution system in southwestern Indiana.

[4] Lincoln is an Indiana corporation that owns and operates a distribution system in the City of Rockport, Spencer County, Indiana and surrounding territory. Lincoln serves approximately 1,300 customers in Spencer County in southwestern Indiana contiguous to the eastern boundary of SIGECO's gas territory and within SIGECO's electric service area, and owns, operates, maintains and manages plant, property, equipment and facilities used and useful for the transmission, transportation, distribution and sale of natural gas to the public. As of December 31, 1994, Lincoln represented approximately 0.29% of SIGECO's consolidated operating revenues, 0% of consolidated net income, 0.06% of consolidated net utility plant, and 0.08% of consolidated total assets.

[5] OVEC is an Ohio corporation formed in the early 1950's to supply electric power and energy to the federal government's gaseous diffusion plant near Portsmouth, Ohio; OVEC owns all the capital stock of Indiana-Kentucky Electric Corporation, an Indiana corporation formed for the same purpose.

[6] Southern Indiana Properties, Inc., formed to make nonutility investments in such activities as real estate partnerships, leveraged leases, and marketable securities; Energy Systems Group, Inc., formed to install energy efficient controls and equipment for industrial, commercial and governmental customers; Southern Indiana Minerals, Inc;, formed to process and market coal combustion by-products at SIGECO's power plants, including flue gas desulfurization sludge and coal ash; and Southern Indiana Network Communications, Inc., formed, but currently inactive, to serve as a vehicle for additional nonutility activities.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2792]

Florida; Declaration of Disaster Loan Area

Charlotte and DeSoto Counties and the contiguous Counties of Glades, Hardy, Hendry, Highlands, Lee, Manatee and Sarasota in the State of Florida constitute a disaster area as a result of damages caused by flooding which occurred on June 23 through 25, 1995. Applications for loans for physical damage may be filed until the close of business on September 5, 1995, and for economic injury until the close of business on April 8, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 279206 and for economic injury the number is 855300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 26, 1995.

John T. Spotila,

Acting Administrator.

[FR Doc. 95–17365 Filed 7–13–95; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2783]

Missouri; Declaration of Disaster Loan Area (Amendment #1)

The above-numbered Declaration is hereby amended, in accordance with notices from the Federal Emergency Management Agency dated June 20, 22, and 23, 1995, to include the following counties in the State of Missouri as a disaster area due to damages caused by severe storms, hail, tornadoes, and flooding: Adair, Andrew, Atchison, Barry, Bates, Camden, Chariton, Cooper, Daviess, DeKalb, Gentry, Henry, Howard, Jackson, Jasper, Lafayette, Lewis, Linn, Macon, Maries, McDonald, Moniteau, Morgan, New Madrid, Newton, Perry, Pemiscot, and Warren. This Declaration is further amended, effective June 23, 1995, to establish the incident period for this disaster as beginning on May 13, 1995 and continuing through June 23, 1995.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Buchanan, Dade, Dallas, Dunklin, Grundy, Harrison, Holt, Laclede, Lawrence, Marion, Nodaway, Putnam, Shelby, Stoddard, Stone, Sullivan, and Worth Counties in Missouri; Benton, Carroll, and Mississippi Counties in Arkansas; Delaware and Ottawa Counties in Oklahoma; Cherokee, Doniphan, Johnson, Miami, and Wyandotte Counties in Kansas; Nemaha, Otoe, and Richardson Counties in Nebraska; Fremont and Page Counties in Iowa, and Dyer and Lake Counties in Tennessee.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is August 11, 1995, and for loans for economic injury the deadline is March 12, 1996.

The economic injury numbers are 853400 for Missouri, 853300 for Illinois, 853900 for Iowa, 854000 for Kentucky, 854500 for Kansas, 855400 for Arkansas, 855500 for Oklahoma, 855600 for Nebraska, and 855700 for Tennessee.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated June 30, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–17366 Filed 7–13–95; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2797]

Ohio; Declaration of Disaster Loan Area

Franklin County and the contiguous counties of Delaware, Fairfield, Licking, Madison, Pickaway, and Union in the State of Ohio constitute a disaster area as a result of damages caused by severe storms and flooding which occurred on June 26, 1995. Applications for loans for physical damage may be filed until the close of business on September 7, 1995, and for economic injury until the close of business on April 8, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 279706 and for economic injury the number is 856900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 7, 1995.

John T. Spotila,

Acting Administrator.

[FR Doc. 95–17367 Filed 7–13–95; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000171]

Creditanstalt Small Business Investment Corporation; Notice of Filing of Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Creditanstalt Small Business Investment Corporation, 245 Park Avenue, 27th Floor, New York, NY 10167, for a license to operate as a small business investment corporation (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The applicant is a wholly owned second tier subsidiary of Creditanstalt-Bankverein formed under Delaware law. Its areas of operation are intended to be diversified among numerous regions and industries throughout the United States, with particular emphasis in the southeast, northeast, and west coast. The applicant's officers will be Dennis C. O'Dowd (President), Kathy L. Herbert (Secretary), and Peter A. Poelzlbauer (Treasurer). All three are officers of Creditanstalt American Corporation (CAC) and/or Creditanstalt-Bankverein, and each has extensive experience in banking, finance, and investment analysis.

Creditanstalt Small Business Investment Corporation will begin operations with committed capital of $2.5 million from CAC with additional capital contributed over time, as necessary, to fund investment opportunities when they arise once applicant is granted a license to operate as a small business investment company. Creditanstalt SBIC's entire $2.5 million of initial private capital is being contributed by CAC, its sole shareholder. Accordingly, the following shareholder will own 10 percent or more of the proposed SBIC:

Name	Percentage of ownership
Creditanstalt American Corporation, 245 Park Avenue, 27th Floor, New York, New York 10167	100

The applicant intends to focus on subordinated debt and equity investments in small to medium size companies across a variety of industries. The applicant anticipates having a particular emphasis in the telecommunications, information services and healthcare industries. The applicant does not plan to seek financing from the SBA.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: July 6, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–17368 Filed 7–13–95; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on June 16, 1995.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package.)

