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WHEN: November 21 at 9:00 am and 1:30 pm

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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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV94–920–2FR]

Kiwifruit Grown in California; Revision of Pack and Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises pack and reporting requirements established under the Federal marketing order for kiwifruit grown in California. The first change standardizes packaging for certain volume filled containers packed by weight. For the 1994/95 season only, volume filled containers packed by weight will be required to be 22- or 23-pounds net weight if more than 10 pounds and less than 35 pounds. Thereafter, a 22-pound volume filled standard will be effective. The second change streamlines information collection requirements under the program by deleting a requirement that handlers file a Beginning Inventory Data form and adding reporting requirements for a Kiwifruit Inventory Shipment System (KISS) form. Since the KISS form is already in use by handlers, this requirement merely formalizes existing industry use of the KISS form.

EFFECTIVE DATE: This final rule becomes effective October 25, 1994.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901; or Mark Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2526–S, Washington, DC 20090–6456, telephone (202) 720–5127.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 [7 CFR Part 920], as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order 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 final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principle 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.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. 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 handlers of California kiwifruit subject to regulation under the order and approximately 600 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

Under the terms of the order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack, and container requirements.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the order, met on February 10, 1994, and unanimously recommended the following changes:

Pack Requirements

The committee recommended standardizing the weight of certain volume filled containers by requiring such containers to be marked by weight at either 22-pounds or 23-pounds net weight through July 31, 1995. For subsequent seasons, volume filled containers will be standardized at 22 pounds. Paragraph (a)(3) of § 920.52 specifies that the Secretary may fix the weight of containers used in the handling of kiwifruit.

In a volume filled container, fairly uniform size kiwifruit are loosely packed without cell compartments, cardboard fillers or molded trays. Handlers may ship volume filled containers marked by either the appropriate count or net weight of kiwifruit. Handler shipments are based upon the preference of the receiver. Volume filled containers marked by count will not be affected by this change. Also, containers of less than 10-pounds or more than 35-pounds net weight will not be affected by this revised weight standard. Thus the industry will continue to have the flexibility to utilize containers of different weights for a variety of buyer preferences.

Last season the industry standardized the weight of all volume filled

containers of kiwifruit designated by weight at 23-pounds net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit. The industry has since learned that the recognized world standard for volume filled containers of kiwifruit is 10-kilograms (10-kg) net weight which is equal to approximately 22 pounds. The industry has also become aware that neither foreign nor domestic buyers wish to pay more for a 23-pound box than for a 22-pound (10-kg) box. As a result, California marketers selling 23-pound containers have been disadvantaged in both export and domestic markets compared to marketers from other countries selling 22-pound (10-kg) containers of fruit.

The change to a standard container weight of 22-pounds net weight will enable the industry to mark volume filled containers both in terms of a unit of measure in pounds and with a metric weight. Standardizing the weight of volume filled containers marked by weights recognized in the world market will standardize marketing practices for the kiwifruit industry.

The committee considered immediately standardizing the minimum weight for volume filled containers at only 22 pounds (10 kg) rather than at 22 pounds or 23 pounds. However, all committee members were in favor of allowing handlers to continue to also pack or ship to the 23-pound standard for the 1994/95 season to enable handlers to utilize existing inventories of boxes and labels. Thus the requirement to ship only 22-pound net weight containers will be effective for the 1995–96 and subsequent seasons.

This final rule will impact all handlers in the same manner. The same size container currently used for the 23-pound standard can be used for the 22-pound (10-kg) standard. It is anticipated that only a small number of packages will be shipped in 23-pound containers during the 1994/95 season. This is because handlers shipping 23-pound containers have already expressed the concern that they do not receive a price premium for the extra pound of fruit in each container. This concern will be remedied by deleting the preprinted marking of 23 pounds, relabeling the container to read 22 pounds, and filling the container with 22 pounds of fruit. This change will impose some minimal costs on those handlers who choose to print new labels or convert 23-pound volume filled containers into other types of containers. However, the overall benefits to the California kiwifruit industry by standardizing volume filled containers at 22 pounds (10 kg), with the option of using existing labels and boxes for the 1994/95 season, will more than offset the costs imposed on handlers.

Reporting Requirements

Paragraphs (a) and (b) of § 920.60 authorize reporting requirements for kiwifruit handlers under the marketing order. Pursuant to § 920.160, the marketing order requires a Beginning Inventory Data form to be filed with the committee by each handler no later than five days after all fruit has been packed for the season, or such other later time as the committee may establish. This information includes beginning inventory by container type and by fruit size.

In 1990, the California Kiwifruit Commission, hereinafter referred to as the "State commission," adopted the Kiwifruit Inventory Shipment System (KISS) form. The KISS form is comprised of three sections: (1) The "KISS/Add Inventory" requires all handlers to report their beginning inventories by size and container type. Inventory includes all fruit packed at harvest; (2) The "KISS/Deduct Inventory" requires all handlers to report fruit lost in repack, fruit repacked into another container type, and adjustments to decrease posted inventory; and (3) The "KISS/Shipments" requires all handlers to report shipments by size and container type.

All three sections of the KISS form will be filed with the committee, on or before December 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, will be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish.

The adoption of the KISS form by the State commission resulted in redundant reporting requirements in the kiwifruit industry. The KISS form collects the same information as the Beginning Inventory Data form. This information is used to verify the total amount of fruit available for shipping, to calculate statistics, and to determine if assessments billed match reported shipments. In an effort to eliminate the redundant reporting requirements, the committee recommended that the Beginning Inventory Data form reporting requirement be deleted from paragraph (b) of § 920.160 and the KISS form reporting requirements be added. This rule is intended to enable kiwifruit handlers to efficiently file one form to meet the requirements of both the State commission and the Federal marketing order. Deleting the requirement for the Beginning Inventory Data form in paragraph (b) of § 920.160 and utilizing the KISS form will eliminate the submission of duplicate information.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. Chapter 35], the information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0149. Eliminating the Beginning Inventory Data form will decrease the information collection burden for the industry by 65 hours. It has been estimated that it will take an average of .5 hours for each of the approximately 65 handlers of kiwifruit to complete the KISS form. Thus the finalized change will increase the overall burden by 325 hours because the KISS form is filed with the committee more frequently.

A proposed rule concerning this action was published in the **Federal Register** on August 14, 1994 [59 FR 41717], with a 30-day comment period ending September 14, 1994. No comments were received.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** [5 U.S.C. 553] because: (1) Handlers have begun labeling boxes in preparation of shipping kiwifruit for the 1994/1995 season which began in mid-September; (2) Handlers are aware of this rule, which was unanimously recommended by the committee at a public meeting; and (3) a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.160, paragraph (b) is revised to read as follows:

§ 920.160 Reports.

* * * * *

(b) *Kiwifruit Inventory Shipping System (KISS) form.*

Each handler shall file with the committee the initial Kiwifruit Inventory Shipment System (KISS) form, which consists of three sections "KISS/Add Inventory," "KISS/Deduct Inventory," and "KISS/Shipment," on or before December 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, shall be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish, and will contain the following information:

(1) The beginning inventory of the handler by size and container type;

(2) The quantity of fruit the handler lost in repack and repacked into other container types;

(3) The total domestic and export shipments of the handler by size and container type; and

3. In § 920.302, paragraph (a)(4)(iv) is revised to read as follows:

§ 920.302 Grade, size, pack and container regulations.

* * * * *

(4) * * *

(iv) All volume filled containers of kiwifruit designated by weight shall hold 22-pounds (10-kilograms) net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit. *Provided*, That for the season ending July 31, 1995, such containers may also hold 23-pounds net weight of kiwifruit.

* * * * *

(4) Any other adjustments which increase or decrease posted handler inventory.

* * * * *

Dated: October 19, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–26459 Filed 10–20–94; 4:30 pm]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. 0840]

Credit by Brokers and Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting amendments to Regulation T. The amendments are part of the Board's review of Regulation T and respond to rulemaking by the Securities and Exchange Commission (SEC) concerning settlement of securities transactions and Congressional action concerning government securities. The proposed amendments were published for public comment in the **Federal Register** on July 1, 1994. The amendments address two general areas: payment periods for securities purchases and transactions in government securities. The amendments concerning payment periods will reduce by two days the amount of time customers have to meet initial margin calls or make full cash payment for securities at the same time the SEC reduces the standard settlement period by two days, require broker-dealers seeking an extension of this time period to obtain the extension from their designated examining authority if the balance due is $1000 or more, and revise regulatory language in the cash account so that the time periods within which extensions must be obtained and when the "90-day freeze" may be lifted are consistent for certain transactions in which settlement exceeds the standard settlement period. The amendments concerning transactions in government securities will exempt from Regulation T those broker-dealers registered with the SEC solely as government securities brokers or dealers and create a new account for customers of general broker-dealers that permits transactions in government securities to be effected without regard to other provisions of the regulation.

EFFECTIVE DATE: November 25, 1994.

FOR FURTHER INFORMATION CONTACT: Scott Holz, Senior Attorney or Angela Desmond, Senior Attorney, Division of Banking Supervision and Regulation (202) 452–2781; for the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202) 452–3544.

SUPPLEMENTARY INFORMATION: The proposed amendments are part of the Board's general review of Regulation T (Docket R–0772) and were published for public comment on July 1, 1994 (59 FR 33923). Twenty-two comments have been received. The comments on the proposed amendments concerning transactions in government securities were supported by all commenters, although some asked for additional amendments. The comments concerning the proposed reduction in payment periods were mixed, with some commenters in favor, some opposed, and some requesting a delay in the amendments' effectiveness. The related payment period issues were generally supported by the commenters, with the exception of the requirement that extensions be obtained solely from the broker-dealer's examining authority and the use of language that will automatically reduce the payment periods if the standard settlement cycle is reduced. Comments on these issues were also mixed.

The Board is adopting the proposed amendments substantially as proposed. Technical changes have been made in the regulatory language and structure to respond to comments and clarify the intent of the amendments. The two general areas are discussed below.

I. Payment Periods

A. T+3 and Shortening of Payment Periods

1. Introduction. On October 6, 1993, the SEC adopted Rule 15c6–1,[1] which establishes a standard three business day settlement cycle for most securities transactions in the United States, effective June 1, 1995. Regular settlement is presently effected in five business days. This new standard is often referred to as "T+3," meaning regular settlement will occur three business days after trade date. Regulation T contains a seven day time period within which brokers must obtain cash or margin deposits from their customers. The seven day payment period in Regulation T is based on the current five day settlement period.

The Board proposed shortening the payment period in Regulation T by the same amount of time that SEC Rule 15c6–1 shortens the standard settlement cycle. Instead of changing the phrase "seven business days" to "five business days," the proposal defined a new term, "payment period," to represent the number of days in the standard settlement cycle plus two business days. This formulation allows the regulation to be amended immediately without changing the current payment period. Once SEC Rule 15c6–1 becomes effective next June, the regulation will automatically require payment within five business days. Although the definition of payment period refers to settlement date, Regulation T remains a trade date based regulation. The use of the phrase "payment period" is meant to be an alternate way of requiring payment within seven business days until June 1995 and five business days thereafter, unless the SEC acts to further

[1] 17 CFR 240.15c6–1; 58 FR 52891 (October 13, 1993).

change the standard settlement cycle. Future changes by the SEC would be automatically incorporated in the Board's rule without the necessity of further amendment.

2. Issues raised by commenters. Comments on the proposal to shorten the payment periods in conjunction with the SEC's shortening of the standard settlement cycle were focused on three issues: whether the payment periods should be shortened, whether the proposed language clearly accomplishes this goal, and whether future reductions in the standard settlement period should be automatically accommodated or reviewed by the Board.

a. Shortening the payment period by two days. The Board is adopting the proposed amendments, subject to the clarification discussed in section b below. Many of the commenters who oppose shortening the payment periods had written to the SEC last year to oppose its T+3 proposal. The Board and the SEC both have responsibilities in the area of settlement and clearance. Shortening the Regulation T payment periods is consistent with (if not required by) the SEC's adoption of a three day settlement cycle. A failure to adjust the payment periods would lessen the overall benefits to be realized from the transition to T+3 and increase risk to the broker-dealer community since they will have to settle trades amongst themselves in the shortened time frame while allowing their customers' behavior and payment patterns to remain unchanged. Increased risk to broker-dealers also affects customers with cash and securities at those firms. Adoption of the proposed amendments by the Board does not reduce the two-day period currently provided to resolve payment problems, but merely clarifies that two days beyond the usual settlement date should be sufficient to resolve any mistakes in the payment process.

Some of the commenters opposed to shortening the payment periods in conjunction with the shortening of the standard settlement cycle believe that the mail system does not permit funds to be delivered within this time frame. However, the increased use of fax machines and money market mutual funds provide alternate ways for customers to make prompt payment for their securities purchases. Although the Board shares the concerns expressed about investors who rely on the mail to pay for securities, it believes that most investors will be able to adjust to the shortened periods. Indeed, the Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets, which recommended to the SEC that the standard settlement cycle be reduced to T+3, stated that it "believes that current customer behavior practices should not be an obstacle to shortened settlement provided there is strong leadership from within the industry and educational efforts to address customer and account executive concerns."[2] Many of the commenters stressed the fact that the brokerage industry is already educating customers about the approach of T+3 settlement and the changes this will entail. The Board is of the view that the successful implementation of T+3 includes a reduction in the Regulation T payment periods. It is expected that broker-dealers will be working with customers who may have difficulty making prompt payment. A delay in the effectiveness of shortening the payment periods would not necessarily improve the educational process, which is already well underway at most firms, and might serve as an excuse for others to delay their educational efforts.

b. Uniform payment period. The proposed term "payment period" was defined as the two business days beyond "the standard securities settlement cycle in the United States." This phrase was meant to refer to the current five day settlement cycle for most securities transactions until SEC Rule 15c6–1 becomes effective next June, at which time the Board's regulation would be referring to the three day period established in the SEC rule. Additional language has been added to the definition of payment period to clarify this point. Some commenters believed the reference to a "standard settlement cycle" depends on the type of security being purchased, so that trades involving standardized options or government securities, both of which settle the day after trade date, would have to be paid for by the third business day after trade date. Although broker-dealers can require payment for transactions by settlement date of the particular trade, Regulation T establishes a standard period within which customers must make payment even though certain securities settle in less than the current five day period. It was not the intent of the Board to change this general policy.

c. Impact of further reductions in settlement periods. As noted in the request for public comment, one of the reasons for using the phrase "payment period" instead of a fixed number of days was to ensure that future reductions in the settlement cycle would be automatically reflected in Regulation T, without the need for further amendments. Commenters were evenly split on whether the Board should be forced to review the Regulation T payment periods whenever the standard settlement cycle is altered. The proposed language has been retained. In light of the fact that investors are expected to pay for securities on settlement date, tying the payment period to the standard settlement cycle merely codifies the Board's current position that two business days should be sufficient to insure that a failure to receive the customer's payment is not due to an error or other exceptional circumstance.

B. Granting of Extensions of Time by a Broker-dealer's Examining Authority

If a customer has not made full cash payment or met an initial margin call within the payment period, the broker-dealer must liquidate the customer's position. However, if exceptional circumstances exist, the broker-dealer can obtain an extension for its customer. Regulation T currently permits any self-regulatory organization (SRO) to grant these extensions. A New York Stock Exchange (NYSE) rule recently approved by the SEC requires broker-dealers for whom the NYSE is the designated examining authority (DEA) to obtain these extensions only from the NYSE.[3] Although the Board could leave Regulation T unchanged and most broker-dealers would still be required to go to their DEA instead of any SRO, the Board proposed amending Regulation T to require that extensions be granted only by a broker-dealer's DEA. This decision was based on analysis of the comments received by the Board in response to its advance notice of proposed rulemaking concerning the current review of Regulation T and the SEC's consideration of the NYSE rule filing. No new information was presented in this area. The Board is therefore adopting the requirement that extensions be granted by a broker-dealer's DEA.

C. Technical Amendments Concerning Foreign Securities

The Board proposed technical amendments to the cash account to clear up confusion resulting from its 1990 amendment allowing payment for foreign securities to be tied to the appropriate foreign settlement period. The amendments would clarify that this longer period is also used to determine when extensions of time must be

[2] 57 FR 27819 (June 22, 1992).

[3] NYSE Rule 434; SEC approval: 59 FR 26826 (May 24, 1994); Securities Exchange Act Release 34073 (May 17, 1994).

obtained and when the "90-day freeze" may be lifted for foreign securities. Two securities trade associations point out that the cash account establishes three other situations in which settlement regularly exceeds the standard settlement cycle: unissued securities, "when-issued" securities, and refunded securities.[4] These commenters suggest the proposed language be revised to consistently refer to the various time periods in determining when extensions are required and when the "90-day freeze" may be lifted. These amendments have been redrafted to accommodate this suggestion.

D. De Minimis Amount

The required liquidation of customer purchases for which payment has not been received within the required time currently does not apply to amounts of $500 or less. The Board proposed doubling this amount to $1000 in light of the ten years that had passed since the amount was last increased. This increase was supported by a wide variety of commenters. The increase to $1000 will still reduce the regulatory burden on broker-dealers and their examining authorities by reducing the number of extensions that must be requested and processed.

II. Government Securities

Two amendments were proposed to exempt most transactions in * * * government securities from Regulation T. The first exempts those brokers and dealers who effect customer transactions only in government securities (Section 15C Brokers). The second amendment effectively exempts transactions involving government securities for customers of general securities broker-dealers by allowing the transactions to be effected in a new government securities account. All of the commenters supported these two proposed amendments.

A. Exemption from Regulation T for Brokers and Dealers Whose Activities are Limited to Government Securities

The scope of Regulation T, as stated in section 220.1(b)(1), is "all financial relations between a customer and a creditor." In order to exempt Section 15C brokers from Regulation T, the Board proposed excluding them from the definition of creditor in section 220.2(b) of the regulation. The Public Securities Association (PSA) and the Securities Industry Association (SIA) suggest that the exclusion be moved to the scope section, so that Section 15C brokers would still be defined as "creditors" when they are not dealing with "customers." For example, the commenters point out that the term "creditor" is used in the broker-dealer credit account to describe permissible transactions between broker-dealers. In light of these comments, the exclusion has been moved to the scope section of Regulation T.

B. Government Securities Account

The second amendment proposed in the area of government securities was the creation of a new government securities account. This account would allow general broker-dealers to effect customer transactions that could be effected by Section 15C Brokers without regard to other restrictions in Regulation T.

In addition to general support of the proposal, commenters focused on two areas: the regulatory language used to describe the account and whether additional securities and other financial instruments should be included in its scope.

1. Description. The government securities account was proposed for "transactions involving government securities, provided the transaction would be permissible for a broker or dealer registered under section 15C of the act." The PSA and the SIA both suggest deletion of the reference to Section 15C Brokers because they believe it is confusing and unnecessary. They argue that section 15C does not establish permissible and impermissible classes of transactions in government securities. However, section 15C(b)(7) of the Act prohibits government securities brokers and dealers from effecting "any transaction * * * in any government security in contravention of any rule under this section." The regulatory language for the government securities account has been redrafted to clarify that it is available for transactions involving government securities as long as the transaction is not prohibited under section 15C or any of the rules thereunder.

2. Scope. The PSA, SIA, SIA-Credit Division and one broker-dealer suggest that all exempted securities, including municipal securities, be included in the new account. A second broker-dealer would include foreign sovereign debt that meets the margin requirements of Regulation T. In addition, three of these commenters believe that all nonconvertible debt securities that meet the margin requirements of Regulation T should be eligible for the account and one of these commenters would like "money market instruments" such as certificates of deposit, bankers acceptances and commercial paper to be covered by the new account. All of these suggestions will be considered in the course of Board's review of Regulation T, with an opportunity for public comment. As explained in the request for public comment on the proposed government securities account, the rationale for the new account stems from the unique regulatory scheme established for U.S. government securities and brokers and dealers in that market.

Regulatory Flexibility Act

The Board certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This regulation imposes no additional reporting requirements or modification to existing reporting requirements.

List of Subjects in 12 CFR Part 220

Banks, Banking, Bonds, Brokers, Commodity futures, Credit, Federal Reserve System, Investment companies, Investments, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, 12 CFR part 220 is amended as follows:

PART 220—CREDIT BY BROKERS AND DEALERS (REGULATION T)

1. The authority citation for Part 220 is revised to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78h, 78q, and 78w.

2. Section 220.1 is amended as follows:

a. The word "seven" in the first sentence of paragraph (b)(1) is revised to read "eight".

b. A new paragraph (b)(3) is added to read as follows:

§ 220.1 Authority, purpose, and scope.

* * * * *

(b) * * *

(3) This part does not apply to transactions between a customer and a broker or dealer registered only under section 15C of the Act.

3. Section 220.2 is amended as follows:

a. Paragraph (h) is revised.

b. Paragraphs (w) through (aa) are redesignated as paragraphs (x) through (bb) and new paragraph (w) is added.

The revisions and additions read as follows:

§ 220.2 Definitions.

* * * * *

[4] See § 220.8(b)(1)(i)(B)–(D) of Regulation T

(h) *Examining authority* means:

(1) The national securities exchange or national securities association of which a creditor is a member; or

(2) If a member of more than one self-regulatory organization, the organization designated by the SEC as the examining authority for the creditor.

* * * * *

(w) *Payment period* means the number of business days in the standard securities settlement cycle in the United States, as defined in SEC Rule 15c6–1 (17 CFR 240.15c6–1) under the Act, plus two business days. Until June 1, 1995, payment period means seven business days.

* * * * *

4. In § 220.4, the figure "$500" in paragraph (d) is revised to read "$1000" and paragraph (c)(3) is revised to read as follows:

§ 220.4 Margin account.

* * * * *

(c) * * *

(3) *Time limits.* (i) A margin call shall be satisfied within one payment period after the margin deficiency was created or increased.

(ii) The payment period may be extended for one or more limited periods upon application by the creditor to its examining authority unless the examining authority believes that the creditor is not acting in good faith or that the creditor has not sufficiently determined that exceptional circumstances warrant such action. Applications shall be filed and acted upon prior to the end of the payment period or the expiration of any subsequent extension.

* * * * *

5. In § 220.8, the figure "$500" in paragraph (b)(4) is revised to read "$1000" and paragraphs (b)(1)(i) introductory text, (b)(1)(ii), (b)(3), (c)(2)(i), and (d) are revised to read as follows:

§ 220.8 Cash account.

* * * * *

(b) * * *

(1) * * *

(i) Within one payment period of the date:

* * * * *

(ii) In the case of the purchase of a foreign security, within one payment period of the trade date or the date on which settlement is required to occur by the rules of the foreign securities market, provided this period does not exceed the maximum time permitted by this part for delivery against payment transactions.

* * * * *

(3) *Shipment of securities, extension.* If any shipment of securities is incidental to consummation of a transaction, a creditor may extend the payment period by the number of days required for shipment, but by not more than one additional payment period.

* * * * *

(c) * * *

(2) * * *

(i) Within the period specified in paragraph (b)(1) of this section, full payment is received or any check or draft in payment has cleared and the proceeds from the sale are not withdrawn prior to such payment or check clearance; or

* * * * *

(d) *Extension of time periods; transfers.* (1) Unless the creditor's examining authority believes that the creditor is not acting in good faith or that the creditor has not sufficiently determined that exceptional circumstances warrant such action, it may upon application by the creditor:

(i) Extend any period specified in paragraph (b) of this section;

(ii) Authorize transfer to another account of any transaction involving the purchase of a margin or exempted security; or

(iii) Grant a waiver from the 90 day freeze.

(2) Applications shall be filed and acted upon prior to the end of the payment period, or in the case of the purchase of a foreign security within the period specified in paragraph (b)(1)(ii) of this section, or the expiration of any subsequent extension.

§ 220.18 [Redesignated as § 220.19]

6. Section 220.18 is redesignated as § 220.19 and new § 220.18 is added to read as follows:

§ 220.18 Government securities account.

In a government securities account, a creditor may effect and finance transactions involving government securities, provided the transaction is not prohibited by section 15C of the Act or any rule thereunder.