1. Certificate of Coverage Request—0960–NEW. The information is used by the Social Security Administration to provide a certificate of coverage from the United States social security system to an individual working in a foreign country. This certificate exempts the individual from paying taxes into a foreign social security system. The respondents are workers and employers whose work is performed in a foreign country.

Number of Respondents: 24,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 12,000 hours

2. Disability Report, Vocational Report—0960–0141. The information on forms SSA–3368 and SSA–3369 is used by the Social Security Administration to help make a disability determination. The forms are essential to case development and adjudication. The respondents are individuals who file for disability benefits.

	SSA–3368	SSA–3369
Number of Respondents.	2,264,000 ...	1,000,000
Frequency of Response.	1	1
Average Burden Per Response.	45 minutes .	30 minutes
Estimated Annual Burden.	1,698,000 hrs.	500,000 hrs.

3. SSA Automated SML Application—0960–0475. The information on form SSA–4123 is used to maintain an automated solicitation mailing list of qualified vendors wanting to do business with the Social Security Administration (SSA). The respondents are vendors who wish to be listed on SSA's automated solicitation mailing list.

Number of Respondents: 4,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 333 hours

4. Social Security Medical Report (General)—0960–0052. The information on form SSA–3826 is used by the Social Security Administration to determine the claimant's physical status prior to making a disability determination. The information is used to document disability claims folders with medical evidence.

Number of Respondents: 750,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 375,000 hours

5. Request for Social Security Earnings Information—0960–0525. The information on form SSA–7050 is used by the Social Security Administration (SSA) to identify the request, define the earnings information being requested, and inform the requestor of the fee for such information. The above data is then used by SSA to produce the requested statement. The respondents are individuals and organizations which use this form to request statements of earnings from SSA.

Number of Respondents: 40,000
Frequency of Response: 1
Average Burden Per Response: 11 minutes
Estimated Annual Burden: 7,333 hours

6. Employee Identification Statement—0960–0473. The information on form SSA–4156 is used by the Social Security Administration to resolve situations in which two or more individuals have used the same social security number (SSN) and an employer has erroneously reported earnings under an SSN. The affected public is comprised of employers involved in erroneous wage reporting.

Number of Respondents: 4,750
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 792 hours

7. Report of Work Activity—Continuing Disability—0960–0108. The information on form SSA–3945 is used by the Social Security Administration to determine whether work performed by an individual, after his or her entitlement to disability benefits, is cause for that entitlement to end. The affected public consists of disability beneficiaries who work after their entitlement.

Number of Respondents: 140,000
Frequency of Response: 1
Average Burden Per Response: 45 minutes
Estimated Annual Burden: 105,000 hours

8. Medical History and Disability Report—0960–0504. The information on form SSA–3820 is used by the Social Security Administration to help make a determination in claims for disabled children. The respondents are claimants for disability benefits.

Number of Respondents: 453,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 151,000 hours

9. Statement Regarding Student's Attendance—0960–0113. The information on form SSA–2434 is used

by the Social Security Administration to determine student status of the children of coal miners or their widows or brothers of deceased coal miners eligible for black lung benefits.

Number of Respondents: 4,340
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 723 hours

10. Summary of Evidence—0960–0430. The information on form SSA–887 is used to provide a list of the medical/vocational reports pertaining to the claimant's disability. The list is used in and critical to the hearings process. The respondents are State and Disability Determination staff.

Number of Respondents: 22,024
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 5,506 hours

11. Request For Change In Time/Place of Disability Hearing— 0960–0348. The information on form SSA–769 is used to provide claimants a structured format for exercising their right to request a change in the time or place of a scheduled disability hearing. The information will be used as a basis for granting or denying requests for changes and for rescheduling hearings. The affected public is comprised of claimants who wish to request a change in the time or place.

Number of Respondents: 7,483
Frequency of Response: 1
Average Burden Per Response: 8 minutes
Estimated Annual Burden: 998 hours

12. Time Report of Personnel Services for Disability Determination Services—0960–0408. The information on form SSA–4514 is used by the Social Security Administration (SSA) for budgeting and accounting for the funds used by State Agencies for personnel involved in making disability determinations for SSA. The affected public consists of State Agencies which make those determinations.

Number of Respondents: 54
Frequency of Response: Quarterly
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 108 hours

13. Payment of Certain Travel Expenses—0960–0504. The information required by 20 CFR 404.999(d) and 20 CFR 416.1499 is used by the Social Security Administration to reimburse a claimant who has been required to travel over 75 miles to appear at a medical examination or disability hearing. The affected public is comprised of claimants required to travel more than 75 miles in order to attend a medical examination or a disability hearing.

Number of Respondents: 50,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 8,333 hours

14. Request for Reconsideration—Disability Cessation—0960–0504. The information on form SSA–789 is used by the Social Security Administration to schedule hearings and to develop additional evidence for individuals who have received an initial or revised determination that their disability ceased, did not exist, or is no longer disabling. The respondents are disability beneficiaries who file a claim for reconsideration.

Number of Respondents: 15,015
Frequency of Response: 1
Average Burden Per Response: 12
Estimated Annual Burden: 3,003

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, D.C. 20503.

Dated: July 7, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 95–17305 Filed 7–13–95; 8:45 am]

BILLING CODE 4190–29–P

Rescission of Social Security Acquiescence Rulings 86-6(3), 86-7(5), 86-8(6), 86-9(9), 86-10(10), 86-11(11) and 93-6(8)

AGENCY: Social Security Administration.

ACTION: Notice of rescission of Social Security Acquiescence Rulings 86-6(3)—*Aubrey* v. *Richardson*, 462 F.2d 782 (3d Cir. 1972); *Shelnutt* v. *Heckler*, 723 F.2d 1131 (3d Cir. 1983); 86-7(5)—*Autrey* v. *Harris*, 639 F.2d 1233 (5th Cir. 1981); *Wages* v. *Schweiker*, 659 F.2d 59 (5th Cir. 1981); 86-8(6)—*Johnson* v. *Califano*, 607 F.2d 1178 (6th Cir. 1979); 86-9(9)—*Secretary of Health, Education and Welfare* v. *Meza*, 368 F.2d 389 (9th Cir. 1966); *Gardner* v. *Wilcox*, 370 F.2d 492 (9th Cir. 1966); 86-10(10)—*Edwards* v. *Califano*, 619 F.2d 865 (10th Cir. 1980); 86-11(11)—*Autrey* v. *Harris*, 639 F.2d 1233 (5th Cir. 1981); and 93-6(8)—*Brewster on Behalf of Keller* v. *Sullivan*, 972 F.2d 898 (8th Cir. 1992).

SUMMARY: In accordance with 20 CFR 404.985(e) and 422.406(b)(2), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Rulings 86-6(3), 86-7(5), 86-8(6), 86-9(9), 86-10(10), 86-11(11) and 93-6(8).

EFFECTIVE DATE: July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4), a Social Security Acquiescence Ruling may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On April 2, 1986, we issued Acquiescence Rulings 86-6(3), 86-7(5), 86-8(6), 86-9(9), 86-10(10) and 86-11(11) to reflect the respective holdings in *Aubrey* v. *Richardson*, 462 F.2d 782 (3d Cir. 1972), *Shelnutt* v. *Heckler*, 723 F.2d 1131 (3d Cir. 1983); *Autrey* v. *Harris*, 639 F.2d 1233 (5th Cir. 1981), *Wages* v. *Schweiker*, 659 F.2d 59 (5th Cir. 1981); *Johnson* v. *Califano*, 607 F.2d 1178 (6th Cir. 1979); *Secretary of Health, Education and Welfare* v. *Meza*, 368 F.2d 389 (9th Cir. 1966), *Gardner* v. *Wilcox*, 370 F.2d 492 (9th Cir. 1966); *Edwards* v. *Califano*, 619 F.2d 865 (10th Cir. 1980); *Autrey* v. *Harris*, 639 F.2d 1233 (5th Cir. 1981). On August 16, 1993, we issued AR 93-6(8) to reflect the holding in *Brewster on Behalf of Keller* v. *Sullivan*, 972 F.2d 898 (8th Cir. 1992). These circuit court holdings provided that, under regulation 20 CFR 404.721(b), the presumption of death arises when a claimant shows that an individual has been absent from his or her residence and not heard from for seven years. Furthermore, the holdings provided that, once the claimant has made a showing establishing the presumption, the Social Security Administration (SSA)[1] has the burden of

[1] Under the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103-296, effective March 31, 1995, the Social Security Administration (SSA) became an independent Agency in the Executive Branch of the United States Government and was provided ultimate responsibility for administering the Social

Continued

rebutting the presumption of death either by presenting evidence that the missing individual is still alive or by providing an explanation to account for the individual's absence in a manner consistent with continued life rather than death.

On April 17, 1995, we published our final regulation (60 FR 19163), revising section 404.721(b) of Social Security Regulations No. 4 (20 CFR 404.721(b)), to provide that the presumption of death arises when a claimant establishes that an individual has been absent from his or her residence and not heard from for seven years. Once the presumption arises, the burden then shifts to SSA to rebut the presumption either by presenting evidence that the missing individual is still alive or by providing an explanation to account for the individual's absence in a manner consistent with continued life rather than death.

Because the change in the regulation adopts the holdings of the Third, Fifth, Sixth, Eighth, Ninth, Tenth and Eleventh Circuits on a nationwide basis, we are rescinding Acquiescence Rulings 86-6(3), 86-7(5), 86-8(6), 86-9(9), 86-10(10), 86-11(11) and 93-6(8).

(Catalog of Federal Domestic Assistance Programs Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivors Insurance.)

Dated: July 5, 1995.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 95–17306 Filed 7–13–95; 8:45 am]

BILLING CODE 4190–29–F

Security programs under title II of the Act. Prior to March 31, 1995, the Secretary of Health and Human Services had such responsibility.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Union Pacific Railroad (UP)

Docket Number LI–95–15

The UP is seeking a waiver of compliance from certain sections of the Railroad Locomotive Safety Standards, 49 CFR Part 229. The UP request is for a temporary waiver of the reporting requirements of § 229.21(a), Daily Inspection, which requires that each locomotive in use must be inspected at least once during each calendar day. A written report of the inspection shall be made. The report shall contain the name of the carrier, the initial and number of the locomotive, the place, date and time of the inspection, a description of the noncomplying condition disclosed by the inspection, and the signature of the employee making the inspection. Any conditions that constitute noncompliance with any requirements with Part 229 shall be repaired before the locomotive is used and the person making the repairs shall sign the report. The report shall be filed and retained for at least 92 days in the office of the carrier at the terminal at which the locomotive is cared for.

The waiver would be for a six month period on a limited portion of the UP railroad to permit relief from the requirements that reports of the locomotive daily inspections be in (1) paper form (UPRR Form 25005), (2) signed by the person performing the inspections and (3) signed by the person performing the repairs when applicable. The UP proposes to enter and store the reports in a computerized system utilizing electronic signatures. The project would be on the UP railroad in the States of Oregon (OR) and Washington (WA) bound by Hinkle, OR, Spokane, WA, Albina (Portland), OR, and Seattle, WA.