By order of the Board of Governors of the Federal Reserve System, October 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26357 Filed 10–24–94; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

Foreign Banks

CFR Correction

In title 12 parts 300 to 499 of the Code of Federal Regulations, revised as of January 1, 1994, § 346.6 (a)(7) appearing on page 409 should be removed.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 506, 508, 545, 552, 558, 563, 564, 574, 590

[No. 94–166]

Miscellaneous Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is adopting several technical corrections and clarifications to its regulations on home loans and other real estate loans, hearings, operating subsidiaries, appraisals, interest rate risk management procedures, and its incorporation and standard conversion regulations. The OTS is also amending its insider transactions rule and removing or revising obsolete or superseded provisions concerning investment limitations, stock ownership, conservatorships, and remote service units. Finally, the agency is adding a waiver provision affecting regulations that are not statutorily mandated.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Elissa Schwartz, Senior Paralegal, (202) 906–7908, or Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: On April 21, 1994, the Office of Thrift Supervision (OTS) proposed several technical corrections to revise, clarify, or remove obsolete or ambiguous regulations.[1]

The agency received three comments in response to the proposal. Two comments were submitted by trade associations and one comment was

[1] 59 FR 18979 (April 21, 1994).

submitted by a private law firm. All of the commenters supported the proposal.

I. Amendments Described in April 21 Proposal

Today, the OTS is adopting the amendments in the proposal, as described below.

Stock Loans

Section 205 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA)[2] amended section 7(j)(9) of the Federal Deposit Insurance Act and modified the reporting criteria and procedures of that section, thereby superseding existing section 574.5(b) of OTS's regulations. Rather than amend section 574.5(b) to conform to amended section 7(j)(9), the OTS has chosen to rescind the regulation because the statute is self-implementing and OTS finds it unnecessary merely to repeat the statutory language.

Directors

Through its final rule on regulatory review,[3] the OTS lowered the number of directors required for a Federal savings association from seven to five, consistent with the required number of national bank directors. An additional reference in section 552.3, which was overlooked in the earlier rulemaking, is now being changed to conform with the new requirement.

Operating Subsidiaries

The OTS is adding a clarifying technical amendment restructuring section 545.81(d). This replacement language more clearly sets forth the requirements that apply when a federal savings association that owned a service corporation on November 30, 1992, wishes to have that service corporation deemed an operating subsidiary.

Insider Transactions

Pursuant to and in accordance with section 4(a) of the Home Owners' Loan Act and section 106(b)(2)(H)(i) of the Bank Holding Company Amendments Act of 1970,[4] as revised by section 306(j) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA),[5] the OTS is amending its regulation pertaining to insider transactions by incorporating by means of cross-reference subpart B of the Federal Reserve Board's Regulation O, 12 CFR Part 215, subpart B, as now or hereafter in effect.

Investments

Section 563.96, which restricts the amount savings associations may invest in savings accounts and debt securities hedged with forward commitments according to a complex formula set forth in the rule, is being removed in light of the Federal Reserve Board's (FRB) final rule on interbank liabilities.[6] The FRB's final rule limits such investments to 25% of capital. Since the FRB rule applies to savings associations, section 563.96 is deleted as unnecessary.

Loan Documentation

The OTS is amending its interim final loan documentation regulation to broaden eligibility to any institution that was assigned a CAMEL rating of 3 in its most recent report of examination and that has obtained written permission from its Regional Director to employ the exemption.

Remote Service Units

Section 545.141(d), which addresses privacy of account data concerning an RSU account, is deleted because the OTS believes that Regulation E of the Federal Reserve Board, 12 CFR Part 205, which governs electronic funds transfers by all financial institutions, including savings associations, provides adequate protection for consumers' interests in this area. Second, the OTS is revising section 545.141(e) to reflect earlier revisions to 12 CFR Part 568, "Minimum Security Devices."

Waivers and Miscellaneous Changes

The agency is adding a provision expressly setting forth its existing authority to waive any non-statutorily required regulation for good cause. This authority is separate and apart from, and is not meant to limit, the agency's statutorily based authority (*e.g.*, under the Depository Institutions Disaster Relief Act of 1992) to waive certain regulations and its inherent authority to decide whether or not to take enforcement actions against violations of its regulations. *See Heckler* v. *Chaney*, 470 U.S. 821 (1985).

Sections 545.33, 545.35 and 563.93 are being revised to correct internal references.

II. Technical Amendment to Service Corporation Rules

One of the commenters suggested an additional amendment that OTS believes has merit. As required by section 18(m) of the Federal Deposit Insurance Act,[7] the OTS's service corporation regulation, 12 CFR 545.74, requires a Federal savings association to give the OTS and the Federal Deposit Insurance Corporation (FDIC) 30 days prior notice before either establishing a new service corporation or engaging in a new activity through an existing service corporation.[8] That same statutory provision exempts Federal savings banks chartered before October 15, 1982. An earlier regulatory amendment inadvertently removed the reference to this exemption.[9] The OTS is taking this opportunity to reinstate the regulatory exemption as it was adopted in April, 1992.[10]

III. Additional Technical Amendments

In addition to the amendments set forth in the proposal, several technical revisions are being made to other OTS regulations. The agency finds good cause pursuant to 5 U.S.C. 553 to adopt these amendments without public notice and comment because of their purely technical and clarifying nature. First, erroneous cross-references and obsolete titles have been removed from the service corporation regulations. Further erroneous cross-references have been corrected in (1) the hearing rules at section 508.13, (2) section 564.4 of the appraisal rule, and (3) the interest rate risk management procedures at section 563.176. Third, the agency's regulations setting forth procedures to be followed in taking possession of a savings association that has been placed into conservatorship or receivership have been modified. Fourth, the authority citation for part 590 is being corrected. Lastly, a codification correction is being made to the standard conversion regulations, in addition to the proposed amendment to those regulations.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601), it is certified that this technical regulation will not have a significant economic impact on a substantial number of small savings associations, small service corporations or other small entities. It merely revises or removes existing inconsistencies or obsolete regulations.

V. Executive Order 12866

The Acting Director has determined that this document is not a "significant regulatory action" for purposes of Executive Order 12866.

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[2] Pub. L. 102–242, 105 Stat. 2236 (1991).

[3] 58 FR 4308 (Jan. 14, 1993).

[4] 12 U.S.C. 1972(2)(H)(i).

[5] Pub. L. 102–242, 105 Stat. 2359.

[6] 57 FR 60086 (Dec. 18, 1992).

[7] 12 U.S.C. 1828(m).

[8] 12 CFR 545.74(b)(2).

[9] Operating Subsidiaries and Service Corporations Final Rule, 57 FR 48949 (October 29, 1992).

[10] Applications Restructuring Final Rule, 57 FR 14340 (April 20, 1992).

VI. Paperwork Reduction Act

The recordkeeping requirement contained in this final rule has been submitted to and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under Control No. 1550–0083. The recordkeeping requirement contained in this rule is found at 12 CFR 563.170(c). The likely recordkeepers will be well- or adequately-capitalized savings associations who received a CAMEL rating of 1, 2 or 3 in their most recent examinations.

Comments concerning the collection of information under this final rule should be directed to the Office of Management and Budget, Paperwork Reduction Project (1550–0083), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

List of Subjects

12 CFR Part 500

Organization and functions (Government agencies), Reporting and recordkeeping requirements.

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 508

Administrative practice and procedure, Crime, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 552

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 558

Savings associations.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 564

Appraisals, Mortgages, Real estate appraisal, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 590

Banks, banking, Loan programs—housing and community development, Manufactured homes, Mortgages, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends subchapters A, C and D, chapter V, title 12 of the *Code of Federal Regulations* as set forth below.

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

PART 500—ORGANIZATION AND CHANNELING OF FUNCTIONS

1. The authority citation for part 500 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

2. Section 500.30 is amended by adding a sixth sentence at the end of paragraph (a) to read as follows:

§ 500.30 General statement concerning procedures and forms.

(a) * * * The Director may, for good cause and to the extent permitted by statute, waive the applicability of any provision of this chapter.

* * * * *

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

3. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

4. Section 506.1 is amended by adding in numerical order one new entry to the table in paragraph (b) to read as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

12 CFR part or section where identified and described	Current OMB control No.
. . . . .	.
563.170(c)	1550–0083
. . . . .	.

PART 508—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

5. The authority citation for part 508 is revised to read as follows:

Authority: 12 U.S.C. 1464, 1818.

§ 508.13 [Amended]

6. Section 508.13 is amended by removing the phrase "§ 509.39 of this subchapter" in paragraph (b), and by adding in lieu thereof the phrase "§ 509.38 of this subchapter".

SUBCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 545—OPERATIONS

7. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

§ 545.33 [Amended]

8. Section 545.33 is amended by removing the phrase "this paragraph (e)" in the first sentence of the introductory text to paragraph (c), adding in lieu thereof the phrase "this paragraph (c)".

§ 545.35 [Amended]

9. Section 545.35 is amended by removing the phrase "this paragraph (d)" in the second sentence of paragraph (b), adding in lieu thereof the phrase "this paragraph (b)".

§ 545.74 [Amended]

10. Section 545.74 is amended by removing the phrase "The association" in paragraph (b)(2) and by adding in lieu thereof the phrase "Except as provided in 12 U.S.C. 1828(m)(5), every Federal savings association"; by removing the phrase "section 302(d)" in paragraph (c)(5)(v) and by adding in lieu thereof the phrase "section 301(d)"; and by removing the phrase "District Director" in paragraph (d)(1)(iv) and by adding in lieu thereof the word "Office".

11. Section 545.81 is amended by revising the heading of paragraph (d), by revising paragraphs (d)(1) introductory text and (d)(2), and by adding paragraph (d) introductory text to read as follows:

§ 545.81 Operating subsidiaries.

* * * * *

(d) *Converting service corporations to operating subsidiaries.* A service corporation that on November 30, 1992 was owned by a Federal savings association and engaged in activities permissible for a Federal savings association to undertake directly; is owned by that Federal savings association; engages solely in activities that a Federal savings association may undertake directly; and meets the control criteria set forth in this section, may be deemed to be an operating subsidiary provided that:

(1) If the Federal savings association is eligible for "expedited treatment" under § 516.3 of this chapter, the

Federal savings association creates and maintains appropriate internal records. The record shall consist of a certification by the Board of Directors of the association containing:

* * * * *

(2) If the Federal savings association is not eligible for "expedited treatment" under § 516.3 of this chapter, the Federal savings association follows the application procedures set forth in paragraph (c)(2) of this section and receives the OTS's prior written approval. The corporation will be deemed to be an operating subsidiary on the date of the OTS's written approval.

* * * * *

12. Section 545.141 is amended by removing and reserving paragraph (d); and by revising paragraph (e) to read as follows:

§ 545.141 Remote Service Units (RSUs).

* * * * *

(e) *Security.* A Federal savings association shall protect electronic data against fraudulent alterations or disclosure. All RSUs shall meet the minimum security devices requirements of part 568 of this chapter.

* * * * *

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

13. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§ 552.3 [Amended]

14. Section 552.3 is amended by removing the paragraph designation for paragraph (a) and by removing the phrase "fewer than seven" in section 7 of the federal stock charter form, adding in lieu thereof the phrase "fewer than five".

PART 558—POSSESSION BY CONSERVATORS AND RECEIVERS FOR FEDERAL AND STATE SAVINGS ASSOCIATIONS

15. The authority citation for part 558 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

16. Section 558.1 is amended by removing the word "and" found between the words "association" and "in" in paragraph (a); and by revising paragraph (b)(6) to read as follows:

§ 558.1 Procedure upon taking possession.

* * * * *

(b) * * *

(6) Post a notice on the door of the principal and other offices of the savings association in the form prescribed by the Director of the OTS.

* * * * *

17. Section 558.2 is revised to read as follows:

§ 558.2 Notice of appointment.

If the Director of the OTS appoints a conservator or receiver under this part, notice of the appointment shall be filed immediately for publication in the **Federal Register.**

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

18. The authority citation for part 563 is revised to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4106.

19. Section 563.43 is amended by revising the introductory text, by removing the word "and" at the end of paragraph (c), by removing the period at the end of paragraph (d) and adding in lieu thereof "; and" and by adding a new paragraph (e) to read as follows:

§ 563.43 Loans by savings associations to their executive officers, directors and principal shareholders.

Pursuant to 12 U.S.C. 1463(a) and 1468, a savings association, its subsidiaries and its insiders (as defined) shall be subject to the restrictions contained in 12 CFR Part 215, subparts A and B of the Federal Reserve Board's Regulation O, with the exception of 12 CFR 215.13, in the same manner and to the same extent as if the association were a bank and a member bank of the Federal Reserve System, except that:

* * * * *

(e) References to the Reserve Bank or the Comptroller shall be deemed to include the Director of the Office of Thrift Supervision.

§ 563.93 [Amended]

20. Section 563.93 is amended by removing the phrase "paragraph (b)(13) of this section" in paragraph (f)(1) and adding in lieu thereof the phrase "paragraph (b)(11) of this section".

§ 563.96 [Removed]

21. Section 563.96 is removed.

22. Section 563.170 is amended by revising paragraph (c)(10)(i)(B) to read as follows:

§ 563.170 Examinations and audits; appraisals; establishment and maintenance of records.

* * * * *

(c) * * *

(10) * * *

(i) * * *

(B) *Eligible savings association* means any savings association that is well- or adequately capitalized, as defined in 12 CFR Part 565 and was either:

(*1*) Assigned a CAMEL rating of 1 or 2 in its most recent report of examination; or

(*2*) assigned a CAMEL rating of 3 in its most recent report of examination and has obtained written permission from the Regional Director to employ this exemption.

* * * * *

§ 563.176 [Amended]

23. Section 563.176 is amended by removing paragraph (e).

PART 564—APPRAISALS

24. The authority citation for part 564 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

§ 564.8 [Amended]

25. Section 564.8 is amended by removing the phrase "§ 564.4(a)(2) through (a)(14)" in the introductory text of paragraph (d), and by adding in lieu thereof the phrase "§ 564.4(b) through (d)".

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

26. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817.

§ 574.5 [Amended]

27. Section 574.5 is amended by removing the phrase "and other reports" from the section heading; by removing paragraph (b); by removing the phrase "reports and" from paragraph (c); and by redesignating paragraph (c) as new paragraph (b).

SUBCHAPTER G—REGULATIONS FOR FEDERALLY-RELATED MORTGAGE LOANS

PART 590—PREEMPTION OF STATE USURY LAWS

28. The authority citation for part 590 is revised to read as follows:

Authority: 12 U.S.C. 1735f-7a.

Dated: September 9, 1994.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 94-26150 Filed 10-24-94; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–37–AD; Amendment 39–9040; AD 94–20–11]

Airworthiness Directives; Boeing Model 747–400 Series Airplanes Equipped With Pratt & Whitney PW4000 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes, that requires replacement of the thrust reverser flow restrictor devices with one-way (check) valve restrictors. This amendment is prompted by reports of actuator piston seal leakage found during actuator overhaul on certain Model 747–400 series airplanes. The actions specified by this AD are intended to prevent possible deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane.

DATES: Effective November 25, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 25, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2687; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–400 series airplanes was published in the Federal Register on April 22, 1994 (59 FR 19151). That action proposed to require replacement of the thrust reverser flow restrictor devices with one-way (check) valve restrictors.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America, on behalf of one of its members, requests that the proposed rule be revised to cite the latest revision of Boeing Alert Service Bulletin 747–78A2128. The FAA concurs. Since the issuance of the proposed rule, the FAA has reviewed and approved Revision 1, dated May 26, 1994, of the Boeing alert service bulletin. Revision 1 corrects certain discrepancies contained in the original issue of the alert service bulletin. The FAA has revised paragraph (a) of the final rule to reflect the latest revision to the alert service bulletin as an additional source of service information.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 94 Model 747–400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 32 airplanes of U.S. registry will be affected by this AD, that it will take approximately 24 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,240, or $1,320 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–20–11 Boeing: Amendment 39–9040. Docket 94–NM–37–AD.

Applicability: Model 747–400 series airplanes up to and including line position 1022, equipped with Pratt & Whitney PW4000 series engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the thrust reverser flow restrictor devices with one-way (check) valve restrictors in accordance with Boeing Alert Service Bulletin 747–78A2128, dated March 10, 1994; or Revision 1, dated May 26, 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an

appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(d) The replacement shall be done in accordance with Boeing Alert Service Bulletin 747–78A2128, dated March 10, 1994; or Boeing Alert Service Bulletin 747–78A2128, Revision 1, dated May 26, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 25, 1994.

Issued in Renton, Washington, on September 28, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–24451 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–122–AD; Amendment 39–9047; AD 94–21–05]

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes Equipped With CFM International CFM56–3 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that requires modification, adjustments, and tests of the thrust reverser system; and repair, if necessary. This amendment is prompted by results of a safety review of the thrust reverser system on these airplanes, which revealed that the installation of additional features to further minimize the likelihood of an in-flight thrust reverser deployment is necessary. The actions specified by this AD are intended to prevent deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane.

DATES: Effective November 25, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 25, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Bray, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2681; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, and –500 series airplanes was published in the **Federal Register** on October 15, 1993 (58 FR 53457). That action proposed to require modification, adjustments, and tests of the thrust reverser system; and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that paragraph (c) of the proposal be revised to specify that the paragraph applies to airplanes identified in the effectivity listing of Boeing Service Bulletin 737–78–1058. The commenter indicates that paragraph (c), as proposed, would require modification of airplanes on which the sync-lock was installed in production, but on which no additional rework was required. Further, as proposed, paragraph (c) would include airplanes that are not listed in the effectivity listing of Boeing Service Bulletin 737–78–1058. The FAA concurs, and has revised paragraph (c) of the final rule accordingly. However, airplanes on which the sync-lock was installed during production continue to be subject to the repetitive integrity test required by paragraph (d) of the final rule. Paragraph (d) of the final rule has been revised to clarify that requirement, and a new paragraph (e) has been included in the final rule to specify the compliance times for accomplishment of that requirement.

The Air Transport Association (ATA) of America states that, while its members are not opposed to accomplishing periodic operational tests of the sync-lock following its installation [proposed in paragraph (d) of the AD] as part of their maintenance programs, these members are opposed to accomplishing the tests as part of the requirements of an AD. The ATA members believe that the requirement for operational tests is equivalent to issuing a Certification Maintenance Requirements (CMR) item by means of an AD.

ATA adds that, if the FAA finds sufficient justification to include the requirement for operational tests in the AD, an alternative to accomplishment of the tests should be provided in the final rule. ATA reasons that an alternative is justified because no data exist to show that repetitive tests of a modified thrust reverser cannot be handled adequately through an operator's maintenance program. The suggested alternative follows: Within 3 months after accomplishing the sync-lock installation, revise the FAA-approved maintenance inspection program to include an operational test of the sync-lock. The initial test would be accomplished within 1,000 hours time-in-service after modification. The AD would no longer be applicable for operators that have acceptably revised the maintenance program. Operators choosing this alternative could use an alternative recordkeeping method in lieu of that required by §§ 91.417 or 121.380 of the Federal Aviation Regulations (FAR) (14 CFR 91.417 or 121.380). The FAA would be defined as the cognizant Principal Maintenance Inspector (PMI) for operators electing this alternative.

The FAA recognizes the concerns of the commenter regarding the requirement for periodic operational tests of the sync-lock following its installation. However, the FAA finds that these tests are necessary to provide an adequate level of safety and to ensure the integrity of the sync-lock installation. The actions required by this AD are consistent with actions that have been identified by an industry-wide task force as necessary to ensure adequate safety of certain thrust reverser systems installed on transport category airplanes. Representatives of the Aerospace Industries Association (AIA) of America, Inc., and the FAA comprise that task force. Representatives from other organizations, such as ATA, have

participated in various discussions and work activities resulting from the recommendations of the task force.

The FAA acknowledges that the operational tests specified in this AD and CMR items are similar in terms of scheduled maintenance and recordkeeping. This AD addresses an unsafe condition and requires installation of the sync-lock to correct that unsafe condition. The FAA has determined that the requirement for operational tests is necessary to ensure the effectiveness of that installation in addressing the unsafe condition. This determination is based on the fact that the sync-lock is a new design whose reliability has not been adequately proven through service experience. In addition, service experience to date has demonstrated that failures can occur within the sync-lock that may not be evident during normal operation of the thrust reverser system and may not result in activation of the sync-lock "unlock" indicator. The ATA's suggested alternative to accomplishment of the operational tests would permit each operator to determine whether and how often these tests should be conducted. In light of the severity of the unsafe condition, however, the FAA has determined that allowing this degree of operator discretion is not appropriate at this time. Therefore, this AD is necessary to ensure that operators accomplish tests of the integrity of the sync-lock installation in a common manner and at common intervals.

Two commenters question why the proposed operational tests would be required at more frequent intervals following installation of an additional safety feature than prior to its installation. One of these commenters suggests that Boeing should prove the reliability of the system prior to its operation, and that the operational tests should be required at intervals not to exceed 3,000 hours time-in-service.

Several commenters also suggest that the installation of an additional safety feature, in addition to the fact that no failures of the system have occurred, should allow tests at "C" check intervals. Another commenter states that accomplishment of the tests at "2B" check intervals (or 1,100 hours time-in-service) would be more appropriate. One of these commenters states that a trial test period of the installation by several airlines would be in order.

The FAA has reconsidered the compliance time specified in paragraph (d) of the proposal [identified in paragraph (e) of the final rule] for accomplishment of an initial operational test, as well as the interval specified for accomplishment of repetitive operational tests. In light of the safety implications of the unsafe condition addressed and the practical aspects of accomplishing orderly operational tests of the fleet during regularly scheduled maintenance where special equipment and trained maintenance personnel will be readily available, the FAA finds that the compliance times specified in paragraph (e) of the AD may be extended without compromising safety. The FAA has determined that an interval of 4,000 hours time-in-service corresponds more closely to the interval at which most of the affected operators conduct regularly scheduled "C" checks. Therefore, paragraph (e) of the final rule has been revised to require accomplishment of the initial test within 4,000 hours time-in-service and accomplishment of repetitive tests at intervals not to exceed 4,000 hours time-in-service.

One commenter requests that the FAA review the requirement for periodic operational tests specified in paragraph (d) of the proposal because these tests only address a sync-lock failing in the unlocked state. The commenter states that the sync-lock will be totally transparent to the flight crew. Therefore, if a sync-lock fails in the "locked" state, the only indication the flight crew will receive is that when reverse thrust is applied, the reverser handles will be stopped by the interlock system and not allowed to move into reverse thrust.

The FAA considers that the operational tests required by paragraph (d) of this AD are adequate to address both the unlocked state and the locked state. The design of the sync-lock is fail-safe in the locked state; its failure in that state during flight would not result in deployment of a thrust reverser. In addition, failure of a sync-lock in the locked state during landing of the airplane does not present an unsafe condition. The airplane can be stopped within the distance specified in the Airplane Flight Manual (AFM) without the use of thrust reversers. The stopping distance specified in the AFM does not take credit for the additional stopping capabilities of the thrust reverser.

Three commenters request revisions to the compliance times specified in paragraph (a) of the proposal for accomplishment of initial and repetitive adjustments and tests of the thrust reverser system. One of these commenters requests that the proposed 30-day compliance time for the initial adjustments and tests be extended to 60 days to accomplish these actions on all of the airplanes in its fleet. The commenter believes that a compliance time of 60 days is more appropriate in light of the fact that no major thrust reverser anomalies have been found.

Two of these commenters request that the proposed compliance time for accomplishment of the repetitive adjustments and tests specified in paragraph (a) of the proposal be revised to "3,000 hours time-in-service, or at each 'C' check, whichever occurs later." One of the commenters believes that the compliance interval specified in the proposal is overly restrictive, and that the suggested revision would allow for accomplishment of testing and repairs at a time that coincides with regularly scheduled maintenance.

The FAA concurs with these commenters' requests to revise the compliance times for the initial and repetitive adjustments and tests required by paragraph (a) of the final rule. The FAA's intent was that these adjustments and tests be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet, when the airplanes would be located at a base where special equipment and trained personnel would be readily available, if necessary. In light of this consideration, the FAA has determined that an extension of the compliance time for the initial adjustments and tests to 60 days, and an extension of the repetitive interval to 4,000 hours time-in-service, will not affect safety adversely. Paragraph (a) of the final rule has been revised accordingly.