The locomotive inspection reports would be entered into a computer by the personnel involved in the inspections and repairs using an electronic signature. Each employee subject to making entries into this electronic system would be required to LOGON in the computer with a unique User ID and Password known only to that employee. The UP states that the computer program would record the User ID and name of the employee for future reference should it be needed. Also, another advantage of this process is that the daily inspection records would be stored in the computer for the 92-day period required by the regulation. The computer stored records could be readily recalled at any location on the UP for inspection by FRA personnel. A joint UP and Brotherhood of Locomotive Engineers task force developed the computer based system for logging the reports through the use of a series of input screens that are part of a computerized tieup process called =TE. The UP states that the computer based reporting of the daily inspection would have no adverse affect upon the safety of train operations.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number LI–95–15) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on July 11, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–17371 Filed 7–13–95; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

[Docket No. 95–53; Notice 1]

Cantab Motors, Ltd.; Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standards No. 208 and 214

Cantab Motors, Ltd., of Round Hill, VA, has applied for a temporary exemption of two years from paragraph S4.1.4 of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, and from Federal Motor Vehicle Safety Standard No. 214 *Side Impact Protection*. The basis of the application is that compliance will cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

The make and type of passenger car for which exemption is requested is the Morgan open car or convertible. Morgan Motor Company (''Morgan''), the British manufacturer of the Morgan, has not offered its vehicle for sale in the United States since the early days of the Federal motor vehicle safety standards. In the nine years it has been in business, the applicant has bought 35 incomplete Morgan cars from the British manufacturer, and imported them as motor vehicle equipment, completing manufacture by the addition of engine and fuel system components. They differ from their British counterparts, not only in equipment items and modifications necessary for compliance with the Federal motor vehicle safety standards, but also in their fuel system components and engines, which are propane fueled. As the party completing manufacture of the vehicle, Cantab certifies its conformance to all applicable Federal safety and bumper standards. The vehicle completed by Cantab in the U.S. is deemed sufficiently different from the one produced in Britain that NHTSA considers Cantab the manufacturer, not a converter, even though the brand names are the same.

Morgan itself produced 478 cars in 1994, while in the year preceding the filing of its petition in June 1995, the applicant produced 9 cars for sale in the United States. Since the granting of its exemption in 1990, Cantab has invested $38,244 in research and development related to compliance with Federal safety and emissions standards. The applicant has experienced a net loss in each of its last three fiscal (calendar) years, with a cumulative net loss for this period of $92,594.

Application for Exemption From Standard No. 208

Cantab received NHTSA Exemption No. 90–3 from S4.1.2.1 and S4.1.2.2 of Standard No. 208, which expired May 1, 1993 (55 FR 21141). When this exemption was granted in 1990, the applicant had concluded that the most feasible way for it to conform to the automatic restraint requirements of Standard No. 208 was by means of an automatically deploying belt. In the period following the granting of the exemption, Morgan and the applicant created a mock-up of the Morgan passenger compartment with seat belt hardware and motor drive assemblies. In time, it was determined that the belt track was likely to deform, making it inoperable. The program was abandoned, and Morgan and Cantab embarked upon research leading to a dual airbag system.

According to the applicant, Morgan tried without success to obtain a suitable airbag system from Mazda, Jaguar, Rolls-Royce and Lotus. As a result, Morgan is now developing its own system for its cars, and ''[a]s many as twelve different sensors, of both the impact and deceleration (sic) type, have been tested and the system currently utilizes a steering wheel from a Jaguar and the Land Rover Discovery steering column.'' Redesign of the passenger compartment is underway, involving knee bolstering, a supplementary seat belt system, anti-submarining devices, and the seats themselves. Morgan informed the applicant on May 2, 1995, that it had thus far completed 10 tests on the mechanical components involved ''and are now carrying out a detailed assessment of air bag operating systems and columns before we will be in a position to undertake the full set of appropriate tests to approve the installation in our vehicles.''

Application for Exemption from Standard No. 214

Concurrently, Morgan and the applicant have been working towards meeting the dynamic test and performance requirements for side impact protection, for which Standard No. 214 has established a phase-in schedule. Although Morgan fits its car with a dual roll bar system specified by Cantab, and Cantab installs door bars and strengthens the door latch receptacle and striker plate, the system does not yet conform to the new requirements of Standard No. 214. It does, however, meet the previous side door strength requirements of the standard. Were the phase-in requirement of S8 applied to it, calculated on the basis of its limited production, only very few cars would be required to meet the standard.

Safety and Public Interest Arguments

Because of the small number of vehicles that the applicant produces and its belief that they are used for pleasure rather than daily for business commuting or on long trips, and because of the three-point restraints and side impact protection currently offered, the applicant argues that an exemption would be in the public interest and consistent with safety. It brings to the agency's attention two recent oblique front impact accidents at estimated speeds of 30 mph and 65 mph respectively in which the restrained occupants ''emerged unscathed.''

Further, the availability ''of this unique vehicle * * * will help maintain the existing diversity of motor vehicles available to the U.S. consumer.'' Finally, ''the distribution of [this] propane-fueled vehicle has contributed to the national interest by promoting the development of motor systems by using alternate fuels.''

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 14, 1995.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on July 10, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–17297 Filed 7–13–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

July 6, 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: 1545–0016
Form Number: IRS Form 706–A
Type of Review: Extension
Title: United States Additional Estate Tax Return
Description: Form 706–A is used by individuals to compute and pay the additional estate taxes due under Code section 2032A(c). IRS uses the information to determine that the taxes have been properly computed. The form is also used for the basis election of section 1016(c)(1).
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 180
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hr., 17 min.
Learning about the law or the form—2 hr., 13 min.
Preparing the form—1 hr., 46 min.
Copying, assembling, and sending the form to the IRS—1 hr., 3 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 1,499 hours.