Several commenters question the references to certain pages of the Boeing 737 Maintenance Manual cited in paragraphs (a) and (d) of the proposal. ATA requests that a statement be added to those paragraphs to allow operators to use later versions of the Maintenance Manual, provided that no substantive change is included in those later versions. One commenter points out that since certain Maintenance Manual pages referenced in the proposal have already been revised, operators must seek approval from the FAA for an alternative method of compliance in order to deviate from the Maintenance Manual pages cited in the AD. One commenter mentions that the Maintenance Manual page numbers cited in paragraph (d) of the proposal do not exist. Two commenters state that the specific Maintenance Manual pages referenced in the proposal include a number of tests that are redundant and unnecessary. One commenter states that the tests specified in paragraph (a) are normally performed after component replacement or after a system error has occurred. The commenter indicates that performing the "Normal Operation Test" and the "Auto-Restow Test," in

addition to using the thrust reverser during normal flight operations, will satisfy all testing requirements for the thrust reverser.

Boeing requests specifically that the proposal be revised to include copies of the procedures for the required tests so that reference to the Maintenance Manual is not necessary. Boeing explains that the Maintenance Manuals are customized for each operator to reflect all of the equipment in that operator's fleet. Therefore, the number of pages for any given procedure is variable, depending on the number of different equipment configurations documented in an operator's Maintenance Manual. Boeing also indicates that Maintenance Manual procedures are revised periodically for non-technical reasons. Boeing adds that changes to the structure of the procedures are necessary to accommodate an upgrade of the publishing system that is currently under way, which, in addition to repagination, will necessitate the issuance of revised Maintenance Manual pages.

Boeing states that the effect of specifying Maintenance Manual page numbers and revision dates in the AD is that operators may be unable to use the procedure contained in the Maintenance Manual to perform certain tests required by the AD. Each operator would be required to maintain an obsolete version of the procedure, or to request FAA approval of an alternative method of compliance with the AD that would allow the use of the current version of the Maintenance Manual.

The FAA concurs partially. In light of the information submitted by the commenters, the FAA finds that specific reference to page numbers and dates of the Boeing 737 Maintenance Manual should not be specified in paragraph (a) of the final rule. However, for that paragraph, the FAA does not agree that copies of the specific procedures should be included in the final rule. Therefore, paragraph (a) of the final rule has been revised to cite only the appropriate section specified in the Maintenance Manual for accomplishment of the tests required by that paragraph. The procedures specified in that section of the Maintenance Manual contain the appropriate tests recommended by the manufacturer for verification of the proper operation of the thrust reverser system. However, the FAA would consider requests from individual operators for approval of use of alternative test procedures, in accordance with the provisions of paragraph (f) of this AD.

Subsequent to the issuance of the proposal and the receipt of Boeing's comments to the proposal, Boeing has submitted to the FAA separate procedures for accomplishment of the operational tests of the sync-lock integrity following its installation. The FAA has included these procedures in paragraph (d) of the final rule; therefore, the Maintenance Manual references specified in paragraph (d) of the proposal have been removed from the final rule.

One commenter requests that the compliance times be expressed in terms of cycles, instead of operating hours, since degradation of the thrust reverser system is related to cycles. The FAA does not concur. The FAA finds that the simplest expression of compliance times for purposes of this AD is in terms of a specific number of hours of operation at which compliance is required for affected airplanes. The FAA based this determination on the fact that the maintenance program for these airplanes is based on operating hours, the Maintenance Manual specifies compliance in terms of operating hours, and the maintenance program is based on operating hours. Further, recommended compliance intervals reflected in a safety assessment completed for the affected airplane/engine combination were expressed in terms of hours time-in-service.

Two commenters request that the proposed 5-year compliance time for accomplishing the sync-lock installation be revised to 6 years to allow airplanes to be modified during scheduled heavy maintenance visits. The FAA does not concur with the commenters' requests to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modification. In consideration of these items, as well as input from the manufacturer with regard to parts availability, and industry representatives with regard to incorporation schedules, the FAA has determined that 5 years represents the maximum interval of time allowable wherein the modification can reasonably be accomplished and an acceptable level of safety can be maintained.

ATA, on behalf of one of its members, requests that paragraphs (a) and (d) of the proposal be revised to provide an option for operators to lock out a thrust reverser that fails the tests required by those paragraphs in order to avoid unnecessary flight delays and cancellations. The commenter states that the Boeing 737 Master Minimum Equipment List (MMEL) presently grants this relief, provided that the thrust reverser in question is properly locked out.

The FAA concurs partially. The FAA agrees that an option for dispatch relief should be allowed in accordance with the existing provisions and limitations specified in the MMEL. Paragraph (a) of the final rule has been revised accordingly. However, for airplanes on which a sync-lock is installed, the FAA, in conjunction with the Model 757/767 Thrust Reverser Working Group, finds that a thrust reverser may be locked out, but the sync-lock must be operational at all times in order to ensure safe flight. Paragraph (d) of the final rule has been revised accordingly.

The FAA also has revised paragraph (a) of the final rule to specify that only airplanes on which the sync-lock installation, the sync-lock wiring modification, or Production Revision Record (PRR) 35105 has not been accomplished are subject to the requirements of that paragraph.

Two commenters suggest that the work hour estimates for accomplishment of the adjustments and tests [specified in paragraph (a) of the proposal] and operational tests [specified in paragraph (d) of the proposal] be increased. One commenter states that an estimate of 2 work hours is more realistic for accomplishment of the adjustments and tests. The second commenter states that the operational tests would actually take approximately 2.5 work hours. The FAA does not concur. The information provided by the manufacturer to the FAA indicates that the adjustments/tests and the operational tests each take approximately one hour to accomplish. The FAA established its work hour estimate based on that information.

ATA requests that the FAA coordinate with Boeing a revision to the service bulletin to incorporate a change for routing certain wiring, since one ATA member had to deviate from the service bulletin instructions to route certain wire bundles. The commenter does not specify the service bulletin it recommends be revised.

The FAA has coordinated with Boeing all requests from operators concerning wire bundle routing, and has ensured that any necessary changes to service bulletin instructions have been incorporated in subsequent revisions to the service bulletins cited in this final rule. A summary of service bulletin revisions reviewed and approved by the FAA since the issuance of the proposed rule follows:

1. Boeing Service Bulletin 737–78–1053, Revision 2, dated February 17, 1994, and Revision 3, dated June 30, 1994: Revision 2 of the service bulletin adds notes explaining that certain wire bundles were installed in production on some of the affected airplanes, that installation of these wire bundles is not necessary for those airplanes, and that wire bundle W084 is necessary on only some of the affected airplanes. Certain revised drawings also are included in Revision 2, one subkit number is corrected, a list of fasteners is added, and procedures for installation of splices is added.

Revision 3 of the service bulletin provides procedures for replacement of different aluminum foil markers on a particular circuit breaker panel on some airplanes.

Paragraph (b) of the final rule has been revised to reflect Revisions 2 and 3 of this service bulletin as additional sources of service information.

2. Boeing Service Bulletin 737–78–1058, Revision 1, dated February 17, 1994, and Revision 2, dated July 7, 1994: Revision 1 of the service bulletin includes a list of fasteners and provides procedures for removal of two panels for access to the J20 box assembly and related wiring. That revision also provides improved procedures for removal of the thrust reverser manual drive units and installation of the sync-locks.

Revision 2 of the service bulletin revises certain test procedures for the thrust reverser system.

Paragraph (c) of the final rule has been revised to reflect Revisions 1 and 2 of this service bulletin as additional sources of service information.

The FAA has revised the applicability of the final rule to clarify its intent that the AD applies to Model 737–300, –400, and –500 series airplanes equipped with CFM International CFM56–3 series engines. The applicability of the proposed rule stated incorrectly that Model 737–300, –400, and –500 series airplanes equipped with General Electric CFM56 series engines were affected by this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

It should be noted that no evidence currently exists that in-flight deployment of a thrust reverser was responsible for the accident involving a Boeing Model 737–300 series airplane that occurred on September 8, 1994.

There are approximately 1,079 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 531 airplanes of U.S. registry will be required to accomplish adjustments and tests of the thrust reverser system, installation of the sync-lock, and operational tests of the sync-lock installation. The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the required adjustments and tests, 198 work hours to accomplish the required installation, and 1 work hour to accomplish the required operational tests. The average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators of airplanes on which the sync-lock feature was not installed during production or as a modification is estimated to be $5,841,000, or $11,000 per airplane.

The FAA estimates that 8 airplanes of U.S. registry will be required to accomplish adjustments and tests of the thrust reverser, modification of the sync-lock wiring, and operational tests of the sync-lock installation. The FAA estimates that it will take approximately 1 work hour to accomplish the required adjustments and tests, 70 work hours to accomplish the required wiring modification, and 1 work hour to accomplish the required operational tests. The average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators of airplanes on which the sync-lock feature was installed during production or as a modification is estimated to be $31,680, or $3,960 per airplane.

Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,872,680.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes the large number of work hours required to accomplish the modification. The 5-year compliance time specified in paragraphs (b) and (c) of this AD should allow the sync-lock installation and wiring modification to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–21–05 Boeing: Amendment 39–9047. Docket 93–NM–122–AD.

Applicability: Model 737–300, –400, and –500 series airplanes equipped with CFM International CFM56–3 series engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane, accomplish the following:

(a) For airplanes on which the sync-lock installation [specified in paragraph (b) of this AD], sync-lock wiring modification [specified in paragraph (c) of this AD], or Production Revision Record (PRR) 35105 has not been accomplished: Within 60 days after the

effective date of this AD, and thereafter at intervals not to exceed 4,000 hours time-in-service, perform adjustments and tests of the thrust reverser system that are specified in Section 78–31–00 of the Boeing 737 Maintenance Manual to verify proper operation of the thrust reverser system, in accordance with that section of the maintenance manual. If any discrepancy is found, prior to further flight, accomplish either paragraph (a)(1) or (a)(2) of this AD.

(1) Repair any discrepancy found, in accordance with procedures described in the Boeing 737 Maintenance Manual. Or

(2) Deactivate the associated thrust reversar in accordance with the existing provisions and limitations specified in the Master Minimum Equipment List (MMEL).

(b) For airplanes on which the sync-lock feature was not installed during production or as a modification in accordance with Boeing Service Bulletin 737–78–1053, dated December 17, 1992: Within 5 years after tha effective date of this AD, install an additional thrust reverser system locking feature (sync-lock Installation) in accordance with Boeing Service Bulletin 737–78–1053, Revision 1, dated July 1, 1993; Revision 2, dated February 17, 1994; or Ravision 3, dated Juna 30, 1994. Installation of the additional locking feature constitutes terminating action for the tests required by paragraph (a) of this AD.

(c) For airplanes listed in Boeing Service Bulletin 737–78–1058, dated July 1, 1993: Within 5 years after the effective date of this AD, modify the sync-lock wiring in accordance with Boeing Service Bulletin 737–78–1058, dated July 1, 1993; Revision 1, dated February 17, 1994; or Revision 2, dated July 7, 1994. Modification of tha sync-lock wiring constitutes terminating action for tha tests required by paragraph (a) of this AD.

(d) At tha times specified in paragraph (e) of this AD, accomplish the "Thrust Reverser Sync-lock Integrity Test" specifiad below to verify that the sync-locks are not failing in the unlocked state. If any discrepancy is found, prior to further flight, accomplish paragraph (d)(1) or (d)(2) of this AD.

(1) Repair any discrepancy found, in accordance with procedures specified in the Boeing 737 Maintenance Manual. Or

(2) Deactivate the associated thrust reverser in accordance with tha existing provisions and limitations specified in the MMEL. The sync-locks installed on the deactivated thrust reverser must remain operational.

"Thrust Reverser Sync-lock Integrity Test

1. General

A. Use this procedure to test the integrity of the thrust reverser sync-locks. The procedure must be performed on each engine.

2. Thrust Reverser Sync-Lock Test

A. Prepare for the Thrust Reverser Sync-Lock test.

(1) Do the steps that follow to supply power to the thrust reverser system:

(a) Maka sure the thrust levers are in the idle position.

(b) Make sure the thrust reversers are retracted and locked.

(c) Maka sure these circuit breakers on the P6 circuit breaker panel are closed:

(1) Engine 1 thrust reverser cont sys
(2) Engine 2 thrust reverser cont sys
(3) Engine 2 thrust reverser cont sys-alt
(4) Engine 1 thrust reverser ind sys
(5) Engine 2 thrust reverser ind sys
(6) Engine 1 Sync-lock
(7) Engine 2 Sync-lock
(8) Engine 2 Sync-lock-ALTN
(9) Landing gear air/gnd relay and lights
(10) Radio ALTM–2

(d) Make sure this circuit breaker on the P18 circuit breaker panel is closed:

(1) Radio ALTM–1.

(e) Supply electrical power.

(f) Remove pressure from the A (for the left engine) or B (for the right engine) hydraulic system.

B. Do the thrust reverser sync-lock test.

(1) Move and hold the manual unlock lever on the upper actuator on both thrust reverser sleeves to the unlock position.

(2) Make sure tha thrust reverser sleeves did not move aft.

(3) Move the left (right) reverse thrust lever up and rearward to the reverse thrust position.

(4) Make sure both thrust reverser sleeves move aft (approximately 0.15 to 0.25 inch).

(5) Relaase the manual unlock lever on the upper actuators.

Warning: Make sure all persons and equipment are clear of tha area around tha thrust reverser. When you apply hydraulic pressure, the thrust reverser will extend and can cause injuries to persons or damage to equipment.

(6) Pressurize the A (B) hydraulic system.

(7) Make sure tha thrust reverser extends.

(8) Move the left (right) reversa thrust lever to the forward and down position to retract the thrust reverser.

C. Put the airplane back to its usual condition.

(1) Remove hydraulic pressure.

(2) Remove electrical power.

D. Repeat the thrust reverser sync-lock test on the other engine."

(e) Accomplish the test required by paragraph (d) of this AD at the times specified in paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) For airplanes that are subject to the requirements of paragraphs (b) and (c) of this AD: Within 4,000 hours time-in-service after accomplishing the modification required by paragraph (b) or (c) of this AD, as applicable, or within 4,000 hours time-in-servica after the effective date of this AD, whichevar occurs later; and thereafter at intervals not to exceed 4,000 hours tima-in-service.

(2) For all other airplanes: Within 4,000 total hours time-in-service, or within 4,000 hours time-in-service after the effectiva date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,000 hours time-in-service.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriata FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(h) The installation and wiring modification shall be done in accordance with Boeing Service Bulletin 737–78–1053, Revision 1, dated July 1, 1993; Boeing Service Bulletin 737–78–1053, Revision 2, dated February 17, 1994; Boeing Servica Bulletin 737–78–1053, Revision 3, dated June 30, 1994; Boeing Service Bulletin 737–78–1058, dated July 1, 1993; Boeing Service Bulletin 737–78–1058, Revision 1, dated February 17, 1994; or Boeing Service Bulletin 737–78–1058, Revision 2, dated July 7, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenua, SW., Renton, Washington; or at the Offica of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendmant becomes effective on November 25, 1994.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25294 Filed 10–24–94; 8:45 am]

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14 CFR Part 39

[Docket No. 94–CE–21–AD; Amendment 39–9051; AD 94–22–02]

Airworthiness Directives; Consolidated Aeronautics Lake Model 250 Airplanes Equipped With a Bendix/King KFC 150 Automatic Flight Control System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Consolidated Aeronautics Lake Model 250 airplanes equipped with a Bendix/King KFC 150 automatic flight control system. This action requires pulling the "A/P" and "TRIM" circuit breakers, and fabricating and installing a placard that specifies the use of manual trim only. An incident where the elevator trim spring lever of a Lake Model 250 airplane failed to return to neutral following KFC 150

automatic flight control system autotrim operation prompted this action. The resulting mistrim overpowered the autopilot and caused the airplane to deviate from its flight path. The actions specified by this AD are intended to prevent automatic flight control system malfunctions caused by failure of the elevator autotrim to disengage, which could result in flight path deviations.

DATES: Effective November 4, 1994.

Comments for inclusion in the Rules Docket must be received on or before December 30, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 94–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that relates to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 94–CE–21–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Roger A. Souter, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4134; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received a report where the Bendix/King KFC 150 automatic flight control system malfunctioned because the elevator trim spring lever on a Consolidated Aeronautics Lake Model 250 airplane failed to return to neutral following KFC 150 automatic flight control system autotrim operation. This resulted in the airplane deviating from its flight path.

This KFC 150 automatic flight control system incorporates a mechanical attachment to the basic airplane's trim system; the basic airplane in turn has a pilot-actuated spring-loaded lever that controls a hydraulic actuator. During the original type certification efforts of the KFC 150 automatic flight control system, a modification was incorporated that prevents the engage solenoid for the elevator autotrim servo from remaining occasionally engaged because of an opposing forced created by the spring. The modification provided a design where the spring would back-drive the servo motor, relieve the spring tension, and allow the solenoid to disengage; the solenoid engages once autotrim begins to run, and disengages when autotrim stops running.

In the referenced incident, the spring lever of the airplane failed to return to neutral and the pitch trim continued to run while the KFC 150 automatic flight control system was on autopilot with autotrim operation. The resulting mistrim overpowered the autopilot and caused the airplane to deviate from the flight path. The pilot recognized the problem, disengaged the autopilot, and took control of the airplane. Initial investigation of the incident reveals that the elevator autotrim servo did not disengage because of the loads imposed by the basic airplane's spring lever.

While testing and additional investigation continues in developing a modification to solve this problem, the FAA has determined that, in the interim, this Bendix/King KFC 150 automatic flight control system should not be utilized on Consolidated Aeronautics Lake Model 250 airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken in order to prevent automatic flight control system malfunctions caused by failure of the elevator autotrim to disengage, which could result in flight path deviations.

Since an unsafe condition has been identified that is likely to exist or develop in other Consolidated Aeronautics Lake Model 250 airplanes of the same type design that are equipped with a Bendix/King KFC 150 automatic flight control system, this AD requires pulling the "A/P" and "TRIM" circuit breakers, and fabricating and installing a placard that specifies the use of manual trim only.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–21–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

94–22–02 Consolidated Aeronautics: Amendment 39–9051; Docket No. 94–CE–21–AD.

Applicability: Lake Model 250 airplanes (all serial numbers), certificated in any category, that are equipped with a Bendix/King KFC 150 automatic flight control system.

Compliance: Required within the next 10 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent automatic flight control system malfunctions caused by failure of the elevator autotrim to disengage, which could result in flight path deviations, accomplish the following:

(a) Pull the two circuit breakers, one marked "A/P" and the other marked "TRIM", and attach a collar or tie-wrap to them to prevent resetting.

(b) Fabricate a placard with the words: "Use manual trim only.", and install this placard on the instrument panel within the pilot's clear view.

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

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment (39–9051) becomes effective on November 4, 1994.

Issued in Kansas City, Missouri, on October 18, 1994.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–26240 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–ANE–02; Amendment 39–9034; AD 94–20–06]

Airworthiness Directives; General Electric Company CF6–80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company (GE) CF6–80C2 series turbofan engines, that requires a repetitive oil quantity check after engine start-up but prior to taxi, and installation of a flame arrestor plug support (FAPS) in the aft end of the center vent tube as a terminating action to the repetitive oil quantity checks. This amendment is prompted by three reports of uncontained engine failure due to separation of the fan mid shaft. The actions specified by this AD are intended to prevent an uncontained engine failure and inflight engine shutdown due to fuel contamination of the oil system.

DATES: Effective December 27, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 27, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, OH 45246. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7132, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80C2 series turbofan engines was published in the Federal Register on May 2, 1994 (59 FR 22565). That action proposed to require a repetitive oil quantity check after engine start-up but prior to taxi, and installation of a flame arrestor plug support (FAPS) in the aft end of the center vent tube (CVT) as a terminating action to the repetitive oil quantity checks. The installation would be accomplished in accordance with GE CF6–80C2 Service Bulletin (SB) No. 72–648, Revision 1, dated January 11, 1993, and GE CF6–80C2 SB No. 72–095, Revision 2, dated January 11, 1993.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

One commenter (the engine manufacturer) states that in the Summary and Discussion sections the word "and" should be replaced with "but" to read "* * * require a repetitive oil quantity check after engine start up but prior to taxi." The commenter adds that the word "and" may cause some confusion and lead an operator to believe there may be two checks. The FAA concurs and has revised this final rule accordingly.

The commenter further states that in the Discussion section and paragraphs (a) and (b) of the compliance section the phrase "* * * if the oil quantity indicates 5 gallons (20 quarts) or more" should be changed to "* * * if the oil quantity indicates 5.5 gallons or more on Boeing 747–200/300 aircraft or 22 units or more on all other applications." The commenter notes that this change would avoid unnecessary maintenance action. Operator feedback shows that there were too many aircraft making unnecessary trips back to the gate. The additional margin of 0.5 gallons and 2 units was established because there was no contamination when the previous limit of 5 gallons (20 quarts) was exceeded. Both quarts and liters are used by different operators, and in this situation the difference between quarts and liters is negligible. The FAA concurs and has revised this final rule accordingly.

The commenter further states that in paragraph (d) of the compliance section the clause "* * * replace the fan mid shaft assembly, the mid fan duct assembly" should be changed to "* * * replace the small diameter mid fan duct assembly (CVT)." The commenter notes that GE CF6–80C2 SB No. 72–095, Revision 2, dated January 11, 1993, introduces into production a new fan mid shaft assembly, mid fan duct assembly (CVT), No. 6 bearing plug, preformed packing, and new retaining ring. That SB also provides accomplishment instructions to remove the small diameter CVT and replace it with a larger diameter CVT that will

accommodate the flame arrestor. The SB does not require replacement of the fan mid shaft. The FAA concurs and has revised this final rule accordingly.

The commenter further states that 14 center vent tube extension hardware kits have been provided to the fleet. Installation of the CVT extension in accordance with GE CF6–80C2 Service Evaluation Bulletin (SEB) No. 72–628, dated July 15, 1993, should be an acceptable means of compliance for this AD. The FAA concurs and has revised this final rule accordingly by adding a new paragraph (f).

One commenter states that the oil quantity to initiate inspection action should be 22 quarts instead of 20. The commenter notes that operating experience on Boeing aircraft led to a revision in the Boeing Operations Bulletin to use the 22 quart figure. The FAA concurs in part. This final rule has been revised to refer to 22 units rather than quarts, as described in a previous response.

The economic analysis in the proposed rule included all 1,570 engines in the fleet. The manufacturer has advised the FAA that this number is overly conservative and that there are only approximately 300 engines installed on aircraft of U.S. registry. Out of the 300 engines, an estimated 96% have accomplished the requirements of this AD. The economic analysis of this final rule has been revised accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 300 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per engine to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $2,316 per engine. Out of the 300 engines, the manufacturer has advised the FAA that 96% of the fleet have accomplished the requirements of this AD. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $33,072.

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

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

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–20–06 General Electric Company: Amendment 39–9034. Docket 94–ANE–02.

Applicability: General Electric Company (GE) CF6–80C2 series turbofan engines installed on, but not limited to, Airbus A300 and A310 series, Boeing 747 and 767 series, and McDonnell Douglas MD–11 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained engine failure and inflight engine shutdown due to fuel contamination of the oil system, accomplish the following:

(a) Before each flight, perform an oil quantity inspection for fuel contamination at least 30 seconds after the engine reaches stabilized idle but prior to taxi. If the oil quantity indicates 5.5 gallons or more on Boeing 747–200/300 aircraft or 22 units or more on all other applications, maintenance investigation is required prior to takeoff.

(b) If the oil quantity indicates 5.5 gallons or more on Boeing 747–200/300 aircraft or 22 units or more on all other applications, flush and troubleshoot the oil system for fuel contamination prior to further flight.

(c) For engines with No. 6 bearing plug, Part Number (P/N) 1375M78G01, replace the No. 6 bearing plug with center vent tube (CVT) flame arrestor plug support (FAPS) in accordance with GE CF6–80C2 Service Bulletin (SB) No. 72–648, Revision 1, dated January 11, 1993, prior to January 23, 1995.

(d) For engines with No. 6 bearing plug, P/N 9362M36G01, replace the small diameter mid fan duct assembly CVT and the retaining ring, in accordance with GE CF6–80C2 SB No. 72–095, Revision 2, dated January 11, 1993, and replace the No. 6 bearing plug with CVT FAPS in accordance with GE CF6–80C2 SB No. 72–648, Revision 1, dated January 11, 1993, prior to January 23, 1995.

(e) Installation of the CVT FAPS in accordance with paragraphs (c) or (d) of this AD, constitutes terminating action for paragraphs (a) and (b) of this AD.

(f) Installation of the center vent tube extension in accordance with GE CF6–80C2 Service Evaluation Bulletin (SEB) No. 72–628, dated July 15, 1993, constitutes an acceptable means of compliance with this AD.

(g) The oil quantity inspection required by paragraph (a) of this AD may be performed by the pilot. The checks must be recorded in accordance with Federal Aviation Regulation (FAR) Section 43.9, and records maintained by the owner/operator as required by FAR Section 121.380(a)(2)(v), or 91.417(a)(2)(v), as applicable.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(j) The replacement of the CVT FAPS shall be done in accordance with the following service bulletins:

Document No.	Pages	Revision	Date
GE CF6–80C2, SB No. 72–095	1–15	2	January 11, 1993
Total pages	15		
GE CF6–80C2, SB No. 72–648	1–16	1	January 11, 1993
Total pages	16		
GE CF6–80C2, SEB No. 72–628	1–13	Original	July 15, 1993.
Total pages	13		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, OH 45246. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(k) This amendment becomes effective on December 27, 1994.

Issued in Burlington, Massachusetts, on September 23, 1994.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–25192 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 94–NM–40–AD; Amendment 39–9045; AD 94–21–03]

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that requires installation of a placard near the decouple control handle for the elevator control system to ensure that the pilots are made aware that maintenance action is required to reset the disconnect unit once the decouple control handle has been pulled. This amendment is prompted by a report that, if the decouple control handle for the elevator control system is pulled, the lock linkage will remain unlocked until it is reset during maintenance. The actions specified by this AD are intended to prevent reduced controllability of the airplane due to loss of the mechanical linkage between the pilots' elevator controls, and each pilot having control authority over only one-half of the elevator control system.

DATES: Effective November 25, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 25, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes was published in the **Federal Register** on May 18, 1994 (59 FR 25843). That action proposed to require installation of a placard on the left forward trim panel of the center console in line with the decouple control handle of the elevator to ensure that the pilots are made aware that maintenance action is required to reset the disconnect unit once the decouple control handle has been pulled.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $440, or $55 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–21–03 Jetstream Aircraft Limited: Amendment 39–9045. Docket 94–NM–40–AD.

Applicability: Model 4101 airplanes; constructors numbers 41004 through 41024, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 450 hours time-in-service after the effective date of this AD, install a placard on the left forward trim panel of the center console in line with the decouple control handle for the elevator control system in accordance with Jetstream Service Bulletin J41–11–004, Revision 1, dated March 23, 1994.

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

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

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

(d) The installation shall be done in accordance with Jetstream Service Bulletin J41–11–004, Revision 1, dated March 23, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 25, 1994.

Issued in Renton, Washington, on October 4, 1994.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25058 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–73–AD; Amendment 39–9048; AD 94–21–06]

Airworthiness Directives; Pacific Scientific Company, HTL/KIN–TECH Division, Lap Belt Assemblies and Restraint Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Pacific Scientific lap belt assemblies and restraint systems, that requires removal of certain lap belt assemblies and restraint systems, and replacement with a differently designed assembly. This amendment is prompted by a report indicating that, subsequent to an accident involving a transport category airplane, some passengers experienced difficulty in attempting to release the buckle on their lap belts. The actions specified by this AD are intended to prevent the inability of passengers or crew to egress from their seats during an emergency situation, due to problems associated with the lap belt assembly.

DATES: Effective November 25, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 25, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Pacific Scientific, HTL/KIN–TECH Division, 22715 Savi Ranch Parkway, Yorba Linda, California 92687. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Layton Walker, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5339; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Pacific Scientific lap belt assemblies and restraint systems was published in the **Federal Register** on May 31, 1994 (59 FR 28031). That action proposed to require the removal of certain lap belt assemblies and restraint systems, and replacement with another design assembly.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters support the proposal.

One commenter supports the intent of the proposal, but suggests that it should have been issued as an immediately adopted rule, without prior notice and time for public comment. The commenter considers that the subject lap belts pose a serious and immediate threat to passengers and crew who could encounter difficulties in releasing the belts during an emergency situation The FAA does not concur with the commenter's suggestion. In developing this rule and its associated compliance time, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of necessary parts and the practical aspect of accomplishing the required actions during normal maintenance schedules. Additionally, the FAA considered the fact there has been no adverse service history within the last two years related to the 27,000 subject belts currently in service. In light of all of these items, the FAA could not find that it was impracticable to provide for prior notice and time for public comment on the rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 27,002 lap belts of the affected design installed in aircraft and rotorcraft worldwide. The FAA estimates that, of this number, approximately 10,000 are to be installed on U.S. registered aircraft and rotorcraft. It will take approximately .5 work hour per lap belt to accomplish the required actions, at an average labor rate of $55 per work hour. Required parts will be supplied by Pacific Scientific Company at no cost to operators. Based on these

figures, the total cost impact of this AD on U.S. operators is estimated to be $275,000, or $27.50 per lap belt.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

39.13 [Amended]

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

94–21–06 Pacific Scientific Company, HTL/KIN–Tech Division: Amendment 39–9048. Docket 94–NM–73–AD.

Applicability: Lap belt assemblies and restraint systems, as listed in Pacific Scientific Service Bulletin 1108435–25–01, dated April 28, 1994, and Pacific Scientific Service Bulletin 1108460–25–01, dated April 28, 1994; as installed on aircraft and rotorcraft, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of passengers or crew to egress from their seats during an emergency situation, due to problems associated with the lap belt assembly, accomplish the following:

(a) Within 90 days after the effective date of this AD, remove the applicable lap belt assemblies and restraint systems, and replace them with new design assemblies in accordance with Pacific Scientific Service Bulletin 1108435–25–01, dated April 28, 1994, or Pacific Scientific Service Bulletin 1108460–25–01, dated April 28, 1994, as applicable.

(b) As of a date 90 days after the effective date of this AD, no person shall install on any aircraft or rotorcraft a passenger or crew lap belt or restraint system (as listed in Pacific Scientific Service Bulletin 1108435–25–01, dated April 28, 1994, and Pacific Scientific Service Bulletin 1108460–25–01, dated April 28, 1994) that incorporates the part number 1108435 "45 degrees" release lift lever buckle assembly, or the part number 1108460 "90 degrees" release lift lever buckle assembly.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

(e) The removal and replacement shall be done in accordance with Pacific Scientific Service Bulletin 1108435–25–01, dated April 28, 1994, or Pacific Scientific Service Bulletin 1108460–25–01, dated April 28, 1994, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pacific Scientific, HTL/KIN–TECH Division, 22715 Savi Ranch Parkway, Yorba Linda, California 92687. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on November 25, 1994.

Issued in Renton, Washington, on October 7, 1994.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25439 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 91

[Docket No. 27748; Special Federal Aviation Regulation (SFAR) No. 69]

RIN 2120–AF40

Removal of the Prohibition Against Certain Flights Between the United States and Haiti

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: This action removes Special Federal Aviation Regulation (SFAR) 69, which prohibits the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of Haiti, and which further prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to any intermediate destination, if the flight's origin or ultimate destination is Haiti. This action is taken in response to UN Security Council Resolution 944 (1994) directing, *inter alia*, the termination of the sanctions mandated in U.N. Security Council Resolution 917 (1994), and to the Executive Order issued by the President on October 14, 1994, cancelling sanctions mandated in Executive Order 12914 (May 7, 1994).

EFFECTIVE DATE: October 16, 1994.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone: (202) 267–3515.

SUPPLEMENTARY INFORMATION: On May 18, 1994, the FAA published at 59 FR 25809 a final rule prohibiting certain aircraft operations between the United States and Haiti. SFAR 69 was issued in response to Executive Order 12914 (May 7, 1994) and UN Security Council Resolution 917 (May 6, 1994) mandating, *inter alia*, an embargo of most air traffic with Haiti. SFAR 69 prohibits the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of Haiti. SFAR 69 also prohibits the landing in, takeoff from, or overflight of territory of the United States by any aircraft of a flight from or

to any intermediate destination, if the flight's origin or ultimate destination is Haiti. The terms of SFAR 69 provide for exceptions for regularly scheduled foreign air carrier passenger flights and for particular flights approved by the United States Government.

On September 19, 1994, U.S. military forces entered Haiti in accordance with September 18, 1994, agreement between the United States and the *de facto* government of Haiti. The September 18 agreement further required the leaders of the *de facto* government of Haiti to relinquish power and provided for the lifting of the economic embargo and sanctions imposed in accordance with applicable Security Council Resolutions, including Security Council Resolution 917. Thereafter, the UN Security Council decided in Resolution 944 to terminate the sanctions imposed under Security Council Resolution 917 at 12:01 am on the day after the return to Haiti of President Aristide. In an Executive Order issued on October 14, 1994, the President cancelled sanctions mandated in Executive Order 12914, including the prohibition on certain aircraft operations between the United States and Haiti imposed under SFAR 69.

List of Subjects in 14 CFR Part 91

Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Haiti.

The Amendment

For the reasons set forth above, the Federal Aviation Administration hereby amends 14 CFR part 91 by removing SFAR No. 69 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 19, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat 1180); 42 U.S.C. 4321 *et seq.*, E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Special Federal Aviation Regulation No. 69 is removed.

Issued in Washington, DC, on October 14, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–26440 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Continuation of Stay of Enforcement of Standards for the Flammability of Children's Sleepwear, Sizes 0 Through 6X and 7 Through 14

AGENCY: Consumer Product Safety Commission.

ACTION: Continuation of stay of enforcement.

SUMMARY: This notice announces the staff's decision to extend the stay of enforcement of sleepwear requirements against (1) garments currently being used as sleepwear that are labeled and marketed as underwear if these garments are skin-tight or nearly skin-tight and (2) garments that are essentially identical in design, material, and fit to such "underwear" garments.

EFFECTIVE DATE: The stay published at 58 FR 4078, January 13, 1993, which became effective January 13, 1993 continues in effect until further notice. The Commission will publish a document in the **Federal Register** announcing the termination date of this stay.

FOR FURTHER INFORMATION CONTACT: Patricia A. Fairall, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0400.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the Commission is issuing a notice of proposed rulemaking ("NPR") concerning the possible amendment of the Commission's flammability standards for children's sleepwear in sizes 0 through 6X and 7 through 14. The current flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR Part 1615 and the standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR Part 1616.

On January 13, 1993, the Commission issued an advance notice of proposed rulemaking concerning the possible amendment of its flammability standards for children's sleepwear. 58 FR 4111. On that same date, the staff also issued a stay of enforcement of the sleepwear requirements against certain garments. 58 FR 4078. That stay went into effect when it was published on January 13, 1993. The staff is extending the stay of enforcement as previously issued while the Commission considers the proposed amendment.

As stated in the NPR which is published elsewhere in this issue of the **Federal Register**, the staff has noted that many garments currently in the marketplace and labeled as "playwear" or "underwear" are suitable for use as sleepwear and are being used as sleepwear in a substantial number of cases. Pending Commission consideration of amendments to the sleepwear standards, the Compliance staff is extending its stay of enforcement against the following garments. The staff will continue not to enforce the sleepwear requirements against garments currently being used as sleepwear that are labeled and marketed as underwear if those garments are relatively free of ornamentation and are skin-tight or nearly skin tight. Such garments may be either one or two piece garments and typically are manufactured of a fabric such as rib knit, interlock knit, or waffle knit. The stay also continues to cover garments that are essentially identical in design, material, and fit to such "underwear" garments. Examples of the types of garments covered by the stay are illustrated on pages 4 and 6 of the Supplemental CPSC Staff Guide to the Enforcement Policy Statements of the Flammability Standard for Children's Sleepwear (1989).

Although the staff continues to stay enforcement against these garments under its sleepwear standards, these garments must comply with the Standard for the Flammability of Clothing Textiles, 16 CFR part 1610.

Dated: October 17, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 94–26099 Filed 10–24–94; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 92C–0294]

Listing of Color Additives Subject to Certification; D&C Green No. 5; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of September 12, 1994, of the final rule that appeared in the **Federal Register** of August 10, 1994 (59 FR 40802), that amended the color additive regulations to provide for the

use of D&C Green No. 5 for coloring drugs and cosmetics intended for use in the area of the eye.

DATES: Effective date confirmed: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 10, 1994 (59 FR 40802), FDA amended 21 CFR 74.1205 and 74.2205 to provide for the use of D&C Green No. 5 for coloring drugs and cosmetics intended for use in the area of the eye.

FDA gave interested persons until September 9, 1994, to file written objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA has concluded that the effective date of the final rule published in the **Federal Register** of August 10, 1994, should be confirmed.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the August 10, 1994 final rule. Accordingly, the amendments promulgated thereby became effective September 12, 1994.

Dated: October 18, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94–26454 Filed 10–24–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Parts 520 and 522

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

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name and address for two new animal drug applications (NADA's) from Sanofi Animal Health, Inc. to Wendt Laboratories, Inc.

EFFECTIVE DATE: October 25, 1994.

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

SUPPLEMENTARY INFORMATION: Sanofi Animal Health, Inc., 7107 College Blvd., suite 610, Overland Park, KS 66210, has informed FDA that it has transferred ownership of, and all rights and interests in, approved NADA's 48-646 (Phenylbutazone Injection) and 48–647 (Phenylbutazone Tablets) to Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plaine, MN 56011. Accordingly, the agency is amending the regulations in 21 CFR 520.1720a(b)(3) and 21 CFR 522.1720(b)(1) to reflect the change of sponsor.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.1720a [Amended]

2. Section 520.1720a *Phenylbutazone tablets and boluses* is amended in paragraph (b)(3) by removing "050604" and adding in its place "015579".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 522.1720 [Amended]

4. Section 522.1720 *Phenylbutazone injection* is amended in paragraph (b)(1) by removing "050604" and adding in its place "015579".

Dated: October 14, 1994.

Robert C. Livingston,

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

[FR Doc. 94–26453 Filed 10–24–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 524

[Docket No. 94N–0202]

Nitrofurazone Solution; Removal of Regulation

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing the regulation which reflects approval of three new animal drug applications (NADA's) providing for the use of nitrofurazone solution drug products. Additionally, approval of those portions of a fourth NADA (sponsored by SmithKline Beecham Animal Health) which provide for use of nitrofurazone solution product is also being withdrawn, but that approval is not codified. All four sponsors submitted written requests that the agency withdraw the approvals.

EFFECTIVE DATE: November 3, 1994.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0749.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of three NADA's and those portions of NADA 6–475 providing for the use of nitrofurazone solution. The withdrawals of approval were requested in writing by the sponsors after FDA informed them that new information establishes that the labeled directions for use of the 0.2 percent nitrofurazone solutions have not been followed in practice. The NADA's are:

Sponsor	NADA No.
SmithKline Beecham Animal Health, 1600 Paoli Pike, West Chester, PA 19380	6–475
Veterinary Laboratories, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215	121–559
Fermenta Animal Health Co., 10150 North Executive Hills Blvd., Kansas City, MO 64153	126–023
Med-Pharmex, Inc., Biomed Laboratories, 325 East Arrow Hwy., San Dimas, CA 91773	126–950

The NADA's provide for over-the-counter use of 0.2 percent nitrofurazone solution on dogs, cats, and horses for prevention or treatment of topical bacterial infections, and prescription use for female equine genital tract infections and impaired fertility due to strains of certain bacteria. This document removes 21 CFR 524.1580d, the regulation which reflects the approvals.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 524.1580d [Removed]

2. Section 524.1580d *Nitrofurazone solution* is removed and reserved.

Dated: September 21, 1994.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 94–26376 Filed 10–24–94; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 900

Medical Devices; Mammography Facilities Education and Training; Notice of Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), the Southeast Region Small Business Assistance Program, the Center for Devices and Radiological Health, and the Office of External Affairs, are sponsoring a public workshop on FDA requirements for compliance with the Mammography Quality Standards Act (MQSA). This workshop is designed to assist the facilities in complying with regulations which went into effect October 1, 1994.

DATES: The public workshop will be held on November 3, 1994, from 8 a.m. to 4:30 p.m.

ADDRESSES: The public workshop will be held at the Castlegate Hotel and Conference Center, I/75 and Howell Mill Rd., NW., Atlanta, GA 30318, 404–351–6100 or 1–800–824–8657.

FOR FURTHER INFORMATION CONTACT: Barbara L. Ward-Groves, Food and Drug Administration, Office of Regulatory Affairs (HFR–SE17), 60 8th St., NE., Atlanta, GA 30309, 404–347–0258 or FAX 404–347–4349. Those persons interested in attending this workshop should FAX their registration to 404–347–4349 including name, firm name, address, and telephone number by October 20, 1994. There is no registration fee for this workshop, but advance registration is required. Space is limited and all interested parties are encouraged to register early.

SUPPLEMENTARY INFORMATION: FDA will conduct training for mammography facilities designed to assist those facilities to comply with the requirements of the MQSA. Those requirements went into effect October 1, 1994. Emphasis will be placed on educating, training, and providing assistance to small business in meeting MQSA requirements.

Dated: October 18, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94–26378 Filed 10–24–94; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH65–1–6498a; FRL–5080–9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Ohio submitted its Rule 3745–35–07, entitled "federally Enforceable Limitations on Potential to Emit," for Federal approval. The rule would establish a mechanism for creating federally enforceable limitations that would reduce sources' potential to emit such that sources could avoid major source permitting requirements. This rulemaking conditionally approves this rule as satisfying the requirements, set forth in the **Federal Register** of June 28, 1989, and authorizes Ohio to issue federally enforceable State operating permits addressing both criteria pollutants (regulated under section 110 of the Clean Air Act) and hazardous air pollutants (regulated under section 112).

DATES: This final rule will be effective December 27, 1994 unless notice is received by November 25, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604; and Air Docket (6102), United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION:

I. Review of State Submittal

For many years, Ohio has been issuing permits for major new sources and for major modifications of existing sources. Throughout this time, Ohio has also been issuing permits establishing limitations on the potential emissions from new sources so as to avoid major source permitting requirements. This latter type of permitting has been the subject of various guidance from the

United States Environmental Protection Agency (USEPA), most notably the memorandum entitled "Guidance on Limiting Potential to Emit in New Source Permitting" dated June 13, 1989.

The operating permit provisions in title V of the Clean Air Act Amendments of 1990 have created interest in mechanisms for limiting sources' potential to emit, thereby allowing the sources to avoid being defined as "major" with respect to title V operating permit programs. A key mechanism for such limitations is the use of federally enforceable State operating permits (FESOPs). USEPA issued guidance on FESOPs in the **Federal Register** of June 28, 1989 (54 FR 27274). On April 20, 1994, Ohio submitted its newly adopted Rule 3745–35–07 to provide for FESOPs in Ohio. This rule would supplement the pre-existing mechanisms for establishing federally enforceable limitations on potential to emit (i.e., State rules, administrative orders, and in some cases new source permits). This rulemaking evaluates whether Ohio has satisfied the requirements for this type of federally enforceable limitations on potential to emit.

As specified in the **Federal Register** of June 28, 1989, the first requirement for approval of a FESOP program is that the State must have approved operating permit regulations. Rule 3745–35–07 supplements other rules in Ohio Chapter 3745–35 rules, collectively entitled "Air Permits to Operate and Variances." These other rules were approved on June 10, 1982 (at 47 FR 25144), and today's rulemaking approves Rule 3745–35–07.

The second requirement is that sources have a legal obligation to comply with permit terms, and that USEPA may deem as "not federally enforceable" those permits which it finds fail to satisfy applicable requirements. Rule 3745–35–02 requires sources to obtain permits to operate, authorizes Ohio to establish terms and conditions in these permits "to ensure compliance with [applicable requirements]," and authorizes the State to suspend or revoke permits if the source violates the terms or conditions. Thus, this rule imposes a legal obligation on sources to comply with permit terms.

An associated issue is whether Ohio's rules authorize USEPA to deem selected permits "not federally enforceable." Rule 3745–35–07 provides explicitly that Ohio may not issue a FESOP if USEPA objects during the public comment period. Language inadvertently included in the adopted rule could be interpreted not to allow USEPA to object to a permit's enforceability after permit issuance. However, this interpretation does not reflect State intent, and USEPA instead interprets Rule 3745–35–07 to deem permits not federally enforceable after as well as before issuance. Nevertheless, on June 16, 1994, Ohio submitted a commitment to revise its regulation to include the language it had intended to adopt, which would remove the potential for the above misinterpretation. This commitment serves to support a conditional approval of the rule.

While it is Ohio's intent that USEPA be authorized to deem permits not federally enforceable after permit issuance, Ohio also requested that USEPA make these determinations during Ohio's public comment period (prior to permit issuance) whenever possible. Although USEPA is authorized to deem permit conditions not federally enforceable at any later date, USEPA will strive to determine Federal enforceability during Ohio's public comment period.

The third requirement for FESOPs is that the program require all limits to be at least as stringent as other applicable federally enforceable provisions. Rule 3745–35–02(D) provides for terms and conditions in permits "as are necessary to ensure compliance with applicable [air pollution requirements]." These rules contain no provisions authorizing terms and conditions any less stringent than the applicable requirements.

The fourth requirement is that the permit provisions must be permanent, quantifiable, and otherwise enforceable as a practical matter. Permit "permanence" does not mean never providing for a modification, reissuance, or revocation, for these elements are fundamental in all air permit programs. Permanence instead is considered in terms of provisions having continuing mandates, i.e. that USEPA has assurance that the provisions are in effect through the life of the permit and that any reissued permit will continue the provisions in effect. In this case, the limitations on potential to emit will generally be sought by sources so as to be redefined from "major" to "minor" for permitting purposes. USEPA is assured that sources that obtain such limitations will keep these limitations in effect, so as never to be a "major" source violating the requirement for a "major" source permit. The requirement for permit provisions to be quantifiable and practically enforceable must be met on a permit-by-permit basis. Ohio's rules do provide in general for the issuance of enforceable permits. Thus, Ohio's rules provide for legally enforceable permits that USEPA may evaluate for practical enforceability.

The fifth requirement is that the permits be subject to public notice and review. Rule 3745–35–07 (B)(2) provides that permits intended to establish federally enforceable limitations on potential to emit may not be issued without first providing opportunity for public comment, "with concurrent notice and opportunity for comment given to [USEPA]."

The USEPA technical support document discusses a possible misinterpretation of Rule 3754–35–07 relating to emissions trading. The rule provides that federally enforceable limitations on potential to emit may be established through permits to install, permits to operate (i.e. FESOPs), or State rules or administrative orders, and provides for sources to request provisions allowing emissions trading in any of these vehicles for emissions limitations. USEPA identified the potential argument that this rule authorizes sources to require the State to adopt rules to provide trading on a broad scale. However, upon reconsideration, USEPA finds this interpretation implausible, and concludes that neither Ohio's statute nor this rule would dictate that a source could require the State to adopt such rules.

Ohio has requested that USEPA authorize federally enforceable limitations on potential to emit both pollutants regulated under section 110 of the Act ("criteria pollutants") and pollutants regulated under section 112 ("hazardous air pollutants" or "HAPs"). As discussed above, the June 28, 1989 **Federal Register** notice provided five specific criteria for approval of State operating permit programs for the purpose of establishing federally enforceable limits on a source's potential to emit. This notice, because it was written prior to the 1990 amendments, addressed only SIP programs to control criteria pollutants. Federally enforceable limits on criteria pollutants (especially volatile organic compounds (VOCs) and particulate matter) may have the incidental effect of limiting certain HAPs listed pursuant to section 112(b). This situation would occur when a pollutant classified as a HAP is also classified as a criteria pollutant (e.g., benzene).[1] As a legal matter, no additional program approval by USEPA is required in order for these

[1] USEPA intends to issue guidance addressing the technical aspects of how these criteria pollutant limits may be recognized for purposes of limiting a source's potential to emit of HAPs to below section 112 major source levels.

criteria pollutant limits to be recognized for this purpose.

USEPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989, **Federal Register** notice, are also appropriate for evaluating and approving the programs under section 112(l). The June 28, 1989, notice does not address HAPs because it was written prior to the 1990 amendments to section 112 and not because it establishes requirements unique to criteria pollutants. Hence, the five criteria discussed above are applicable to FESOP approvals under section 112(l) as well as under section 110.

In addition to meeting the criteria in the June 28, 1989, notice, a FESOP program for HAPs must meet the statutory criteria for approval under section 112(l)(5). This section allows USEPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standards or requirements; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

USEPA plans to codify the approval criteria for programs limiting potential to emit HAPs in subpart E of part 63, the regulations promulgated to implement section 112(l) of the Act. USEPA currently anticipates that these criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989, notice, with the addition that the State's authority must extend to HAPs instead of, or in addition to, VOCs and particulate matter. USEPA currently anticipates that FESOP programs that are approved pursuant to section 112(l) prior to the subpart E revisions will have had to meet these criteria, and hence, will not be subject to any further approval action.

USEPA believes it has authority under section 112(l) to approve programs to limit potential to emit HAPs directly under section 112(l) prior to this revision to subpart E. Section 112(l)(5) requires USEPA to disapprove programs that are inconsistent with guidance required to be issued under section 112(l)(2). This might be read to suggest that the "guidance" referred to in section 112(l)(2) was intended to be a binding rule. Even under this interpretation, USEPA does not believe that section 112(l) requires this rulemaking to be comprehensive. That is, it need not address all instances of approval under section 112(l). USEPA has already issued regulations under section 112(l) that would satisfy this requirement. Given the severe timing problems posed by impending deadlines under section 112 and title V, USEPA believes it is reasonable to read section 112(l) to allow for approval of programs to limit potential to emit prior to issuance of a rule specifically addressing this issue.

Ohio's satisfaction of the criteria published in the **Federal Register** of June 28, 1989, has been discussed above. In addition, Ohio's FESOP program meets the statutory criteria for approval under section 112(l)(5). USEPA believes that Ohio has adequate authority to assure compliance with section 112 requirements since the third criteria of the June 28, 1989, notice is met, that is, since the program does not provide for waiving any section 112 requirement. Nonmajor sources would still be required to meet applicable section 112 requirements.

Regarding adequate resources, Ohio has included in its request for approval under section 112(l) a commitment to provide adequate resources to implement and enforce the program, which will be obtained from fees collected under title V. USEPA believes that this mechanism will be sufficient to provide for adequate resources to implement this program, and will monitor the State's implementation of the program to assure that adequate resources continue to be available.

Ohio's FESOP program also meets the requirement for an expeditious schedule for assuring compliance. A source seeking a voluntary limit on potential to emit is probably doing so to avoid a Federal requirement applicable on a particular date. Nothing in this program would allow a source to avoid or delay compliance with the Federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline.

Finally, Ohio's FESOP program is consistent with the objectives of the section 112 program since its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. USEPA believes this purpose is consistent with the overall intent of section 112. Accordingly, USEPA finds that Ohio's program satisfies applicable criteria for establishing federally enforceable limitations on potential to emit both criteria and hazardous air pollutants.

II. Rulemaking Action

USEPA finds that the criteria for Ohio to be able to issue FESOPs are essentially met, and is today approving Rule 3745–35–07. This approval is conditioned on fulfillment of Ohio's commitment to revise its rule to clarify USEPA's authority to deem permits unenforceable after issuance. This conditional approval authorizes Ohio to establish federally enforceable limitations on potential to emit both criteria pollutants and hazardous air pollutants.

USEPA evaluated whether to defer Ohio's authority to issue FESOPs pending adoption and USEPA approval of Ohio's intended rule clarification. Although Ohio's rule inadvertently included language that could be read to imply otherwise, USEPA believes it has adequate assurances of its authority to make post-issuance determinations that State-issued permits are not federally enforceable. First, USEPA interprets Ohio's rule to provide this authority now. Second, this authority will be further clarified in the near future. USEPA believes that Ohio will revise its rule shortly to clarify this authority for individual permits, possibly even before any FESOP permits are issued; but if Ohio fails to make the expected rule revisions, today's conditional approval will revert to a disapproval, and all "FESOP" permit conditions will no longer be federally enforceable.

If Ohio fulfills its commitment, this conditional approval would be converted to full approval and the FESOP permitting authority continued. If Ohio fails to satisfy its commitment within one year of today, the conditional approval will convert to a disapproval and Ohio's authority to issue federally enforceable limitations on potential to emit will be rescinded. In either alternative, USEPA's authority to deem permits not federally enforceable both before and after permit issuance will be further clarified. Consequently, this rulemaking authorizes Ohio to issue FESOPs commencing immediately upon the effective date of this rule, which will be December 27, 1994, unless in the meantime USEPA defers or rescinds the effective date at a commenter's request.

This action is being taken without prior proposal because the changes are believed to be noncontroversial and USEPA anticipates no significant comments on them. This action will be effective December 27, 1994, unless notice is received by November 25, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision

to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

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

SIP approvals under section 110 and subchapter I, part D of the 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: September 19, 1994.

Valdas V. Adamkus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1888 is added to subpart KK to read as follows:

§ 52.1888 Operating permits.

Emission limitations and related provisions which are established in Ohio operating permits as federally enforceable conditions in accordance with Rule 3745–35–07 shall be enforceable by USEPA. USEPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures or permit requirements which do not conform with the operating permit program requirements or the requirements of USEPA's underlying regulations.

3. Section 52.1919 is amended by adding paragraph (a)(2) to read as follows:

§ 52.1919 Identification of plan-conditional approval.

(a) * * *

(2) On April 20, 1994, Ohio submitted Rule 3745–35–07, entitled "federally Enforceable Limitations on Potential to Emit," and requested authority to issue such limitations as conditions in State operating permits. On June 16, 1994, Ohio submitted a commitment to revise Rule 3745–35–07 to clarify that the rule provides for USEPA objection to permits after issuance. The revisions are approved provided Ohio fulfills this commitment by October 25, 1995.

(i) Incorporation by reference.

(A) Rule 3745–35–07, adopted April 4, 1994, effective April 20, 1994.

* * * * *

[FR Doc. 94–26352 Filed 10–24–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[SD4–1–5671a; FRL–5077–6]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revision submitted by the State of South Dakota for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). The implementation plan was submitted by the State to satisfy the Federal mandate, found in section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for the approval is set forth in this notice; additional information is available at the address indicated below.

DATES: This final rule will become effective on December 27, 1994 unless adverse or critical comments are received by November 25, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be addressed to Laura Farris, 8ART-AP, at the EPA Regional Office listed.

Copies of the State's submittal and other supporting information used in developing this final rule are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART-AP,Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405, (303) 294–7539.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the Clean Air Act (CAA), as amended in 1990, will require regulation of many

small businesses so that areas may attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the Environmental Protection Agency (EPA) to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and state roles in meeting the new statutory provisions and as a tool to provide further guidance to the states on submitting acceptable SIP revisions.

The State of South Dakota has submitted a SIP revision to EPA in order to satisfy the requirements of section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing approval of the South Dakota PROGRAM should adverse or critical comments be filed. Under the procedures established in the May 10, 1994 **Federal Register**, this action will be effective on December 27, 1994, unless by November 25, 1994, 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 document 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. 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 December 27, 1994.

II. Analysis

The State of South Dakota has met all of the requirements of section 507 by submitting a SIP revision that implements all required PROGRAM elements. The South Dakota Codified Laws (SDCL) was amended effective July 1, 1992 to include provisions (34A–1–57 through 34A–1–60, inclusive) which provide the authority to establish and fund the PROGRAM. The authority to establish and fund the Compliance Advisory Panel is found in SDCL 1–32–4.1 through 1–32–4.4, inclusive. The South Dakota Department of Environment and Natural Resources held a public hearing on November 6, 1992 to consider amending the South Dakota SIP to include a plan which commits to the development and implementation of the South Dakota PROGRAM. On November 10, 1992, the Governor of South Dakota's designee, Robert E. Roberts, Secretary of the Department of Natural Resources, submitted the South Dakota PROGRAM to the EPA. Additional information was sent by request on January 20 and March 23, 1993. The PROGRAM was initially reviewed for administrative and technical completeness and was deemed complete on April 5, 1993. The submittal was then reviewed for approveability by EPA Region VIII and EPA headquarters. One of the EPA headquarters reviewers, the Office of the Small Business and Asbestos Ombudsman, did not concur on the South Dakota PROGRAM for the following reasons: (1) The State failed to correct deficiencies noted by EPA in their review of the proposed South Dakota PROGRAM; (2) Further clarification and assurances are necessary to insure that the State will implement all the statutory requirements under section 507. The State subsequently made the necessary changes to their PROGRAM, went back through public hearing on January 12, 1994, and resubmitted the PROGRAM on April 11, 1994. The South Dakota PROGRAM then received a concurrence from all reviewers.

1. Small Business Assistance Program

Section 507(a) sets forth six requirements [1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The State has met these requirements by committing in its SIP to "Develop, collect, and coordinate information concerning compliance methods and technologies for small businesses ..." and to "Assist small businesses with pollution prevention and accidental release detection and prevention." The mechanisms the State has committed to use to accomplish these commitments include: "... workshops, electronic bulletin boards, interaction with other states, ... public service announcements, mailings, workshops in the field and through the Rural Development Telecommunications Network (RDTN), one-on-one with the small businesses, and any other methods that are determined during the development and implementation of the Program."

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement by committing in its SIP to "Provide compliance assistance to small businesses to help them determine applicable requirements and in receiving permits in a timely and efficient manner."

The fourth and fifth requirements are to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights and obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the

[1] A seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.

operations of such sources to determine compliance with the Act. This must be done in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act. The State has met these requirements by committing in its SIP to "Notify small businesses of their rights under the Federal Clean Air Act and assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under the Federal Clean Air Act;" and "Inform small businesses of their obligations under the Federal Clean Air Act. If the state does not provide audits of the operations of such sources to determine compliance with state and Federal air pollution regulations, then the state will refer such sources to qualified auditors." The mechanisms the State has committed to use to accomplish these commitments include: "... workshops, electronic bulletin boards, interaction with other states, ... public service announcements, mailings, workshops in the field and through the Rural Development Telecommunications Network (RDTN), one-on-one with the small businesses, and any other methods that are determined during the development and implementation of the Program."

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. The State has met this requirement by committing in its SIP to "Provide procedures for considering requests from small businesses for modifications of any work practice or technological methods of compliance or the schedule of milestones for implementing these modifications. No such modification may be granted unless it is in compliance with the applicable state and Federal requirements."

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by stating in its SIP that the Office of the Small Business Ombudsman will be located in the Department of Environment and Natural Resources.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has met this requirement by committing in its SIP to appoint the members of the CAP as stated above.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act [2]; (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has met this requirements by listing the duties of the CAP in its SIP, which are consistent with those stated above.

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals;

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

The State of South Dakota has established a mechanism for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA. This mechanism is contained in the State's SIP.

[2] Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

The State of South Dakota has provided for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1)(C), (D), and (E) of the CAA but do not emit more than 100 tpy of all regulated pollutants. This provision is contained in the State's SIP.

The State of South Dakota has provided for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA. This provision in contained in the State's SIP.

III. This Action

In today's action, EPA is approving the SIP revision submitted by the State of South Dakota.

The State of South Dakota has submitted a SIP revision implementing each of the required PROGRAM elements required by section 507 of the CAA. The members of the South Dakota CAP have been appointed, and the Ombudsman for the South Dakota PROGRAM has been hired. EPA is therefore approving this submittal.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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 populations of less than 50,000.

By today's action, EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the State. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Small business assistance program.

Dated: September 14, 1994.

Jack W. McGraw,

Acting 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 asfollows:

Authority: 42 U.S.C. 7401–7671q.

Subpart QQ—South Dakota

2. Section 52.2170 is amended by adding paragraph (c)(15) to read as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(15) On November 10, 1992, the Governor of South Dakota's designee submitted a plan for the establishment and implementation of a Small Business Assistance Program to be incorporated into the South Dakota State Implementation Plan as required by section 507 of the Clean Air Act. An amendment to the plan was submitted by the Governor's designee on April 1, 1994.

(i) Incorporation by reference.

(A) November 10, 1992 letter from the Governor of South Dakota's designee submitting a Small Business Assistance Program plan to EPA.

(B) April 1, 1994 letter from the Governor of South Dakota's designee submitting an amendment to the South Dakota Small Business Assistance Program plan to EPA.

(C) The State of South Dakota amended plan for the establishment and implementation of a Small Business Assistance Program, adopted January 12, 1994 by the South Dakota Department of Environment and Natural Resources.

(D) South Dakota Codified Laws 34A–1–57, effective July 1, 1992 and 34A–1–58 through 60, effective July 1, 1993, which gives the State of South Dakota the authority to establish and fund the South Dakota Small Business Assistance Program.

[FR Doc. 94–26355 Filed 10–24–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 64, 65, 70, and 75

RIN 3067–AC17

National Flood Insurance Program; Insurance Coverage and Rates, Criteria for Land Management, Use, Identification, and Mapping of Flood Control Restoration Zones

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes a new flood insurance rate zone for areas designated as flood control restoration zones on National Flood Insurance Program maps. It also establishes minimum floodplain management requirements and provides regulatory guidance for implementing statutory requirements, including procedures to identify and map areas as flood control restoration zones.

The intent of the interim final rule is to permit communities to regulate development through minimum floodplain management requirements and to use flood insurance rates appropriate to the temporary nature of flood hazards during the period when a flood protection system no longer provides 100-year flood protection until it is restored.

DATES: This interim final rule is effective October 25, 1994. We invite your comments on this interim final rule. Comments must be submitted in writing on or before December 9, 1994.

ADDRESSES: Please submit any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472 (facsimile) 202–646–4536.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Division Director, Hazard Identification and Risk Assessment Division, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: On April 1, 1994, FEMA published for comment in the **Federal Register**, 59 FR 15351, a proposed rule. The proposed rule contained provisions that would establish a new flood insurance rate zone, Zone AR, for areas designated as flood control restoration zones on National Flood Insurance Program (NFIP) maps. It would also establish minimum floodplain management requirements and would provide regulatory guidance for implementing statutory requirements of § 928 of Public Law 102–550, 42 USC 4014(f), including procedures to identify and map areas as flood control restoration zones. Public Law 102–550 also requires FEMA to promulgate regulations no later than October 28, 1994.

Following publication of the proposed rule in the **Federal Register**, copies were mailed to approximately 60 individuals and organizations that had previously expressed an interest in the issues that the rule addresses. In addition, copies of the proposed rule were sent to communities in the Los Angeles and Sacramento areas of California that had applied for designation as having flood control restoration zones and were sent to the Congressional delegations representing those areas.

During the 45-day public comment period provided for the proposed rule, FEMA received a total of twelve letters. All but one of the letters contained multiple comments about different issues addressed in the proposed rule. Two letters were submitted by members of the U. S. House of Representatives who represent areas of Sacramento and Los Angeles, California. One of the letters, submitted by three sponsors of the legislation, was received after the close of the formal comment period, but the issues raised are addressed in the supplementary language to these final regulations. Other letters were submitted by representatives of seven local government agencies, legal representatives of two local property owners associations, and one private citizen. In addition, comments received from the U. S. Army Corps of Engineers immediately after the close of the formal comment period have been considered as well.

With one exception, the letters received were from those who support the concept of the flood control restoration zone. One letter urged FEMA to include a requirement in the

regulations that prohibits the restoration from causing an increase in flood hazards elsewhere. All letters were submitted from the Los Angeles and Sacramento, California areas, including three Congressional representatives of those areas.

Major issues raised in the public comments included the maximum five year restoration period, the provision requiring new construction in developed areas to be elevated to three feet above the highest adjacent grade, the absence of a "hold harmless" provision for delays in meeting the restoration schedule, and the definition of "developed" areas. Several comments suggested that the proposed regulations pertaining to these provisions be rewritten based on concern that the regulations do not comply with Congressional intent as reflected in the legislative history.

Changes have been made since the proposed rules were published in April 1994. We decided that because of the changes, and because of the technical nature of the issues that these regulations address, the public and all affected parties should have another opportunity to review and comment on the rule before FEMA publishes a final rule. This interim final rule will permit FEMA to meet the statutorily mandated date of October 28, 1994 for promulgation of regulations, and it will give the public and all affected parties 45 days in which to review and comment on the interim final rule. When the 45-day comment period ends, FEMA will review and evaluate all written comments received during that period, and will publish a final rule in the **Federal Register.**

Definition of Developed Area

Several comments were received on the definition of "developed area". One comment requested clarification on whether open space is to be included within the definition of "developed area". A related comment requested that the definition be expanded to include existing publicly-owned property that is critical to the well-being of the community. FEMA recognizes that there may be some confusion over whether publicly-owned open space is included within the definition of "developed area". These areas are meant to be included in the definition of "developed area" since they generally support the residential, commercial, and industrial well-being of the community. The term "public facilities" in paragraph (a) encompasses publicly-owned open space, buildings, and facilities, such as schools, hospitals, public parks and open space, and historic sites. FEMA believes that it is unnecessary to alter the regulations to clarify this point.

One comment expressed concern that the 75% figure in the definition in which an area must be improved with residential, industrial, and commercial structures is an arbitrary threshold. FEMA believes that the 75% figure in paragraph (a)(1) is a reasonable threshold for determining a "developed area" which is considered or is generally recognized as a city, town, or suburban area that consists of residential, commercial, and industrial buildings, structures, and streetscape and public areas that form a distinct neighborhood or section of a city or urban place with the basic urban infrastructure in place.

A related comment concerned areas within a city in which there are vacant lots and parcels. Vacant land that contains no structures or buildings may be included within a "developed area" if the land had been previously developed and redevelopment of the site can be generally supported by the infrastructure in place. This vacant land is considered "infill". Land that is in a natural or undisturbed state or in agricultural production at the time the designation is adopted is not considered "vacant" land or an "infill site" within a "developed area".

One comment requested that non-residential subdivisions be given the same consideration as residential subdivisions at 44 CFR 59.1(c) of the definition which addresses "vested rights". The intent of this paragraph is to recognize areas as "developed areas" where the investment in the land and infrastructure is substantial and development is underway and infrastructure and structures are being built on an ongoing basis. FEMA agrees that the interim final rule should recognize and include nonresidential structures and has made changes to paragraph (c) to include nonresidential subdivisions. In addition, FEMA includes single lot-type developments, such as planned unit developments, that are a minimum of 20 contiguous acres.

Concerns were raised that the proposed rule precludes all development in areas outside of the "developed area". The suggestion was made that the regulations allow nonresidential construction in these areas because of the importance of economic development to the community and because many local communities currently impose adopted floodproofing criteria in order to minimize flood damage. The suggestion was also made that the regulations should restrict residential construction in areas outside of the "developed area".

The interim final rule does not preclude development in areas outside of the "developed area". The term, "developed area" is a means to determine which elevation or floodproofing requirement must be applied for new construction within Zone AR. The definition also does not classify or establish the location of residential and non-residential construction or other land uses. The establishment of regulations governing the use of land is a decision that resides within the state and local land use authority. Nonresidential and residential construction can be built in areas outside of the "developed area" as long as they are built in accordance with the minimum NFIP floodplain management criteria and at the elevation established at the site. While the NFIP floodplain management criteria require the elevation of residential structures, nonresidential construction has the option of elevating or floodproofing. Criteria for floodproofing are established in the NFIP Regulations that the NFIP community must apply, at a minimum, if this option is chosen.

Another comment asked FEMA how the boundaries of an area will be determined to classify it as a "developed area". The responsibility for designating and adopting an official map or legal description of those areas within Zones AR, AR/A1–30, AR/AE, AR/AH, AR/A, or AR/AO that are designated "developed areas" is established in the floodplain management criteria for flood-prone areas at § 60.3(f)(2) and the eligibility procedures at § 65.14. In accordance with these sections, it is the community's responsibility to submit, as part of the community's application for designation of flood control restoration zones, its proposed designation of "developed areas" in accordance with the definition at § 59.1 to FEMA for approval. FEMA must determine that the community designations are consistent with the definition of "developed area" at § 59.1. The community may use whatever method it deems appropriate to determine whether a particular parcel, tract, or lot, or subdivision is within a "developed area" as defined in § 59.1 or outside of a "developed area". However, FEMA encourages communities to coordinate with the FEMA Regional Offices on designation of "developed areas" before the community adopts an official map or legal description of "developed areas" within the

designated flood control restoration zone.

Five Year Maximum Restoration Period

The majority of the letters received objected to the maximum five year restoration period contained in the proposed rule as being inadequate. The proposed rule limits the duration of a flood control restoration zone designation to a maximum five year period by providing that for a community to be eligible for and to maintain such a designation, the flood protection system must be fully restored or must have achieved "adequate progress" as defined in NFIP regulations at Section 61.12 within a period not to exceed five years. Comments specifically cited experience with the ongoing restoration of flood protection systems for both Los Angeles and Sacramento, California, which have already been in progress for more than five years without achieving "adequate progress". Most comments favored a ten-year restoration period for AR Zone designation as being a more reasonable time frame for restoring a flood protection system, particularly because the restoration involves Federal funding. Comments also cited that the statute's legislative history supported a ten year period for restoration.

When establishing a time limit for the restoration of 100-year protection, FEMA recognizes the need to assess what would be necessary to provide a reasonable time frame for restoring a flood protection system involving Federal funds or for achieving "adequate progress" to satisfy the criteria in § 61.12. The U.S. Army Corps of Engineers submitted comments on the proposed rule that stated that a five-year time frame may not be adequate to ensure that satisfactory progress is made on the project restoration to meet the adequate progress requirements of § 61.12 of existing NFIP regulations. Those comments went on to indicate that ten years may be a more realistic expectation for projects that require Congressional authorization and appropriation of funds.

The regulations apply specifically to communities where the existing flood protection system is a Federal project and the restoration involves Federal funds. Because the U.S. Army Corps of Engineers is the Federal agency most frequently involved in design and construction of Federal flood protection systems, FEMA believes that it is appropriate to give considerable weight to the guidance they have provided with respect to establishing a limit on the restoration period. Therefore, the interim final rule provides a maximum ten-year restoration period, rather than the five years contained in the proposed regulations. This revision is cited at the appropriate locations in § 65.14 of the interim final rule.

Comments were received that expressed the opinion that Congress intended that the restoration period be negotiated on a community-by-community basis and implied that Congress did not intend for a specific cap or limit to be applied to the length of the restoration period.

We respond to this latter comment by stating that, according to the statute, a community is to be considered to be in the process of restoration as long as the restoration of the flood protection system "* * * is scheduled to occur within a designated time period * * *". The term, "designated time period" indicates the establishment of a specific, or definite period of time for restoration in order to confer AR Zone eligibility upon a community. Therefore, we believe that the proposed rule is consistent with the statute by specifying a maximum time frame for restoring the flood protection system that can be uniformly applied to eligible communities.

Within that maximum time frame, the regulations anticipate that the community and FEMA will negotiate a specific restoration plan for a given flood protection system that will be based on the individual requirements for restoring that system. The plan must identify when the project will be completed or when the community will submit a request for a finding of adequate progress that satisfies the requirements of § 61.12. These dates will be dependent upon the project which may not require the full ten-year maximum restoration period provided by these regulations.

"Hold Harmless" Provision for Delays in Complying With Restoration Schedule

Several comments objected to the absence of a "hold harmless" provision in the regulations to address delays in meeting the restoration schedule for any reason. It was felt that the lack of such a provision essentially holds the community responsible for actions that may be beyond its control. For example, the community may not be the local project sponsor of the restoration project and, as a result, may have limited influence as to whether the project's local and federal sponsors meet the restoration schedule agreed upon by the community and FEMA as part of the community's application for AR Zone designations. In addition, several comments cited that potential delays in Congressional authorization and appropriation of funds could affect a community's ability to comply with the restoration schedule, as could disasters and acts of nature, such as earthquakes or other natural hazards. These comments cite the legislative history as supporting the position that the regulations provide maximum flexibility for the community to meet the restoration schedule.