OMB Number: 1545–0021
Form Number: IRS Form 709–A
Type of Review: Extension
Title: United States Short Form Gift Tax Return.
Description: Form 709–A is used to report gifts that would be taxable except that they are ''split'' between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/taxpayers of the burden of filing Form 709. IRS uses the information to assure that ''gift-splitting'' was properly elected.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 45,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 min.
Learning about the law or the form—11 min.
Preparing the form—14 min.
Copying, assembling, and sending to the form to the IRS—20 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 43,650 hours.

OMB Number: 1545–0795
Form Number: IRS Form 8233
Type of Review: Extension
Title: Exemption From Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual.
Description: Compensation paid to nonresident alien (NRA) for independent personal service (i.e., as independent contractors) is generally subject to the 30% withholding or graduated rates. However, such compensation may be exempt from withholding because of a U.S. tax treaty or personal exemption amount. Form 8233 is used to request the exemption. A withholding agent reviews the form and accepts it or not and forwards the form to IRS if the agent accepted it.
Respondents: Business or other for-profit, Individuals or households
Estimated Number of Respondents/ Recordkeepers: 6,800
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—26 min.
Learning about the law or the form—12 min.
Preparing and sending the form to the IRS—41 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 9,044 hours

OMB Number: 1545–1072
Regulation ID Number: INTL–952–86 Final
Type of Review: Extension
Title: Allocation and Apportionment of Interest Expense
Description: The regulations provide rules concerning the allocation and apportionment of expenses to foreign source income for purposes of the foreign tax credit and other provisions
Respondents: Individuals or households, Business or other for-profit
Estimated Number of Respondents: 15,000
Estimated Burden Hours Per Respondent: 6 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 3,750 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. 95–17321 Filed 7–13–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

July 6, 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.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0005
Form Number: ATF F 3210.1
Type of Review: Extension
Title: Application for Restoration of Firearms and/or Explosives
Description: Certain categories of persons are prohibited from possessing explosives and firearms. This form is the basis for ATF investigating the merits of an applicant to have his rights restored.
Respondents: Individuals or households
Estimated Number of Respondents: 5,000
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,500 hours

OMB Number: 1512–0024
Form Number: ATF F 1 (5320.1)
Type of Review: Revision
Title: Application to Make and Register a Firearm
Description: This form is used by the public when applying to make a firearm that falls within the purview of the National Firearms Act (NFA). The information supplied by the applicant on the form helps to establish the applicants eligibility for approval of the request.
Respondents: Individuals or households, Business or other for-profit
Estimated Number of Respondents: 1,271
Estimated Burden Hours Per Respondent: 4 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 5,084 hours

OMB Number: 1512–0026
Form Number: ATF F 3 (5320.3)
Type of Review: Revision
Title: Application for Tax Exempt Transfer of Firearms and Registration of Special (Occupational) Taxpayer (26 U.S.C. 53, Firearms)
Description: This application allows a special taxpayer firearms licensee to transfer a National Firearms Act firearms without payment of tax to another eligible special taxpayer upon

approval of ATF. The approval form is proof that the firearm is legally helped and legally transferred to the current holder of the firearm. Conversely lack of the form could indicate illegal possession.
Respondents: Individuals or households, Business or other for-profit
Estimated Number of Respondents: 22,579
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 112,895 hours

OMB Number: 1512–0027
Form Number: ATF F 4 (5320.4)
Type of Review: Extension
Title: Application for Tax Paid Transfer and Registration of a Firearm
Description: This form must be submitted to ATF to obtain approval for tax paid transfers of NFA firearms. Approval of a transfer and registration of a firearm to a new owner are accomplished with the information supplied on this document.
Respondents: Individuals or households, Business or other for-profit
Estimated Number of Respondents: 7,853
Estimated Burden Hours Per Respondent: 4 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 31,412 hours

OMB Number: 1512–0095
Form Number: ATF F 5530.5
Type of Review: Extension
Title: Formula and Process for Nonbeverage Products
Description: Businesses which use taxpaid alcohol to manufacture nonbeverage products may file a claim for drawback (refund or remittance), if they can substantiate by using ATF Form 5530.5 that the spirits were used in the manufacture of products unfit for beverage use. This determination is based on the formula for the product.
Respondents: Business or other for-profit
Estimated Number of Respondents: 625
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,500 hours

OMB Number: 1512–0378
Recordkeeping Requirement ID Number: ATF REC 5530/1
Type of Review: Extension
Title: Applications and Notices—Manufacturers of Nonbeverage Products
Description: Reports (letterhead applications and notices) are submitted by manufacturers of nonbeverage products who are using distilled spirits on which drawback will be claimed. Reports ensure that operations are in compliance with the law; prevents spirits from diversion to beverage use. Protects the revenue.
Respondents: Business or other for-profit
Estimated Number of Respondents: 640
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 640 hours

OMB Number: 1512–0379
Recordkeeping Requirement ID Number: ATF REC 5530/12
Type of Review: Extension
Title: Manufacturers of Nonbeverage Products—Records to Support Claims for Drawback
Description: Records required to be maintained by manufacturers of nonbeverage products are used to verify claims for drawback of taxes and hence, protect the revenue. Maintains accountability; allows tracing of spirits by audit.
Respondents: Business or other for-profit
Estimated Number of Recordkeepers: 611
Estimated Burden Hours Per Recordkeeper: 21 hours
Frequency of Response: Monthly, Quarterly
Estimated Total Recordkeeping Burden: 12,831 hours

OMB Number: 1512–0514
Form Number: ATF F 5530.8
Type of Review: Extension
Title: Supporting Data for Nonbeverage Drawback Claims
Description: Data required to be submitted by manufacturers of nonbeverage products are used to verify claims for drawback of taxes and hence, protect the revenue. Maintains accountability, allows office (initial) verification of claims.
Respondents: Business or other for-profit
Estimated Number of Respondents: 611
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: Quarterly
Estimated Total Reporting Burden: 3,666 hours

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226
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. 95–17322 Filed 7–13–95; 8:45 am]
BILLING CODE 4810–31–P