In addition, one comment suggested that § 65.14(g) of the proposed regulations recognized the potential for such delays in that it requires the community and the Federal sponsor to update the restoration plan and identify any "* * * problems that will delay the project completion from the restoration plan previously submitted * * *". The provisions in § 64.14(g) provide for relatively minor modifications to the scheduled restoration plan, including modifying the time frames negotiated under an existing restoration plan. However, it does not imply that the maximum restoration period provided for in the regulations can be exceeded as a result of any modification.

It is our position that the regulations should not include "hold harmless" provisions or provisions to extend, for any reason, the AR Zone designation beyond the maximum ten-year restoration period specified in the regulations. Central to this position is FEMA's belief that the flood control restoration zone is not a long-term or permanent flood insurance zone designation. A provision to extend the AR Zone designation or the inclusion of a "hold harmless" provision would, in FEMA's opinion, be contrary to the statute.

Delineation of "Dual" Zones

Two comments expressed the concern that the "dual" zone provision contained in the proposed regulations is confusing and should be eliminated if it does not benefit property owners. This provision is specifically intended to benefit current and future owners of structures located in areas that, because of flooding from other sources that the flood protection system does not contain, will continue to be subject to flooding after the flood protection system is completely restored. The provision is retained in these regulations.

Limitations on AR Zone Designation

Comments were raised concerning the requirement in § 64.14(b) of the proposed rule, which states that "a community may have a flood control restoration zone designation only once for the purposes of restoring a given

flood protection system". The requirement does not limit a community's future eligibility for the AR Zone designation in the event that a fully restored, certified and accredited flood protection system were to be decertified again. The provision prevents a community from seeking a second flood control restoration zone designation if the initial designation has been removed due to noncompliance with the restoration schedule or due to a finding that satisfactory progress is not being made to complete the restoration. FEMA believes that it is unnecessary to alter the regulations to clarify this point.

Application and Submittal Requirements

Several comments were made pertaining to the application and submittal requirements contained in § 65.14(e) of the proposed regulations.

One comment suggested that the regulations be revised to state that the local project sponsor, not the community applicant be responsible for submitting the documentation requirements at § 65.14(e) (1), (3), (5), (6), and (7).

We believe that it is appropriate that the community be responsible for submitting documentation referenced above. In doing so, the community does not assume financial or administrative responsibility for restoration of the flood protection system. For certain submittal requirements, such as the restoration plan referenced at § 65.14(e)(7), the community would be expected to work with the local and federal project sponsors to complete this requirement. Other requirements, such as a statement required of the community to accompany the Federal agency certification required at § 65.14(e)(3), would be to assure FEMA that the community is aware of the certification being made by the Federal agency, but it does not imply any specific technical input or expertise on the part of the community.

One comment suggested that the documentation required in § 65.14(e) include a statement that the flood protection system under restoration will not increase flood hazards in surrounding areas. Such a provision relates directly to the design requirements for constructing a restoration project that is not within the scope of the statute or these regulations. It is appropriate that concerns about induced flooding be addressed by the local and Federal sponsors of the restoration project. Therefore, such a provision has not been included in these regulations.

One comment objected to the requirement in § 65.14(e)(1) that the community submit, as part of its application for designation of AR Zones, a statement whether the flood protection system is the subject of pending litigation or administrative actions. FEMA believes that the information is pertinent to FEMA's determination whether the restoration project is viable and likely to be completed in accordance with the restoration plan required in § 65.14(e)(7). An affirmative response would not necessarily result in FEMA's denial of the community's application. It is imperative that FEMA be aware of any and all existing and potential obstacles to the timely restoration of a flood protection system so that the Director can accurately evaluate a community's application for designation of AR Zones.

Comments were raised regarding the application requirement in § 65.14(e)(5) that the community applicant submit a feasibility study performed by a Federal agency that deems that the flood protection system is restorable. Several comments observed that the term "feasibility study" as used by the U.S. Army Corps of Engineers is a specific document within the framework of the project planning process, and depending on the type of restoration project, a feasibility study may not always be performed. Other comments were concerned about the length of time that may be required to prepare a U.S. Army Corps of Engineers feasibility study and the associated delay in the community's eligibility for AR Zone designation. At least one comment suggested that for projects sponsored by the U.S. Army Corps of Engineers, a "reconnaissance" level study would provide the assurances that FEMA requires by demonstrating a Federal interest in the project that would restore a minimum 100-year level protection and which would identify a local sponsor for the restoration project.

The interim final rule has been revised to delete the reference to "feasibility study" at § 65.14(e)(5) and instead to refer to a study performed by a federal agency that would demonstrate that there is a federal interest in the restoration of the system and that it is deemed to be feasible to restore the system to provide at least 100-year protection.

One comment suggested that the application requirement to submit a feasibility study would delay the community's eligibility for AR Zone designation which would be contrary to legislative intent. This comment implies that community eligibility for an AR Zone designation should follow immediately after the decertification of the existing flood protection system.

The eligibility requirements contained in the statute refer to a level of activity that would not likely be in place as soon as the system was decertified. Therefore, FEMA anticipates that communities would be mapped as special flood hazard areas with flood elevations (AE Zones), until such time as the progress on the restoration of the flood protection system reached a point that would meet the eligibility requirements for AR Zone designation. This process is similar to the process used to designate A99 Zones under provisions in the NFIP regulations at 44 CFR 61.12.

Several comments objected to the certification requirement in § 65.14(e)(6) that the design and construction of the restoration project involve Federal funds in order for the community to be eligible for AR Zone designation. One specific comment noted that the statute does not specify a Federal flood protection system. As stated in the supplementary information of the proposed rule, the existing FEMA regulations, 44 CFR 61.12, limit A99 Zone designation to communities that have made adequate progress on the construction of a flood protection system involving Federal funds. Requiring that the restoration project involve Federal funds is consistent with the existing regulatory provisions of § 61.12.

Furthermore, the statute provided for floodplain management provisions that permit development in flood control restoration zones to take place at elevations below the base flood elevation (BFE) that would apply in the absence of a flood protection system. Not only will new structures be exposed to increased flood risk until the flood protection system is fully restored, but those same new structures can be insured at less than actuarial rates. The insurance subsidy established in the National Flood Insurance Program (NFIP) was originally intended for the benefit of those who built without knowledge of the risk. In contrast, the subsidy for AR Zone designations is extended to those who are aware, or ought to be aware, of the increased risk. This special consideration is granted on the specific assumption that the increased risk is temporary and will be mitigated in the near term. Therefore, in extending the subsidy in the AR Zones, there has to be a high degree of assurance that the restoration project will be completed.

FEMA recognizes that there are local jurisdictions that may have the resources to build and to restore flood protection systems without Federal

financial support. On the other hand, the subsidy and the less restrictive flood plain management criteria could reduce a community's incentive to press for timely completion of its restoration project. FEMA cannot compel the completion of a restoration project. Without Federal participation in a restoration project, the Federal government cannot insure that the anticipated flood protection will be achieved within the time allowed by the rule. FEMA concludes that a lack of Federal involvement in the restoration process would introduce too great an uncertainty that the restoration projects will be completed in a timely manner.

The public policy concern is that, if restoration of the flood protection system is never completed, or is completed only after a lengthy delay, the owners and occupants of structures built during the restoration period at elevations below the actual 100-year flood level will permanently be at a greater risk of flooding than they would otherwise have been, and this regulation would have contributed directly to that greater risk. This is contrary to the basic purpose of the NFIP. (See 42 USC § 4001(c)). Therefore, the interim final rule retains the requirement that a Federal agency be involved in the funding of the restoration in order to establish an essential assurance that the restoration will be completed.

One comment requested that the regulations at § 65.14(e)(8) allow changes to the community's adopted map or legal description that designates the "developed areas" to accommodate minor errors and omissions. FEMA recognizes that errors or omissions may occur in the drafting of a map or legal description of the designated "developed areas" that the community then officially adopts. In such cases, FEMA would allow the community to submit a revised map or legal description that identifies the error or omission. Communities would be required to submit evidence to FEMA that the specific land areas to be designated as "developed areas" satisfy the requirements of the definition of "developed areas" at the time the initial designation was adopted. Communities would not be allowed to modify the map or legal description to redesignate "developed areas" at their discretion while the flood control restoration zone designation remains in effect.

One comment suggested that the regulations provide for reconsideration when the Director determines that a community is ineligible for a flood control restoration zone designation under the provisions contained in the proposed rule at § 65.14(f). The interim final rule provides for processing a community's application according to procedures specified in existing NFIP regulations at 44 CFR 65.9. FEMA believes that these procedures are adequate. Furthermore, there is no prohibition against resubmitting an application for AR Zone designation.

Another comment suggested that the procedures cited in the proposed regulations at § 65.14(i) for removing the flood control restoration zone designation provide for a prior written notice to the community and an opportunity to remedy the situation.

FEMA agrees that the community should be given prior written notice of the Director's determination and an opportunity to submit information to support retaining the AR designation. The interim final rule at § 65.14(i) was revised accordingly. However, the time frame specified in the restoration plan shall not exceed the ten year maximum restoration period. In addition, the interim final rule states that the revision of the Flood Insurance Rate Map to remove the flood control restoration zone designation will be accomplished in accordance with the existing regulations at 44 CFR Part 67. Finally, the term "procedures" has been substituted for the term "criteria" in the description of § 65.14 (h) and (i) since this term better describes the content of these sections.

Floodplain Management and Land Use Requirements in a Flood Control Restoration Zone

There were several comments concerning the elevation requirements in the proposed rule. One comment suggested that the local community should be the responsible entity for determining which structures should be elevated and also for determining the level at which these structures should be elevated. There were several comments requesting that FEMA apply the two-foot elevation that was supported in the legislative history instead of the three-foot requirement as established in the proposed rule for "developed areas". Two comments requested that structures be allowed to be constructed at grade in deep flood areas because elevating to three feet will not significantly reduce flood damages. Concern was also expressed that the elevation requirement was unreasonable because of the costs associated with the three foot elevation requirement and that this elevation would not aesthetically fit in with existing structures not built at this elevation.

Congress, under Section 928 of Public Law 102–550, 42 U.S.C. 4014(f), directed FEMA to "develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection". The law is specific in stipulating that the NFIP minimum elevation requirements for new construction in impacted areas subject to flood depths less than five feet and for infill, redevelopment and rehabilitation, regardless of flood depth, could not exceed three feet.

FEMA believes the law is clear in establishing the floodplain management criteria in a flood control restoration zone. FEMA also believes that it is in the best interest of the NFIP to require structures to be elevated to the lower of either the AR BFE or the three-foot elevation permitted by the statute because of the increased flood risk to which properties will be exposed during the restoration period. Furthermore, the three-foot elevation of structures would afford additional protection from flood events that may exceed the capacity of the decertified flood protection system, which at a minimum must provide at least a 35-year level of protection in order to be eligible for a flood control restoration zone. The floodplain management criteria established for a flood control restoration zone also recognize that there is a chance that the project will not be restored. Consequently, the elevation requirement of three feet limits the exposure to the National Flood Insurance Fund if the project is not restored.

The floodplain management criteria established are the minimum standards for the adoption of floodplain management regulations within those areas designated as a flood control restoration zone (Zone AR, AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A). Any community may exceed the minimum standards by adopting more restrictive requirements.

Those seeking variances would use procedures that communities have established to deal with hardship and other unusual conditions. Communities administer the variances according to 44 CFR 60.6(a). We emphasize that while variances may reduce floodplain management requirements, they do not reduce flood insurance rates. By law, flood insurance rates must be charged commensurate with the risk to which a building is exposed. Any person seeking a variance to reduce floodplain management requirements should investigate the impact of the variance on the cost of flood insurance.

Furthermore, the widely accepted protection techniques available for new construction of residential structures and non-residential structures provide

practical and affordable alternatives that can be designed to be compatible with existing construction in a flood control restoration zone. For non-residential construction, the NFIP provides the option of elevation or floodproofing to resist the effects of flooding. Rather than specify an elevation or floodproofing method, the regulations give the property owner or builder the flexibility to choose the most appropriate technique. Similarly, there are several common, affordable methods of elevating residential structures, including elevation on earth fill, foundation walls, posts, piles, and piers. In some cases, it may be advantageous to use a combination of elevation methods.

One comment requested that the regulations clarify the use of the term "highest adjacent grade" compared to the term "existing grade" that is used in the statute. The term "highest adjacent grade" is used in the interim final rule at paragraph 60.3(f)(3)(i). This paragraph establishes the elevation that must be used for applying the floodplain management requirements in areas within Zone AR designated as a "developed area" for new construction and in other areas in Zone AR where the AR flood depth is five feet or less. In these areas, the requirement is to apply the lower of either the AR base flood elevation or the elevation that is three feet above highest adjacent grade. FEMA used the term "highest adjacent grade" since it is already defined in the regulations. "Highest adjacent grade" in the NFIP regulations is defined as "the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure". The definition in the regulations provides guidance on the reference point from which to measure the elevation of three feet when a proposed site is sloped. Also, by applying a single reference point, communities can consistently apply the elevation requirements to structures. Therefore, FEMA does not believe the term "highest adjacent grade" is inconsistent with the Act.

National Environmental Policy Act

FEMA has determined, based upon an environmental assessment, that this interim final rule will not have a significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Regulatory Flexibility Act

The Director certifies that this interim final rule is exempt from the requirements of the Regulatory Flexibility Act because the proposed flood control restoration zone is required by statute, 42 U.S.C. 4014(f), and is required to enhance and maintain community eligibility in the National Flood Insurance Program during the period needed to restore flood protection systems to provide a minimum 100-year level of protection required for accreditation on National Flood Insurance Program maps. A regulatory flexibility analysis has not been prepared.

Paperwork Reduction Act

This interim final rule contains collections of information as described the Paperwork Reduction Act that are covered by the following OMB Control Numbers: 3067–0020; 3067–0022; 3067–0127; and 3067–0147.

Executive Order 12612, Federalism

This interim final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This interim final rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Executive Order 12866, Regulatory Planning and Review

Promulgation of this interim final rule is required by statute, 42 U.S.C. 4014(f), which also specifies the regulatory approach taken in the proposed rule. To the extent possible under the statutory requirements of 42 U.S.C. 4014(f), this proposed rule adheres to the principles of regulation as set forth in Executive Order 12866.

List of Subjects in 44 CFR Parts 59, 60, 64, 65, 70, and 75

Administrative practice and procedure, Flood insurance, Flood plains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Parts 59, 60, 64, 65, 70, and 75 are amended as follows:

PART 59—GENERAL PROVISIONS

1. The authority citation for Part 59 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329, 43 FR 41943; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

§ 59.1 [Amended]

2. Section 59.1 is amended to read as follows:

A. The definition of *Area of shallow flooding* is revised to read as follows:

§ 59.1 Definitions.

* * * * *

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

* * * * *

B. The definition of "Area of special flood hazard" is revised to read as follows:

§ 59.1 Definitions.

* * * * *

Area of special flood hazard is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1–30, AE, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1–30, VE, or V. For purposes of these regulations, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard".

* * * * *

C. The definition of "Special hazard area" is revised to read as follows:

§ 59.1 Definitions.

* * * * *

Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1–30, VE, V, M, or E.

* * * * *

D. A new definition, "developed area," is added after "Deductible" and before "Development" to read as follows:

§ 59.1 Definitions.

* * * * *

Developed area means an area of a community that is:

(a) A primarily urbanized, built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and

(1) Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

(2) Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

(3) Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time the designation is adopted.

(b) An undeveloped single parcel, tract, or lot of less than 20 acres that is contiguous on at least three sides to areas meeting the criteria of paragraph (a) at the time the designation is adopted.

(c) A subdivision that is a minimum of 20 contiguous acres that has obtained all necessary government approvals, provided that the actual "start of construction" of structures has occurred on at least 10 percent of the lots or remaining lots of a subdivision or 10 percent of the maximum building coverage or remaining building coverage allowed for a single lot subdivision at the time the designation is adopted and construction of structures is underway. Residential subdivisions must meet the density criteria in paragraph (a)(3).

* * * * *

3. Section 59.24(a) is revised to read as follows:

§ 59.24 Suspension of community eligibility.

(a) A community eligible for the sale of flood insurance shall be subject to suspension from the Program for failing to submit copies of adequate floodplain management regulations meeting the minimum requirements of paragraphs (b), (c), (d), (e) or (f) of § 60.3 or paragraph (b) of § 60.4 or § 60.5, within six months from the date the Director provides the data upon which the flood plain regulations for the applicable paragraph shall be based. Where there has not been any submission by the community, the Director shall notify the community that 90 days remain in the six month period in order to submit adequate flood plain management regulations. Where there has been an inadequate submission, the Director shall notify the community of the specific deficiencies in its submitted flood plain management regulations and inform the community of the amount of time remaining within the six month period. If, subsequently, copies of adequate flood plain management regulations are not received by the Director, he shall, no later than 30 days before the expiration of the original six month period, provide written notice to the community and to the state and assure publication in the Federal Register under part 64 of this subchapter, of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the six month period. Should the community remedy the defect and the Director receive copies of adequate flood plain management regulations within the notice period, the suspension notice shall be rescinded by the Director. If the Director receives notice from the State that it has enacted adequate flood plain management regulations for the community within the notice period, the suspension notice shall be rescinded by the Director. The community's eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Director.

* * * * *

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

4. The authority citation for Part 60 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

5. Section 60.2(a) is revised to read as follows:

§ 60.2 Minimum compliance with flood plain management criteria.

(a) A flood-prone community applying for flood insurance eligibility shall meet the standards of § 60.3(a) in order to become eligible if a FHBM has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date the Director provides the data set forth in § 60.3(b). (c), (d), (e) or (f), in which to meet the requirements of the applicable paragraph. If a community has received a FHBM, but has not yet applied for Program eligibility, the community shall apply for eligibility directly under the standards set forth in § 60.3(b). Thereafter, the community will be given a period of six months from the date the Director provides the data set forth in § 60.3 (c), (d), (e) or (f) in which to meet the requirements of the applicable paragraph.

* * * * *

6. Section 60.3(f) is added to read as follows:

§ 60.3 Flood plain management criteria for flood-prone areas.

* * * * *

(f) When the Director has provided a notice of final base flood elevations within Zones A1–30 or AE on the community's Flood Insurance Rate Map, and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's Flood Insurance Rate Map, and has identified flood protection restoration areas by designating Zones AR, AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A, the community shall:

(1) Meet the requirements of paragraphs (c) (1) through (14) and (d) (1) through (4) of this section.

(2) Adopt the official map or legal description of those areas within Zones AR, AR/A1–30, AR/AE, AR/AH, AR/A, or AR/AO that are designated developed areas as defined in § 59.1 in accordance with the eligibility procedures under § 65.14.

(3) For all new construction of structures in areas within Zone AR that are designated as developed areas and in other areas within Zone AR where the AR flood depth is five feet or less:

(i) Determine the lower of either the AR base flood elevation or the elevation that is 3 feet above highest adjacent grade; and

(ii) Using this elevation, require the standards of paragraphs (c) (1) through (14).

(4) For all new construction of structures in those areas within Zone AR that are not designated as developed areas where the AR flood depth is greater than 5 feet:

(i) Determine the AR base flood elevation; and

(ii) Using that elevation require the standards of paragraphs (c) (1) through (14).

(5) For all new construction of structures in areas within Zone AR/A1–30, AR/AE, AR/AH, AR/AO, and AR/A:

(i) Determine the applicable elevation for Zone AR from paragraphs (3) and (4);

(ii) Determine the base flood elevation or flood depth for the underlying A1–30, AE, AH, AO and A Zone; and

(iii) Using the higher elevation from (i) and (ii) require the standards of paragraphs (c) (1) through (14).

(6) For all substantial improvements to existing construction within Zones AR/A1–30, AR/AE, AR/AH, AR/AO, and AR/A:

(i) Determine the A1–30 or AE, AH, AO, or A Zone base flood elevation; and

(ii) Using this elevation apply the requirements of paragraphs (c)(1) through (c)(14).

(7) Notify the permit applicant that the area has been designated as an AR, AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A Zone and whether the structure will be elevated or protected to or above the AR base flood elevation.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

7. The authority citation for Part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

8. Section 64.3 is amended by adding an "AR" entry in the chart in paragraph (a)(1) after the "AH" entry and revising paragraph (b) to read as follows:

§ 64.3 Flood Insurance Maps.

(a) * * *

(1) * * *

Zone symbol	
*	*
AR	Area of special flood hazard that results from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide a 100-year or greater level of flood protection.
*	*

* * * * *

(b) Notice of the issuance of new or revised FHBMs or Flood Insurance Rate Maps is given in part 65 of this subchapter. The mandatory purchase of insurance is required within designated Zones A, A1–30, AE, A99, AO, AH, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, V1–30, VE, V, VO, M, and E.

* * * * *

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

9. The authority citation for Part 65 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

§ 65.14 [Redesignated as § 65.15]

10. Part 65 is amended by redesignating § 65.14 as § 65.15.

11. Part 65 is amended by adding a new § 65.14 to read as follows:

§ 65.14 Remapping of areas for which local flood protection systems no longer provide 100-year flood protection.

(a) *General.* (1) This section describes the procedures to follow and the types of information FEMA requires to designate flood control restoration zones. A community may be eligible to apply for this zone designation if the Director determines that it is engaged in the process of restoring a flood protection system that was:

(i) Constructed using Federal funds;

(ii) Recognized as providing 100-year flood protection on the community's effective Flood Insurance Rate Map; and

(iii) Decertified by a Federal agency responsible for flood protection design or construction.

(2) Where the Director determines that a community is in the process of restoring its flood protection system to provide 100-year minimum flood protection, a Flood Insurance Rate Map will be prepared that designates the temporary flood hazard areas as a flood control restoration zone (Zone AR). Existing Special Flood Hazard Areas shown on the community's effective Flood Insurance Rate Map that are further inundated by Zone AR flooding shall be designated as a "dual" flood insurance rate zone, Zone AR/AE or AR/AH with Zone AR base flood elevations, and AE or AH with base flood elevations and Zone AR/AO with Zone AR base flood elevations and Zone AO with flood depths, or Zone AR/A with Zone AR base flood elevations and Zone A without base flood elevations.

(b) *Limitations.* A community may have a flood control restoration zone designation only once for the purposes of restoring a given flood protection system and must complete restoration of the system or meet the requirements of 44 CFR 61.12 within a specified period, not to exceed ten (10) years from the date of submittal of the community's application for designation of a flood control restoration zone. The community may not extend this period. The information specified in this section must be supplied to FEMA by the community as part of its request for designation of a flood control restoration zone.

(c) *Exclusions.* The provisions of these regulations do not apply in a coastal high hazard area as defined in 44 CFR 59.1, including areas that would be subject to coastal high hazards as a result of the decertification of a flood protection system shown on the community's effective Flood Insurance Rate Map (FIRM) as providing 100-year protection.

(d) *Effective date for risk premium rates.* The effective date for any risk premium rates established for Zone AR shall be the effective date of the revised Flood Insurance Rate Map showing AR Zone designations.

(e) *Application and submittal requirements for designation of a flood control restoration zone.* A community must submit a written request to the Director, signed by the community's Chief Executive Officer, for a flood plain designation as a flood control restoration zone. The request must include a legislative action by the community requesting the designation. The Director will not initiate any action to designate flood control restoration zones without receipt of the formal request from the community that complies with all requirements of this section. The Director reserves the right to request additional information from the community to support or further document the community's formal request for designation of a flood control restoration zone, if deemed necessary. At a minimum, each request must include the following:

(1) A statement whether, to the best of the knowledge of the community's Chief Executive Officer, the flood protection system is currently the subject matter of litigation before any Federal, State or local court or administrative agency, and if so, the purpose of that litigation;

(2) A statement whether the community has previously requested a determination with respect to the same subject matter from the Director, and if so, a statement that details the disposition of such previous request;

(3) A statement from the community and certification by a Federal agency responsible for flood protection design or construction that the existing flood control system shown on the effective Flood Insurance Rate Map was built using Federal funds, that it no longer provides 100-year flood protection, but

that it continues to provide at least a 35-year level of protection;

(4) A statement identifying the local project sponsor responsible for restoration of the flood protection system to the 100-year or greater level of flood protection;

(5) a copy of a study, performed by a Federal agency responsible for flood protection design or construction in consultation with the local project sponsor, which demonstrates a Federal interest in restoration of the system and which deems that the flood protection system is restorable to a 100-year or greater level of flood protection.

(6) A joint statement from the Federal agency responsible for flood protection design or construction involved in restoration of the flood protection system and the local project sponsor certifying that the design and construction of the flood control system involves Federal funds, and that the restoration of the flood protection system will provide 100-year or greater flood protection;

(7) A restoration plan to return the system to a 100-year or greater level of protection. At a minimum, this plan must:

(i) List all important project elements, such as acquisition of permits, approvals, and contracts and construction schedules of planned features;

(ii) Identify anticipated start and completion dates for each element, as well as significant milestones and dates;

(iii) Identify the date on which "as built" drawings and certification for the completed restoration project will be submitted. This date must provide for a restoration period not to exceed, ten (10) years from the date of submittal of the community's application for designation as a flood control restoration zone, or;

(iv) Identify the date on which the community will submit a request for a finding of adequate progress that meets all requirements of § 61.12. This date may not exceed ten (10) years from the date of submittal of the community's application for designation as a flood control restoration zone;

(8) An official map of the community or legal description, with supporting documentation, that the community will adopt as part of its floodplain management measures, which designates developed areas as defined in § 59.1 and as further defined in § 60.3(f).

(f) *Review and response by the Director.* The review and response by the Director shall be in accordance with procedures specified in § 65.9.

(g) *Requirements for maintaining designation of a flood control restoration zone.* During the restoration period, the community and the cost-sharing Federal agency must certify annually to the FEMA Regional Office having jurisdiction that the restoration will be completed in accordance with the restoration plan within the time period specified by the plan. In addition, the community and the Federal agency will update the restoration plan and will identify any permitting or construction problems that will delay the project completion from the restoration plan previously submitted to the Director. The FEMA Regional Office having jurisdiction will make an annual assessment and recommendation to the Director as to the viability of the restoration plan and will conduct periodic on-site inspections of the flood protection system under restoration.

(h) *Procedures for removing flood control restoration zone designation due to adequate progress or complete restoration of the flood protection system.* At any time during the restoration period, the community may provide written evidence of certification from a Federal agency having flood protection design or construction responsibility that the necessary improvements have been completed and that the system has been restored to provide a minimum 100-year level of protection, or may submit a request for a finding of adequate progress that meets all requirements of section 61.12. If the Director determines that adequate progress has been made, FEMA will revise the zone designation from a flood control restoration zone designation to Zone A99. After the improvements have been completed and certified by a Federal agency as providing a minimum 100-year level of protection, FEMA will revise the Flood Insurance Rate Map to reflect the completed flood control system.

(i) *Procedures for removing flood control restoration zone designation due to non-compliance with the restoration schedule or as a result of a finding that satisfactory progress is not being made to complete the restoration.* At any time during the restoration period, should the Director determine that the restoration will not be completed in accordance with the time frame specified in the restoration plan, or that satisfactory progress is not being made to restore the flood protection system to provide complete flood protection in accordance with the restoration plan, the Director shall notify the community and the responsible Federal agency, in writing, of the determination, the reasons for that determination, and that the Flood Insurance Rate Map will be revised to remove the flood control restoration zone designation. Within thirty (30) days of such notice, the community may submit written information that provides assurance that the restoration will be completed in accordance with the time frame specified in the restoration plan, or that satisfactory progress is being made to restore complete protection in accordance with the restoration plan, or that, with reasonable certainty, the restoration will be completed within the maximum restoration period, which may not exceed ten (10) years from the date of submittal of the community's application for designation of a flood control restoration zone. On the basis of this information the Director may suspend the decision to revise the Flood Insurance Rate Map to remove the flood control restoration zone designation. If the community does not submit any information, or if, based on a review of the information submitted, there is sufficient cause to find that the restoration will not be completed as provided for in the restoration plan, the Director shall revise the Flood Insurance Rate Map, in accordance with 44 CFR Part 67, and shall remove the flood control restoration zone designations and shall redesignate those areas as Zone A1–30, AE, AH, AO, or A.

PART 70—PROCEDURE FOR MAP CORRECTION

12. The authority citation for Part 70 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

13. Section 70.1 is revised to read as follows:

§ 70.1 Purpose of part.

The purpose of this part is to provide an administrative procedure whereby the Director will review the scientific or technical submissions of an owner or lessee of property who believes his property has been inadvertently included in designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, and V Zones, as a result of the transposition of the curvilinear line to either street or to other readily identifiable features. The necessity for this part is due in part to the technical difficulty of accurately delineating the curvilinear line on either a Flood Hazard Boundary Map or Flood Insurance Rate Map. These procedures shall not apply when there has been any alteration of topography since the effective date of the first National Flood Insurance Program map (i.e., Flood

Hazard Boundary Map or Flood Insurance Rate Map) showing the property within an area of special flood hazard. Appeals in such circumstances are subject to the provisions of part 65 of this subchapter.

14. Section 70.3(a) is revised to read as follows:

§ 70.3 Right to submit technical information.

(a) Any owner or lessee of property (applicant) who believes his property has been inadvertently included in a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, and V Zones on a Flood Hazard Boundary Map or a Flood Insurance Rate Map, may submit scientific or technical information to the Director for the Director's review.

* * * * *

15. The heading and paragraphs (a) and (b) of § 70.4 are revised to read as follows:

§ 70.4 Review by the Director.

* * * * *

(a) The property is within a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, or V Zone, and shall set forth the basis of such determination; or

(b) The property should not be included within a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, or V Zone and that the Flood Hazard Boundary Map or Flood Insurance Rate Map will be modified accordingly; or

* * * * *

16. Paragraph (c) of section 70.5 is revised to read as follows:

§ 70.5 Letter of Map Amendment.

* * * * *

(c) The identification of the property to be excluded from a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, or V Zone.

PART 75—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

17. The authority citation for Part 75 is revised to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

18. Section 75.1 is revised to read as follows:

§ 75.1 Purpose of part.

The purpose of this part is to establish standards with respect to the Director's determinations that a State's plan of self-insurance is adequate and satisfactory for the purposes of exempting such State, under the provisions of section 102(c) of the Act, from the requirement of purchasing flood insurance coverage for State-owned structures and their contents in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones, in which the sale of insurance has been made available, and to establish the procedures by which a State may request exemption under section 102(c).

19. Section 75.10 is revised to read as follows:

§ 75.10 Applicability.

A State shall be exempt from the requirement to purchase flood insurance in respect to State-owned structures and, where applicable, their contents located or to be located in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones, and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, provided that the State has established a plan of self-insurance determined by the Director to equal or exceed the standards set forth in this subpart.

20. Paragraphs (a)(4), (a)(5), and (a)(7) of section 75.11 are revised to read as follows:

§ 75.11 Standards.

(a) * * *

(4) Consist of a self-insurance fund, or a commercial policy of insurance or reinsurance, for which provision is made in statute or regulation and that is funded by periodic premiums or charges allocated for state-owned structures and their contents in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones. The person or persons responsible for such self-insurance fund shall report on its status to the chief executive authority of the State, or to the legislature, or both, not less frequently than annually. The loss experience shall be shown for each calendar or fiscal year from inception to current date based upon loss and loss adjustment expense incurred during each separate calendar or fiscal year compared to the premiums or charges for each of the respective calendar or fiscal years. Such incurred losses shall be reported in aggregate by cause of loss under a loss coding system adequate, as a minimum, to identify and isolate loss caused by flood, mudslide (i.e., mudflow) or flood-related erosion. The Director may, subject to the requirements of paragraph (a)(5) of this section, accept and approve in lieu of, and as the reasonable equivalent of the self-insurance fund, an enforceable commitment of funds by the State, the enforceability of which shall be certified to by the State's Attorney General, or other principal legal officer. Such funds, or enforceable commitment of funds in amounts not less than the limits of coverage that would be applicable under Standard Flood Insurance Policies, shall be used by the State for the repair or restoration of State-owned structures and their contents damaged as a result of flood-related losses occurring in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones.

(5) Provide for the maintaining and updating by a designated State official or agency not less frequently than annually of an inventory of all State-owned structures and their contents within A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E zones. The inventory shall:

(i) Include the location of individual structures;

(ii) Include an estimate of the current replacement costs of such structures and their contents, or of their current economic value; and

(iii) Include an estimate of the anticipated annual loss due to flood damage.

* * * * *

(7) Include, pursuant to § 60.12 of this subchapter, a certified copy of the flood plain management regulations setting forth standards for State-owned properties within A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones.

* * * * *

21. The heading and paragraph (c) of section 75.13 are revised to read as follows:

§ 75.13 Review by the Director.

* * * * *

(c) Upon determining that the State's plan of self-insurance equals or exceeds the standards set forth in § 75.11 of this subpart, the Director shall certify that the State is exempt from the requirement for the purchase of flood insurance for State-owned structures and their contents located or to be located in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH,

AR/A, A99, M, V, VO, V1–30, VE, and E Zones. Such exemption, however, is in all cases provisional. The Director shall review the plan for continued compliance with the criteria set forth in this part and may request updated documentation for the purpose of such review. If the plan is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Director may revoke his certification.

Dated: October 17, 1994.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 94–26159 Filed 10–24–94; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–257; RM–8327]

Radio Broadcasting Services; Glasgow, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Henry Royse, allots Channel 231A at Glasgow, Kentucky, as that community's third local FM transmission service. See 58 FR 52733, October 12, 1993. Channel 231A can be allotted to Glasgow in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.9 kilometers (2.4 miles) southwest to avoid a short-spacing to the construction permit for Station WHIC(FM), Channel 232C2, Hardinsburg, Kentucky. The coordinates for Channel 231A at Glasgow are North Latitude 36–57–41 and West Longitude 85–54–19. With this action, this proceeding is terminated.

DATES: Effective December 5, 1994. The window period for filing applications for Channel 231A at Glasgow, Kentucky, will open on December 5, 1994, and close on January 5, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–257, adopted October 11, 1994, and released October 20, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Channel 231A at Glasgow.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–26392 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–21; RM–8427]

Radio Broadcasting Services; Garapan, Saipan, Northern Mariana Islands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Inter-Island Communications, Inc., allots Channel 266C at Garapan, Saipan, Northern Mariana Islands, as that community's fifth local FM transmission service. See 59 FR 13918, March 24, 1994. Channel 266C can be allotted at Garapan in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested site. The coordinates for Channel 266C at Garapan, Saipan, are North Latitude 15–12–26 and East Longitude 145–42–57. With this action, this proceeding is terminated.

DATES: Effective Dec. 5, 1994. The Window period for filing application for Channel 266C at Garapan, Saipan, will open on Dec. 5, 1994 and close on Jan. 5, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–21, adopted October 12, 1994, and released October 20, 1994. 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, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Garapan, is amended by adding Channel 266C at Saipan.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–26389 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–36; RM–8447]

Radio Broadcasting Services; Flandreau, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Carmen C. Christensen, allots Channel 300C3 at Flandreau, South Dakota, as that community's first local aural transmission service. *See* 59 FR 27525, May 27, 1994. Channel 300C3 can be allotted to Flandreau in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 300C3 at Flandreau are North Latitude 44–02–54 and West Longitude 96–35–30. With this action, this proceeding is terminated.

DATES: Effective December 5, 1994. The window period for filing applications for Channel 300C3 at Flandreau, South Dakota, will open on December 5, 1994, and close on January 5, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–36, adopted October 11, 1994, and released October 20, 1994. 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 contractors, 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: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Dakota, is amended by adding Flandreau, Channel 300C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–26391 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–74; RM–8503]

Radio Broadcasting Services; Elma, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Skip Marrow, allots Channel 271A at Elma, Washington, as that community's first local aural transmission service. See 59 FR 37737, July 25, 1994. Channel 271A can be allotted to Elma in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested site. The coordinates for Channel 271A at Elma are North Latitude 47–00–13 and West Longitude 123–24–27. Since Elma is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

DATES: Effective December 5, 1994. The window period for filing applications for Channel 271A at Elma, Washington, will open on December 5, 1994, and close on January 5, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–74, adopted October 11, 1994, and released October 20, 1994. 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, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

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

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–26394 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–319; RM–8404]

Radio Broadcasting Services; Omak, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Omak Community Broadcasters, allots Channel 282C2 at Omak, Washington, as that community's second local FM transmission service. See 59 FR 2344, January 14, 1994. Channel 282C2 can be allotted to Omak in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.5 kilometers (10.2 miles) south to avoid short-spacings to vacant Channel 281B, Trail, British Columbia and Station KAFE, Channel 282C2, Bellingham, Washington. The coordinates for channel 282C2 at Omak are north Latitude 48–15–44 and West Longitude 119–31–58. Since Omak is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

DATES: Effective Dec. 5, 1994. The window period for filing applications for Channel 282C2 at Omak, Washington, will open on Dec. 5, 1994, and close on Jan. 5, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–319, adopted Oct. 12, 1994, and released October 20, 1994. 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 contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, N.W. 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: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Channel 282C2 at Omak.

Federal Communications Commissio

John A. Karousos,

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

[FR Doc. 94–26388 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–75; RM–8483]

Radio Broadcasting Services; Casper, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Bruce L. Erickson, allots Channel 247A at Casper, Wyoming, as that community's fifth local commercial FM transmission service. *See* 59 FR 37456, July 22, 1994. Channel 247A can be allotted to Casper in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 247A at Casper are North Latitude 42–50–48 and West Longitude 106–18–48. With this action, this proceeding is terminated.

DATES: Effective December 5, 1994. The window period for filing applications for Channel 247A at Casper, Wyoming, will open on December 5, 1994, and close on January 5, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–75, adopted October 11, 1994, and released October 20, 1994. 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 contractors, 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—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 247A at Casper.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–26393 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

DFPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 941093–4293; I.D. 100394B]

Shrimp Fishery of the Gulf of Mexico

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

ACTION: Emergency interim rule.

SUMMARY: NMFS publishes this emergency interim rule at the request of the Gulf of Mexico Fishery Management Council (Council) to increase the domestic quota for royal red shrimp from the Gulf of Mexico. The intent of this action is to prevent an unnecessary closure of the royal red shrimp fishery.

EFFECTIVE DATE: October 19, 1994, through December 31, 1994.

ADDRESSES: Copies of documents supporting this action may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–570–5305.

SUPPLEMENTARY INFORMATION: The shrimp fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) and its implementing regulations at 50 CFR part 658. The FMP was prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP establishes an optimum yield (OY) equal to the maximum sustainable yield (MSY) for royal red shrimp from the Gulf of Mexico of 177.8 metric tons (mt) and estimates the domestic annual harvest (DAH) at 111.6 mt. All weights are tail weights. As specified in section 201(d) of the Magnuson Act, the difference between OY and DAH, 66.2 mt, is designated as the total allowable level of foreign fishing (TALFF). Accordingly, the shrimp regulations at 50 CFR 658.21 specify a domestic quota for royal red shrimp of 111.6 mt and require the Director, Southeast Region, NMFS, to close the fishery for royal red shrimp when the quota is reached.

The TALFF for royal red shrimp was published on February 3, 1987 (52 FR 3248). Since that time, there has been no foreign harvest of royal red shrimp from the Gulf of Mexico.

As of July 30, 1994, the domestic harvest of royal red shrimp was 88.3 mt. At the present rate of harvest, the domestic quota is expected to be reached in early October 1994, and the fishery must be closed. Such a closure, although required by the regulations, would be contrary to the goals of the FMP and the Magnuson Act because it would prevent attainment of the OY from the fishery.

In anticipation of an increase in the domestic harvesting capacity to take royal red shrimp, the Council initiated Amendment 7 to the FMP, which, among other things, would increase the domestic quota for royal red shrimp to 195.6 mt. The proposed rule to implement Amendment 7 was published for public comment on September 12, 1994 (59 FR 46810). The public comment period closes October 24, 1994. Accordingly, a final rule to implement Amendment 7 cannot be published prior to the time when the domestic quota is expected to be reached. Without this emergency interim rule, the royal red shrimp fishery would have to be closed when the current domestic quota is reached. Such a disruption in the harvest of royal red shrimp is unnecessary for effective conservation and management of the resource and constitutes an economic emergency for participants in the fishery.

As explained in Amendment 7, the data for determining the MSY for royal red shrimp are sparse, that is, catch and effort data are limited. The FMP indicates that MSY falls within a range between 159.66 mt and 294.84 mt. The MSY has been set at the single point estimate of 177.8 mt, which is near the lower end of the range.

The Council and NMFS believe that harvest above the point estimate of MSY for a limited time would contribute additional current catch and effort data that are necessary to ascertain the appropriate MSY for royal red shrimp. Accordingly, at the Council's request, this emergency interim rule establishes a domestic quota for royal red shrimp that exceeds MSY for the fishing year that ends December 31, 1994.

The Council requested a domestic quota of 251 mt for the emergency rule. That amount was based on data that

show that landings of royal red shrimp have fallen short of the MSY in each of the last 2 fishing years as follows:

Year	MSY (mt)	Landings (mt)	Shortfall (mt)
1992	177.8	60.9	116.9
1993	177.8	148.4	29.4

The Council's requested domestic quota is the sum of the MSY (177.8 mt) and the average harvest shortfall for the last 2 fishing years (116.9 mt+29.4 mt+2=73.15 mt, rounded to 73.2 mt). Because the royal red shrimp fishery consists of multiple year classes, portions of prior years' foregone harvests are available for harvest in subsequent years. However, such a calculation is not scientifically defensible—a portion of each year's foregone harvests would not be available in subsequent years because of natural mortality.

Nevertheless, some amount of harvest over the point estimate of MSY is (1) Necessary both to address the economic emergency and to obtain current additional catch and effort data for future refinements of MSY, and (2) justified and supportable. Accordingly, this emergency interim rule establishes for 1994 a domestic quota of 215 mt. This amount represents the reasonably expected domestic annual harvest based on the most recent landings and effort data, and is somewhat higher then the domestic quota proposed in Amendment 7.

The Council and NMFS believe that establishing the domestic quota above the MSY point estimate for the current fishing year has scientific merit (it would contribute current catch and effort data that are necessary to better estimate MSY) and would not jeopardize the long-term biological integrity of the resource for the following reasons:

(1) The fishery exploits only 3 of the 5 year classes of royal red shrimp;

(2) The fishery operates in only a small portion of the Gulf of Mexico, whereas the resource exists throughout the Gulf of Mexico;

(3) Some amount of surplus production, that is, the difference between the point estimate of MSY and landings in previous years, is available for harvest; and

(4) The increased domestic quota is well within the current range of acceptable values for MSY.

Compliance With NMFS Guidelines for Emergency Rules

The Council and NMFS have concluded that the present situation constitutes an economic emergency, which is properly addressed by this emergency interim rule, and that the situation meets NMFS's policy guidelines for the use of emergency rules, published on January 6, 1992 (57 FR 375). The situation:

1. Results from recent, unforeseen events or recently discovered circumstances. While the domestic harvest of royal red shrimp in the Gulf of Mexico increased in 1993, the increased rate of harvest in 1994 was unanticipated.

2. Presents serious management problems in the fishery. A developing fishery will be unnecessarily disrupted, OY will not be attained, and necessary catch and effort data will not be obtained, unless the emergency rule is issued.

3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process. This emergency interim rule would temporarily relieve a restriction on the participants in the fishery without the likelihood of jeopardizing the long-term biological viability of the royal red shrimp resource.

NMFS concurs with the Council's findings about the economic emergency and the need for immediate regulatory action. Accordingly, NMFS publishes this emergency interim rule, effective from October 19, 1994, through December 31, 1994, as authorized by section 305(c)(1) and (c)(3) of the Magnuson Act.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

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

The AA finds that the immediate need to relieve an economic emergency in the royal red shrimp fishery constitutes good cause to waive the requirement to provide prior notice and an opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(3)(B), as such procedures would be impracticable and contrary to the public interest. Similarly, the need to implement these measures in a timely manner to address the economic emergency constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

List of Subjects in 50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 19, 1994.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 658 is amended as follows:

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 658 continues to read as follows:

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

2. From October 19, 1994, through December 31, 1994, in § 658.21, paragraph (a) is suspended and new paragraph (d) is added to read as follows:

§ 658.21 Allowable levels of harvest.

* * * * *

(d) *Catch quotas.* The domestic quota for royal red shrimp harvested from the EEZ is 215 metric tons. There are no domestic quotas for brown shrimp, white shrimp, or pink shrimp harvested from the EEZ.

[FR Doc. 94–26333 Filed 10–19–94; 4:33 pm]

BILLING CODE 3510–22–W

Proposed Rules

Federal Register
Vol. 59, No. 205
Tuesday, October 25, 1994

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 94–036–1]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, would be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables would be required to undergo prescribed treatments for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This proposed action would provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

DATES: Consideration will be given only to comments received on or before November 25, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 94–036–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Frank E. Cooper or Mr. Peter Grosser, Senior Operations Officers, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

We are proposing to amend the regulations to allow additional fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables has been prohibited because of the risk that the fruits and vegetables could introduce injurious insects into the United States. We are proposing to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses [1] that indicate the fruits or vegetables can be imported under certain conditions without significant pest risk.

All of the fruits and vegetables included in this document would be subject to the requirements in § 319.56–6 of the regulations. Section 319.56–6 provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be subject to inspection, disinfection, or both, at the port of first arrival, as may be required by a U.S. Department of Agriculture (USDA) inspector to detect and eliminate plant pests. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is infested with fruit flies or other dangerous plant pests and an inspector determines that it cannot be cleaned by disinfection or treatment.

Some of the fruits and vegetables proposed for importation also would be required to undergo prescribed treatments for fruit flies or other insect pests as a condition of entry, or to meet other special conditions.

The proposed conditions of entry, which are discussed in greater detail below, appear adequate to prevent the introduction and dissemination of injurious plant pests by the importation of fruits and vegetables from certain foreign countries and localities into the United States.

Subject to Inspection and Treatment Upon Arrival

We are proposing to allow the following fruits and vegetables to be imported into the United States from the country or locality indicated in accordance with § 319.56–6 and all other applicable requirements of the regulations:

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Currant	*Ribes* spp	Fruit.
	Gooseberry	*Ribes* spp	Fruit.
Australia	Currant	*Ribes* spp	Fruit.
	Gooseberry	*Ribes* spp	Fruit.
Austria	Asparagus, white	*Asparagus officinalis*	Shoot.[2]
Belize	Sage	*Salvia officinalis*	Leaf and stem.
El Salvador	Cilantro	*Coriandrum sativum*	Above ground parts.
	Dill	*Anethum graveolens*	Above ground parts.
Honduras	Cilantro	*Coriandrum sativum*	Above ground parts
Indonesia	Onion	*Allium cepa*	Bulb.

[1] Information on these pest risk analyses and any other pest risk analysis referred to in this document may be obtained by writing to the persons listed under **FOR FURTHER INFORMATION CONTACT.**

Country/locality	Common name	Botanical name	Plant part(s)
	Shallot	*Allium ascalonicum*	Bulb.
Nicaragua	Cilantro	*Coriandrum sativum*	Above ground parts.
Peru	Cornsalad	*Valerianella spp*	Whole plant.
	Lambsquarters	*Chenopodium album*	Above ground parts
South Korea	Eggplant	*Solanum melongena*	Fruit.
	Kiwi	*Actinidia deliciosa*	Fruit.
	Lettuce	*Lactuca sativa*	Leaf.
Tonga	Jicama	*Pachyrhizus tuberosus*	Root.

[2] No green may be visible on the shoot.

Pest risk analyses conducted by the Animal and Plant Health Inspection Service (APHIS) have shown that the fruits and vegetables listed above are not attacked by fruit flies or other injurious plant pests, either because they are not hosts to the pests or because the pests are not present in the country or locality of origin. In addition, we have determined that any other injurious plant pests that might be carried by the listed fruits or vegetables would be readily detectable by a USDA inspector. Therefore, the provisions in § 319.56–6 concerning inspection, disinfection, or both, at the port of first arrival, appear adequate to prevent the introduction into the United States of injurious plant pests by the importation of these fruits and vegetables.