Public Information Collection Requirements Submitted to OMB for Review

July 10, 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.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0020
Form Number: ATF F 9 (5320.0)
Type of Review: Extension
Title: Application and Permit for Permanent Exportation of Firearms
Description: This form is used to obtain permission to export firearms and serves as a vehicle to allow either the removal of the firearm from registration in the National Firearms Registration and Transfer Record or collection of an excise tax. It is used by Federal firearms licensees and others to obtain a benefit and by ATF to determine and collect taxes.
Respondents: Business or other for-profit, Individuals or households
Estimated Number of Respondents: 70
Estimated Burden Hours Per Respondent: 18 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,050 hours

OMB Number: 1512–0022
Form Number: ATF F 5320.20
Type of Review: Extension
Title: Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms
Description: This form is used to request permission to move certain NFA firearms in interstate or foreign commerce.
Respondents: Individuals or households
Estimated Number of Respondents: 800
Estimated Burden Hours Per Respondent: 30 minutes

Frequency of Response: On occasion
Estimated Total Reporting Burden: 400 hours

OMB Number: 1512–0028
Form Number: ATF F 5 (5320.5)
Type of Review: Revision
Title: Application for Tax-Exempt Transfer and Registration of a Firearm
Description: The National Firearms Act (NFA) requires that the information contained on this form be submitted to the Secretary for a tax exempt transfer of a NFA firearm. Approval of the form amends the record in the National Firearms Registration and Transfer Record to show the current owner of the firearm.
Respondents: Individuals or households, Business or other for-profit, Federal Government, State, Local or Tribal Government
Estimated Number of Respondents: 62,321
Estimated Burden Hours Per Respondent: 4 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 398,568 hours

OMB Number: 1512–0029
Form Number: ATF F 10 (5320.10)
Type of Review: Extension
Title: Application for Registration of Firearms Acquired by Certain Governmental Entities
Description: This form is used by State and local government agencies to obtain permission to register otherwise unregistrable firearms for agency use. These agencies obtain a benefit by this registration.
Respondents: State, Local or Tribal Government
Estimated Number of Respondents: 600
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 600 hours

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

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. 95–17323 Filed 7–13–95; 8:45 am]

BILLING CODE 4810–31–P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 135

Friday, July 14, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, July 19, 1995.

PLACE: William McChesney Martin, Jr. Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–17411 Filed 7–12–95; 10:35 am]

BILLING CODE 6210–01–P

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: July 25, 1995, 11:30 a.m.–3:30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open except for the portions specified as closed session as provided in 22 CFR Part 1004.4(b).

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the July 25, 1995, Board Meeting.
2. President's Report.
3. Discussion on Future of the Foundation.
4. Executive Session on Personnel Implication in Fiscal Year 1996 (closed session).

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco Secretary to the Board of Directors (703) 841–3894.

Dated: July 11, 1995.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 95–17463 Filed 7–12–95; 12:01 pm]

BILLING CODE 7025–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 17, 1995.

An open meeting will be held on Wednesday, July 19, 1995, at 10:00 a.m. A closed meeting will be held on Thursday, July 20, 1995, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, July 19, 1995, at 10:00 a.m., will be:

Consideration of whether to issue a release proposing: (1) amendments to Form N–1A, the registration form used by open-end management investment companies, and Form N–3, the registration form used by separate accounts organized as management investment companies, that are designed to promote the use of money market fund prospectuses that are shorter, simpler, and more informative and readily understandable to investors, and (2) technical amendments applicable to other management investment companies. Consideration of whether to issue a release proposing a new rule under the Investment Company Act of 1940, rule 30b3–1, that would require money market funds to electronically file with the Commission quarterly reports describing in detail their portfolio holdings.

The subject matter of the closed meeting scheduled for Thursday, July 20, 1995, will be:

Institution of injunctive actions.
Settlement of injunctive action.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: July 12, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–17516 Filed 7–12–95; 3:45 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register

Vol. 60, No. 135

Friday, July 14, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs

Correction

In the correction to rule document 95–9915 appearing on page 33260, in the issue of Tuesday, June 27, 1995, paragraph designation 34. should read as set forth below:

§96.87 [Corrected]

34. On page 21362, in the third column, in §96.87(f)(2), the seventh line should read, ''increased, or if other charge(s) to the recipient were or will be imposed, as a result;

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1309, 1313, and 1316

[DEA No. 112F]

RIN 1117–AA23

Implementation of the Domestic Chemical Diversion Control Act of 1993 (PL 103–200)

Correction

In rule document 95–14978 beginning on page 32447 in the issue of Thursday, June 22, 1995, make the following corrections:

§ 1309.12 [Corrected]

1. On page 32455, in the second column, in § 1309.12(b), in the sixth line, insert ''after'' after ''days''.

§ 1313.34 [Corrected]

2. On page 32465, in the second column, in § 1313.34(a), in the fifth line, insert ''four years; declaration forms for'' after ''for''.

§ 1316.02 [Corrected]

3. On the same page, in the third column, in § 1316.02(c)(2), in the first line, ''factors,'' should read ''factories,''.

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act, Title III, Demonstration Program: Specialized/Targeted Dislocated Worker Services Project

Correction

In notice document 95–15073 beginning on page 32171, in the issue of Tuesday, June 20, 1995, make the following correction:

On page 32172, in the first column, under **DATES:**, in the fourth line, ''August 26, 1995,'' should read ''August 21, 1995,''.

BILLING CODE 1505–01–D

federal register

Friday
July 14, 1995

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Notice of Sale of HUD-Held Mutifamily Mortgage Loans; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–3931–N–01]

Notice of Sale of HUD-Held Multifamily Mortgage Loans

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

ACTION: Notice of sale of mortgage loans.

SUMMARY: This notice announces the Department's intention to sell certain unsubsidized mortgage loans, without Federal Housing Administration (FHA) insurance, in a competitive auction. This notice also describes the bidding process for these loans. This notice ensures compliance with the Department's mortgage sale regulations.

DATES: Bid Packages are currently available.

ADDRESSES: Interested parties may request a Bid Package by contacting an FHA sales representative at 1–800–877–4814. When the information is available, it will be forwarded by regular mail. Parties may make special arrangements to receive the information through expedited delivery.

Asset review files for all the mortgage loans included in this sale are currently available to prospective bidders for due diligence at the Due Diligence Facility located at 733 15th Street NW., Suite 800, Washington, DC 20005. The facility will be open to the public between the hours of 9 a.m. and 6 p.m., Monday through Friday. Interested parties wanting access to the facility may contact Mr. Wayne T. Thornton, Williams, Adley & Company, in writing at the above address, or by telephone at (202) 639–9700, to schedule access time. Asset review files may also be ordered and sent to prospective bidders in the manner described in the Bid Package.

FOR FURTHER INFORMATION CONTACT: William Richbourg, Office of the Housing—FHA Comptroller, Management Control Staff, HFFM, Room 5144, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 401–0577. Hearing- or speech-impaired individuals may call (202) 708–4594 (TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: In accordance with the final rule published in the **Federal Register** on September 22, 1994 (59 FR 48726) (Mortgage Sale Regulations), and specifically with 24 CFR 290.202 of that rule (59 FR 48731), the Department announces its intention to sell certain unsubsidized mortgage loans (Mortgage Loans). The Mortgage Loans comprising this auction encumber properties located throughout the United States (FHA National Mortgage Auction). A final listing of the specific properties involved in the FHA National Mortgage Auction will be included in the Bid Package. The Mortgage Loans will be sold without FHA insurance. The Department will offer interested parties an opportunity to bid competitively on the Mortgage Loans. Bids may be offered for one or all of the Mortgage Loans, as well as for any combination of Mortgage Loans. More particularly, a bidder may bid on as many individual Mortgage Loans as the bidder chooses. Further, a bidder may condition acceptance of its bids for individual Mortgage Loans upon being the successful bidder of Mortgage Loans with a minimum aggregate unpaid principal balance. The Department will accept those bids that optimize the gross proceeds from the sale.

The Bidding Process

The Department will describe in detail the procedure for participating in the National Mortgage Auction in a Bid Package, which will include a standardized nonnegotiable loan sale agreement (Loan Sale Agreement), as well as certain information concerning each of the Mortgage Loans, such as the unpaid principal balance and interest rate. The Department will distribute the Bid Package for a period of approximately 6 weeks prior to the date that bids are due. Bid Packages are currently available. Interested parties may request a Bid Package by contacting an FHA sales representative as specified in the **ADDRESSES** section, above, of this notice.

Bidders must include a 5 percent initial deposit with their bids. More specifically, if a bidder submits multiple bids, the initial deposit will be limited to 5 percent of the bidder's single largest bid amount. Similarly, the initial deposit for a bidder who has created a pool or a number of pools is limited to 5 percent of the single largest bid amount of the bidder's pool bids. The successful bidders will be notified within 2 business days (Award Date) after the Bid Date. An additional deposit is required from each successful bidder within 2 business days after the Award Date. This additional deposit when added to the initial deposit must total 10 percent of the bidder's successful bids. More specifically, if a bidder submits multiple individual bids, the additional deposit when added to the initial deposit must total 10 percent of the aggregate unpaid principal of all of the bidder's successful bids. Similarly, if a bidder submits a pool bid or multiple pool bids, the additional deposit must total 10 percent of the aggregate unpaid principal of all of the bidder's successful pool bids.

The Department will assign its interest in a Mortgage Loan to a successful bidder no more than 45 days after the Award Date. If the successful bidder fails to abide by the terms of the Loan Sale Agreement, including paying the Department any remaining sums due pursuant to the Loan Sale Agreement and closing within the time period provided by the Loan Sale Agreement, the Department shall retain and accept as liquidated damages the initial and additional deposit (plus interest) from the successful bidder.

These are the essential terms of sale. The Loan Sale Agreement, which is included in the Bid Package, will provide additional details. TO ENSURE A COMPETITIVE BIDDING PROCESS, THE TERMS OF SALE ARE NOT SUBJECT TO NEGOTIATION.

Due Diligence Facility

During the 6 week distribution period for Bid Packages, a due diligence facility will be available to interested parties, at which the Department will provide information such as environmental and title reports and market data. The address of the facility is specified in the ADDRESSES section, above. The Department anticipates that information will be available in both electronic and hard copy forms. The Department reserves the right to charge a reasonable fee to recover its costs in duplicating and forwarding any information requested by an interested party, as well as an access fee to the due diligence facility, which will be credited to the purchase of any asset review files.

Mortgage Sale Policy

The Department reserves the right to add or delete Mortgage Loans to the FHA National Mortgage Auction at any time prior to the Bid Date. The Department also reserves the right to reject any and all bids, without prejudice to the Department's right to include any Mortgage Loans in a later sale.

This notice is to ensure compliance with the Mortgage Sale Regulations. These regulations were promulgated in consideration of the settlement that the Department entered into in *Walker* v. *Kemp*, No. C 87 2628 RFP (N.D. Cal.). In settling the matter, the Department agreed, with regard to specific mortgages, to consider, prior to the sale

of such mortgages, certain factors pertaining to the protection of tenant interests in subsidized projects with HUD-held mortgage loans. By following the Mortgage Sale Regulations, the Department is in compliance with the terms of the settlement.

This is a sale of unsubsidized mortgage loans. Therefore, the Department has determined that pursuant to the Mortgage Sale Regulations, the Mortgage Loans may be sold without FHA insurance. At this time, the Department knows of no Mortgage Loans securing projects (1) for which foreclosure appears unavoidable, and (2) in which reside very low-income tenants who are not receiving housing assistance and would be likely to pay rent in excess of 30 percent of their adjusted monthly income if HUD sold the mortgage (24 CFR 290.202, see 59 FR 48731, September 22, 1994). If the Department determines that there are any such Mortgage Loans, they will be removed from this sale.

Mortgage Loan Sale Procedure

The Department selected a competitive auction as the method to sell the Mortgage Loans primarily to satisfy the Mortgage Sale Regulations. These regulations require that, except under certain limited circumstances, mortgages must be sold on a competitive basis (24 CFR 290.200(a), see 59 FR 48730, September 22, 1994). This method of sale optimizes the Department's return on the sale of these Mortgage Loans, affords the greatest opportunity for all interested parties to bid on the Mortgage Loans, and provides the quickest and most efficient vehicle for the Department to dispose of the Mortgage Loans.

At one time, the Department considered and discussed with industry participants a loan sale procedure that afforded the borrowers the opportunity to acquire their Mortgage Loans on a noncompetitive basis prior to offering the Mortgage Loans for sale to all other interested parties (Borrower Settlement Option). For the reason set forth above, however, the Department decided to dispose of these Mortgage Loans through a competitive auction.

Application Of Replacement Reserve To Indebtedness

If a Mortgage Loan is in arrears at the time of closing, the Department will apply the funds in the replacement reserve account to the amount due the Department under the Mortgage Loan and, thereafter, the balance in the replacement reserve account, if any, will be transferred to the mortgagor. If a Mortgage Loan is current at the time of closing, the funds in the replacement reserve account will be returned to the mortgagor in accordance with such terms and conditions as may be established by the Department.

Timely Bids and Deposits

Each bidder assumes all risks of loss relating to its failure to deliver, or cause to be delivered, on a timely basis and in the manner specified by the Department, each bid form, earnest money deposit and Loan Sale Agreement required to be submitted by the bidder.

Ties for High Bidder

In the event there is a tie for a high bid, the Department, through its financial advisor, will contact the parties with the tie bid and afford each of them an opportunity to offer a best and final bid. The successful bidder will be the one with the highest bid. If a tie continues after the best and final offers are submitted or the bidders do not respond, or do not respond within the time period established by the Department, the successful bidder will be determined by lottery. Notwithstanding the above, the Department reserves the right to withdraw any Mortgage Loan(s) subject to a tie bid.

Status of Mortgage Loans

As of May 31, 1995, none of the Mortgage Loans were delinquent by an amount of more than one monthly payment. One or more of the Mortgage Loans, however, may become delinquent and one or more of the Mortgage Loans that are delinquent may become performing, on or before the date that title to the Mortgage Loan(s) is transferred to the successful bidder. Mortgage Loans that are delinquent on May 31, 1995 may become more delinquent prior to closing.

Ineligible Bidders

The following individuals and entities (either alone or in combination with others) are ineligible to bid on any one or combination of the Mortgage Loans included in the FHA National Mortgage Auction:

(1) Any employee of the Department;

(2) Any individual or entity that is debarred from doing business with the Department pursuant to 24 CFR part 24;

(3) Any contractor, subcontractor and/or consultant (including any agent of the foregoing) who performed services for, or on behalf of, the Department in connection with the FHA National Mortgage;

(4) Any individual that was a principal and/or employee of any entity or individual described in paragraph (3) above at any time during which the entity or individual performed services for, or on behalf of, the Department in connection with the FHA National Mortgage.

(5) Any entity or individual that served as a loan servicer or performed other services for, or on behalf of the Department, with respect to any of the mortgage loans included in the FHA National Mortgage Auction at any time during the two-year period prior to August 16, 1995; and

(6) Any individual that was a principal and/or employee of any entity or individual described in paragraph (5) above at any time during the two-year period prior to August 16, 1995, except, however, any entity or individual described in paragraphs (5) and (6) shall be permitted (subject to the terms and conditions of any agreement the entity or individual has previously entered into in connection with the FHA National Mortgage Auction and/or other agreements entered into with, or on behalf of, the Department), to:

(i) Perform services as a consultant and/or advisor to any bidder who is eligible to bid at the FHA National Mortgage Auction, provided that such services do not involve the use of any materials or information not otherwise available to the general public that were produced or developed for, or on behalf of, the Department; and

(ii) Bid on any of the Mortgage Loans included in the FHA National Mortgage Auction that were not serviced by such entity or individual described in paragraphs (5) or (6) at any time during the two-year period prior to August 16, 1995.

Freedom of Information Requests

HUD has approved a policy for responding to Freedom of Information Act requests for sales information on HUD's Multifamily Mortgage Loan Sales. The purpose of this policy is to clarify for the public and potential purchasers of HUD-held multifamily project mortgages the types of sales information that will be disclosed under the Department's HUD-held multifamily mortgage sales program and to strike a balance between HUD's policy of disclosing as much information as possible to the public and the specific mandates of the Multifamily Housing Property Disposition Reform Act of 1994 to reduce losses to the FHA fund through mortgage sales. The Department has determined that Freedom of Information Act requests for certain types of sales information after the date of the auction but prior to the Department's closing of the sales would

have an adverse effect both on the commercial position of the prospective purchasers and on the integrity of the Department's auction process. In considering HUD's statutory obligations, HUD has decided that the sales information to be disclosed following the settlement of all sales transactions will consist of: (1) The names and addresses of the parties requesting bidder information packages; (2) the identities of the purchasers; and (3) the purchase price.

Scope of Notice

This notice applies to this FHA National Mortgage Auction, and does not establish the Department's policy for the sale of other mortgage loans.

Dated: July 10, 1995.

Jeanne K. Engel,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 95–17284 Filed 7–13–95; 8:45 am]

BILLING CODE 4210–27–P

Reader Aids

Federal Register

Vol. 60, No. 135

Friday, July 14, 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**
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