Treatment Required

Additionally, we are proposing to allow the fruits and vegetables listed below to be imported into the United States. These fruits and vegetables are attacked by the Mediterranean fruit fly (Medfly) or other injurious insects, as specified below, in their country or locality of origin. Visual inspection cannot be relied upon to detect the insects. However, the fruits and vegetables listed below can be treated to destroy the Medfly or other injurious insects. Therefore, we propose to allow these fruits and vegetables to be imported into the United States, or specified parts of the United States, only if they have been treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which has been incorporated by reference into the Code of Federal Regulations at 7 CFR 300.1.

We would revise the PPQ Treatment Manual to show that treatments are required as follows for the fruits and vegetables listed below:

Country/locality	Common name, botanical name, plant part(s)
Argentina	Blueberry, *Vaccinium* spp., Fruit. Fumigation as follows for Medfly: With methyl bromide at NAP—chamber or tarpaulin: *32 g/m³ (2 lbs/1000 cu ft) for 3½ hours at 21 °C (70 °F) or above, with minimum gas concentrations of:* 26 g (26 oz) at ½ hour after fumigation begins 22 g (22 oz) at 2 hours after fumigation begins 21 g (21 oz) at 3½ hours after fumigation begins; or: *32 g/m³ (2 lbs/1000 cu ft) for 4 hours at 18–20.5 °C (65–69 °F), with minimum gas concentrations of:* 26 g (26 oz) at ½ hour after fumigation begins 22 g (22 oz) at 2 hours after fumigation begins 19 g (19 oz) at 4 hours after fumigation begins (Fruit must be at the indicated temperature at start of fumigation.)
El Salvador	Garden bean, *Phaseolus vulgaris*, Pod or shelled. Fumigation of pods as follows for exotic pod boring insects: With methyl bromide in a 381mm (15-inch) vacuum at: *8 g/m³ (½ lb/1000 cu ft) for 1½ hours at 32 °C (90 °F) or above, with minimum gas concentrations of:* *16 g/m³ (1 lb/1000 cu ft) for 1½ hours at 26.5–31.5 °C (80–89 °F);* or: *24 g/m³ (1½ lbs/1000 cu ft) for 1½ hours at 21–26 °C (70–79 °F);* or: *32 g/m³ (2 lbs/1000 cu ft) for 1½ hours at 15.5–20.5 °C (60–69 °F);* or: *40 g/m³ (2½ lbs/1000 cu ft) for 1½ hours at 10–15 °C (50–59 °F);* or: *48 g/m³ (3 lbs/1000 cu ft) for 1½ hours at 4.5–9.5 °C (40–49 °F);* or: With methyl bromide at NAP (chamber or tarpaulin) at: *24 g/m³ (1½ lbs/1000 cu ft) for 2 hours at 26.5 °C (80 °F) or above, with minimum gas concentrations of:* 19 g (19 oz) at ½ hour after fumigation begins 14 g (14 oz) at 2 hours after fumigation begins; or: *32 g/m³ (2 lbs/1000 cu ft) for 2 hours at 21–26 °C (70–79 °F), with minimum gas concentrations of:* 26 g (26 oz) at ½ hour after fumigation begins 19 g (19 oz) at 2 hours after fumigation begins; or: *40 g/m³ (2½ lbs/1000 cu ft for 2 hours at 15.5–20.5 °C (60–69 °F), with minimum gas concentrations of:* 32 g (32 oz) at ½ hour after fumigation begins 24 g (24 oz) at 2 hours after fumigation begins; or: *48 g/m³ (3 lbs/1000 cu ft) for 2 hours at 10–15 °C (50–59 °F), with minimum gas concentrations of:* 38 g (38 oz) at ½ hour after fumigation begins 29 g (29 oz) at 2 hours after fumigation begins (Vegetable must be at the indicated temperature at start of fumigation.)
Israel	Lettuce, *Lactuca sativa*, Leaf. Fumigation as follows for leafminers, thrips and *Sminthuris viridis:* With methyl bromide at NAP—chamber or tarpaulin: *32 g/m³ (2 lbs/1000 cu ft) for 2 hours at 21 °C (70 °F) or above, with minimum gas concentrations of:* 26 g (26 oz) at ½ hour after fumigation begins 14 g (14 oz) at 2 hours after fumigation begins; or:

Country/ locality	Common name, botanical name, plant part(s)
	40 g/m³ (2½ lbs/1000 cu ft) for 2 hours at 15.5–20.5 °C (60–69 °F), with minimum gas concentrations of:
	32 g (32 oz) at ½ hour after fumigation begins
	24 g (24 oz) at 2 hours after fumigation begins; or:
	48 g/m³ (3 lbs/1000 cu ft) for 2 hours at 10–15 °C (50–59 °F), with minimum gas concentrations of:
	38 g (38 oz) at ½ hour after fumigation begins
	29 g (29 oz) at 2 hours after fumigation begins; or:
	56 g/m³ (3½ lbs/1000 cu ft) for 2 hours at 7–9 °C (45–49 °F), with minimum gas concentrations of:
	43 g (43 oz) at ½ hour after fumigation begins
	34 g (34 oz) at 2 hours after fumigation begins; or:
	64 g/m³ (4 lbs/1000 cu ft) for 2 hours at 4.5–6.5 °C (40–44 °F), with minimum gas concentrations of:
	48 g (48 oz) at ½ hour after fumigation begins
	38 g (38 oz) at 2 hours after fumigation begins
	(Vegetable must be at the indicated temperature at start of fumigation.)
Taiwan	Carambola, *Averrhoa carambola*, Fruit.
	Cold treatment as follows for fruit fly *Bactrocera dorsalis:*
	10 days at 0 °C (32 °F) or below
	11 days at .56 °C (33 °F) or below
	12 days at 1.11 °C (34 °F) or below
	14 days at 1.66 °C (35 °F) or below

The treatments described above have been determined to be effective against the specified insects. This determination is based on research evaluated and approved by the Department. A bibliography and additional information on this research may be obtained from the Hoboken Methods Development Center, PPQ, APHIS, USDA, 209 River Street, Hoboken, NJ, 07030.

In accordance with § 319.56–2x(b) of the regulations, the fruits and vegetables listed above and required to be treated for fruit flies would be restricted to ports of arrival at Wilmington, NC, and the North Atlantic if treatment has not been completed before the fruits and vegetables arrive in the United States. Climatic conditions at Wilmington, NC, and at North Atlantic ports are unsuitable for the fruit flies listed above. Therefore, in the unlikely event that any fruit flies escape before treatment, they will not become established pests in the United States. The designated North Atlantic ports are: Atlantic Ocean ports north of, and including, Baltimore; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; and, for air shipments, Washington, DC (including Baltimore-Washington International and Dulles International airports).

Pest risk analyses conducted by APHIS have determined that any other injurious plant pests that might be carried by the fruits and vegetables listed above would be readily detectable by a USDA inspector. As noted, the fruits and vegetables would be subject to inspection, disinfection, or both, at the port of first arrival, in accordance with § 319.56–6.

Use of Methyl Bromide

Methyl bromide is currently in widespread use as a fumigant. It is prescribed as a treatment for three of the commodities included in this proposal (blueberries from Argentina, garden beans from El Salvador, and lettuce from Israel). The environmental effects of using methyl bromide, however, are being scrutinized by international, Federal, and State agencies. The U.S. Environmental Protection Agency (EPA), based on its evaluation of data concerning the ozone depletion potential of methyl bromide, published a notice of final rulemaking in the **Federal Register** on December 10, 1993 (58 FR 65018–65082). This rulemaking freezes methyl bromide production at 1991 levels and requires the phasing out of domestic use of methyl bromide by the year 2001. APHIS is studying the effectiveness and environmental acceptability of alternative treatments to prepare for the eventual unavailability of methyl bromide fumigation. Our current proposal assumes the continued availability of methyl bromide for use as a fumigant for at least the next few years.

Apples From Spain

Section 319.56–2r contains administrative instructions governing the entry of apples and pears from certain countries in Europe. Currently, pears, but not apples, may be imported from Spain under the conditions prescribed in § 319.56–2r, which include a preclearance program and cold treatment. Based on our review of the pest risk associated with the importation of apples and pears from Spain, it appears that apples may be imported under these conditions without presenting a significant pest risk. Therefore, we are proposing to amend § 319.56–2r to allow the importation of apples from Spain under the same conditions that apply to pears from Spain.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this proposed rule on small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee, 150ff, 151–167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

This proposed rule would amend the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables has been

prohibited because of the risk that they could introduce injurious plant pests into the United States. This proposed rule would revise the status of certain commodities from certain countries and localities, allowing their importation into the United States for the first time.

Our proposed changes are based on biological risk analyses that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The risk analyses indicate that the fruits or vegetables listed in this proposed rule could, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, would be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables in this proposal also would be required to undergo mandatory treatment for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. Our proposed action would provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables.

Apples

This proposed rule would allow apples to be imported into the United States from Spain under certain conditions. Spain's production of apples in 1993 was approximately 821,000 metric tons (mt). Spain's export level over the past 5 years has averaged 20,000 mt. In the unlikely event that Spain's apple exports were fully diverted to the United States, they would represent about 0.4 percent of U.S. production, an amount that would not significantly affect the U.S. market. Moreover, there would not be any off-season advantages, since Spain's main production season, June through September, inclusive, is the same as for U.S. apple producers.

In addition, the United States is a net exporter of apples. Total U.S. utilized production of apples in 1993 was 4,760,682 mt (fresh equivalent). (Utilized production of apples refers to the amount of apples sold plus the quantities of apples used on farms where grown and quantities of apples held in storage, thus those apples actually used in some way). Imports of fresh apples in 1992 totaled 120,412 mt, or 2.5 percent of domestic utilized production that year, whereas exports totaled 507,614 mt, or 10.7 percent. Given this trade flow, the U.S. market for apples is not expected to exhibit the excess demand in the near future that could encourage increased foreign supply. The main commercial varieties grown in Spain (Golden Delicious, 50 percent; Granny Smith, 30 percent) are common varieties in the United States, and their export, therefore, would not satisfy any special market demand.

Asparagus (White)

This proposed rule would allow white asparagus to be imported into the United States from Austria under certain conditions. Total U.S. asparagus production in 1993 was 2,204,000 hundredweight (cwt), or 99,973 mt. Austria's current production of asparagus is around 400 mt, 95 percent of which is white asparagus.

APHIS expects that annual exports to the United States may reach between 1 and 2 tons. This quantity represents less than 0.002 percent of U.S. production, and therefore would not affect prices received by U.S. growers.

Blueberries

This proposed rule would allow blueberries to be imported into the United States from Argentina under certain conditions. Total U.S. blueberry production in 1993 was 170,397,000 pounds, or 77,292 mt. About 40 percent was produced for the fresh fruit market, and about 60 percent was processed. APHIS estimates Argentina's current production of blueberries to be 40 mt per year, and we expect that figure to expand to 200 mt by 1997–98. At present, all blueberry exports from Argentina (80 percent of production) are sent to Europe. If approved for entry into the United States, we expect that 19.2 mt or 60 percent of blueberry exports from Argentina would be directed to U.S. ports. This quantity represents less than 0.03 percent of U.S. production, and therefore would not noticeably affect prices received by U.S. growers.

Carambola

This proposed rule would allow carambola to be imported into the United States from Taiwan under certain conditions. Carambola (starfruit) is not currently imported into the United States. Ninety percent of domestic production takes place in southern Florida, where 60 to 90 growers cultivate a total of about 400 acres. Most of the producers would be considered small entities, according to the Small Business Administration definition of annual gross receipts of $500,000 or less. U.S. production of carambola in 1994 will reach between 5 and 6 million pounds, a quantity expected to gradually increase as consumer familiarity with carambola grows. At present, carambola is unknown to most U.S. consumers, and the industry faces the challenge of creating broader market appeal for this fruit.

Besides Florida, a relatively small amount of carambola is produced in Hawaii (58,400 pounds in 1992). A regulatory change last year now allows carambola grown in Hawaii to be marketed on the mainland. The initial volume to be shipped this year is estimated at 1,500 to 3,000 pounds.

Taiwan is reportedly the world's largest producer of carambola. In 1992, 35,738 mt (78.8 million pounds) were produced, about 12 times that of the United States. However, less than 10 mt (0.03 percent) of Taiwan's production is exported annually, mainly to Hong Kong and Canada. As an initial trial shipment, about 1 mt is expected to be exported to the United States per year.

California is a large and growing domestic market for carambola and the likely destination of carambola from Taiwan. It receives from 40 to 50 percent of Florida's carambola crop. California requires that carambola from Florida be cold treated, and APHIS requires cold treatment for shipments from Hawaii to the mainland. Imports from Taiwan would also require cold treatment.

Average prices received by U.S. carambola producers between 1989 and 1993 ranged from about $0.67 to $1.55 per pound. Farm prices in Taiwan vary from $0.60 to $4.00 per kg ($0.27 to $1.81 per pound), depending on the quality, size of production, and season. Thus, prices are generally lower in Taiwan, but price differences between the two countries are not as great as might be expected. Moreover, high quality carambolas suitable for export sell well in Taiwan's domestic market. Relatively high farm prices and the fruit's well-established domestic market largely explain Taiwan's limited exports.

Carambola is sensitive to chilling, which can cause the skin to turn brown and become pitted. Since all carambola entering California would require cold treatment, effects of the treatment on the appearance and marketability of the fruit would be similar, whether the carambola comes from Florida, Hawaii, or Taiwan.

Assuming the market for carambola expands, and fruit from Taiwan is routinely imported, domestic producers' income will be less than it would be otherwise, due to a price decline and/or lower volumes than would be sold were there not imports. The critical

question is what this reduction in income would be. There is no evidence to suggest that it would be significant.

From a broader perspective, sales and income lost by domestic producers should be balanced against benefits to U.S. consumers in terms of greater availability and/or lower prices. Again, lack of information on how much carambola prices can be expected to decline as a result of imports, and the responsiveness of producers and consumers to a decline, precludes estimation of consumers' gains and domestic producers' losses. Nevertheless, APHIS believes that the net benefit to the U.S. economy would be positive.

Currants and Gooseberries

This proposed rule would allow currants and gooseberries to be imported into the United States from Argentina under certain conditions. Argentina's area of ribes production totals only four hectares, one of which is being used for experiments on the suitability of various species. The Economic Research Service, U.S. Department of Agriculture, estimates the annual crop at 30 mt, of which 40 percent, or 12 mt, could be exported to the United States.

Although published data on U.S. ribes production has not been found, trade statistics show the United States to be a net importer. In 1992, 64 mt of currants and gooseberries were exported, and 264 mt of currants were imported. The quantity of ribes expected to be imported from Argentina is only 6 percent of 1992 net imports for the United States. APHIS does not expect this relatively small change in the quantity imported to significantly affect the market for U.S. producers.

Eggplant

This proposed rule would allow eggplant to be imported into the United States from South Korea under certain conditions. U.S. commercial production of eggplant in 1993 was 776,000 cwt (35,199 mt). South Korea's annual production of eggplant in 1993 totaled 22,751 mt, of which 30.3 mt were exported to Japan and Guam. If all of South Korea's eggplant exports were sent to the United States, it would represent less than 0.09 percent of U.S. commercial production.

Even in the very unrealistic scenario of South Korea's exports of eggplant being fully diverted to the United States, the quantities would not be large enough to affect the U.S. market.

Kiwi

This proposed rule would allow kiwi to be imported into the United States from South Korea under certain conditions. Utilized U.S. production of kiwi in 1992 totaled 47,700 mt. Imports of kiwi into the United States for 1992 were estimated at 20,236 mt, or more than 40 percent of domestic production. South Korea's annual production of kiwi in 1993 totaled 8,538 mt, of which none was exported. Assuming 5 percent of South Korea's production (426.9 mt) were exported to the United States, this amount would represent only about 0.6 percent of U.S. supply (produced domestically and imported) in 1991.

Even in the very unrealistic scenario of South Korea exporting 5 percent of its kiwi production to the United States, the quantities would not be large enough to affect the U.S. market.

Lettuce

This proposed rule would allow lettuce to be imported into the United States from Israel and South Korea under certain conditions. Total U.S. production of head, leaf, and romaine lettuce in 1993 was 82,790,000 cwt (3,755,330 mt). In Israel, insect-free lettuce produced in greenhouses for the 1993/94 season reached about 4,480,000 pounds. Exports planned for 1994/95 are estimated at 1,600,000 pounds. If all of these exports were destined for the United States, they would comprise less than 0.02 percent of U.S. production and, therefore, would not noticeably affect the U.S. market.

South Korea's annual production of leaf lettuce in 1993 totaled 149,611 mt, of which 23.9 mt were exported to Japan, Guam, Hong Kong, and Saipan. If all of South Korea's lettuce exports were sent to the United States, it would represent only about 0.0006 percent of U.S. production.

Even in the very unrealistic scenario of South Korea's export of lettuce being fully diverted to the United States, the quantities would not be large enough to affect the U.S. market.

Impacts on U.S. producers for several of the other commodities that could be imported into the United States under this proposal could not be assessed because of a lack of data. However, none of these products is a significant U.S. crop. The herbs, in particular, are often grown to supplement other farm income. Others, such as arugula and lambs quarters, have limited markets. APHIS anticipates, therefore, that no significant economic impacts would result from the importation of these commodities for which analysis has not been possible.

The aggregate economic impact of this proposed rule is expected to be positive. U.S. consumers would benefit from a greater availability of fruits and vegetables. U.S. importers would also benefit from a greater availability of fruits and vegetables to import.

The alternative to this proposed rule was to make no changes in the fruits and vegetables regulations. After consideration, we rejected this alternative since there was no pest risk reason to maintain the prohibitions on the affected produce.

This proposed rule contains no paperwork or recordkeeping requirements.

Executive Order 12778

This proposed rule would allow certain fruits and vegetables to be imported into the United States from certain parts of the world. If this proposed rule is adopted, State and local laws and regulations regarding the importation of fruits and vegetables under this rule would be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of fruits and vegetables under the conditions specified in this proposed rule would not present a significant risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions

of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individuals listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

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

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

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

Accordingly, title 7, chapter III, of the Code of Federal Regulations would be amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, 167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 300.1, paragraph (a) would be revised to read as follows:

§ 300.1 Materials incorporated by reference

(a) The Plant Protection and Quarantine Treatment Manual, which was revised and reprinted November 30, 1992, and includes all revisions through _____, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

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

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

§ 319.56–2r [Amended]

4. In § 319.56–2r, paragraph (a)(1) would be amended by adding, in alphabetical order, "Spain,".

5. In § 319.56–2r, paragraph (g)(1) would be amended by adding "Spain," immediately before "Sweden".

6. In § 319.56–2t, the table would be amended by adding, in alphabetical order, the following:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina			
	Currant	*Ribes* spp	Fruit.
	Gooseberry	*Ribes* spp	Fruit.
Australia	Currant	*Ribes* spp	Fruit.
	Gooseberry	*Ribes* spp	Fruit.
Austria	Asparagus, white	*Asparagus officinalis*	Shoot.[3]
Belize			
	Sage	*Salvia officinalis*	Leaf and stem.
El Salvador	Cilantro	*Coriandrum sativum*	Above ground parts.
	Dill	*Anethum graveolens*	Above ground parts.
Honduras			
	Cilantro	*Coriandrum sativum*	Above ground parts.
Indonesia	Onion	*Allium cepa*	Bulb.
	Shallot	*Allium ascalonicum*	Bulb.
Nicaragua	Cilantro	*Coriandrum sativum*	Above ground parts.
Peru			
	Cornsalad	*Valerianella* spp.	Whole plant.
	Lambsquarters	*Chenopodium album*	Above ground parts.
South Korea			
	Eggplant	*Solanum melongena*	Fruit.
	Kiwi	*Actinidia deliciosa*	Fruit.
	Lettuce	*Lactuca sativa*	Leaf.
Tonga			
	Jicama	*Pachyrhizus tuberosus*	Root.

Country/locality	Common name	Botanical name	Plant part(s)
•	•	•	•

[3] No green may be visible on shoot.

7. In § 319.56–2x, paragraph (a), the table would be amended by adding, in alphabetical order, the following:

§ 319.56–2x Administrative instructions: conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Blueberry	*Vaccinium* spp.	Fruit.
•	•	•	•
El Salvador	Garden bean	*Phaseolus vulgaris*	Pod or shelled.
•	•	•	•
Israel			
•	•	•	•
	Lettuce	*Lactuca sativa*	Leaf.
•	•	•	•
Taiwan			
	Carambola	*Averrhoa carambola*	Fruit.
•	•	•	•

* * * * *

Done in Washington, DC, this 19th day of October 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–26240 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 117

[Docket No. 93–048–1]

Viruses, Serums, Toxins, and Analogous Products; Test Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to allow appropriate treatment of sick or injured test animals or the human destruction of dying animals used in the testing of veterinary biological products. The effect of this action would eliminate unnecessary discomfort to animals used in vaccine testing. This amendment would provide the firms with a previously unauthorized option for test animals that are accidentally injured or become ill or exhibit unfavorable reactions for reasons not due to the test. These animals may be removed from the test and treated or humanely destroyed. In addition, test animals that show clinical signs of illness resulting from the test may be treated or humanely destroyed when death is certain to occur without therapeutic intervention. This action is necessary to provide for the treatment or humane destruction of ill or injured test animals under defined conditions, an option not currently allowed by the regulations for test animals as a group.

DATES: Consideration will be given only to comments received on or before December 27, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 93–048–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT:

Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245.

SUPPLEMENTARY INFORMATION:

Background

Veterinary biological products are licensed under the Virus-Serum-Toxin Act on the basis of their purity, safety, potency, and efficacy. In the course of evaluating a biological product, it may be necessary to conduct potency, safety, or efficacy tests in animals.

The current regulations in 9 CFR part 117 require that once an animal test has begun, no treatment which could interfere with a true evaluation of the biological product may be used (*see* § 117.4(c)). However, test animals may become accidently injured or ill or exhibit unfavorable reactions as a result of factors not due to the test. These occurrences are unpredictable, and no provisions are available in the current regulations for the appropriate treatment or humane destruction of such animals. The proposed rule would provide that test animals which exhibit clinical signs of illness, become accidentally injured or exhibit unfavorable reactions not associated with the test, may be removed from the test and be treated or humanely destroyed.

When animal tests involve challenge with infectious microorganisms in order to establish that the biological product can elicit protection against disease, the challenge with infectious microorganisms may produce an illness which is characteristic of a natural

infection. Therefore, we are also proposing to amend § 117.4 by adding new paragraphs (d) and (e), to allow for the treatment or humane destruction of test animals which show clinical signs of illness attributable to the challenge microorganism, which are likely to result in death.

The proposed amendment would have the objective of eliminating unnecessary discomfort resulting from injury, unfavorable reactions, or illness when conducting tests in animals.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866.

The effect of the rule would be to provide that animals used in testing biological product which become ill, accidentally injured, or exhibit unfavorable reactions could be removed from the test and be treated or humanely destroyed. The objective of the rule would be to eliminate any unnecessary discomfort to animals.

The rule would require no additional testing of animals. It would simply provide an option which was not previously available. Therefore, the rule is not anticipated to increase costs to producers of veterinary biological products.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 117

Animal biologics, Animals.

Accordingly, 9 CFR part 117 would be amended as follows:

PART 117—ANIMALS AT LICENSED ESTABLISHMENTS

1. The authority citation for 9 CFR part 117 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 117.4, new paragraphs (d) and (e) would be added to read as follows:

§ 117.4 Test animals.

* * * * *

(d) During the course of a test, animals that are injured or show clinical signs of illness or unfavorable reactions that are not due to the test may be removed from the test and treated or humanely destroyed. If sufficient animals do not remain for the test to be evaluated, the test shall be declared inconclusive and may be repeated.

(e) Test animals that show clinical signs of illness that are due to the test may be treated or humanely destroyed if the illness has progressed to a point (defined in the filed Outline of Production) when death is certain to occur without therapeutic intervention. When interpreting the results of the test, the animals that were treated or humanely destroyed because of illness due to the test and the animals that have died from illness due to the test prior to being humanely destroyed shall be combined into a common statistic of mortality due to the test.

Done in Washington, DC, this 19th day of October 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–26419 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE97

Shutdown and Low-Power Operations for Nuclear Power Reactors; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Correction.

SUMMARY: This document corrects a proposed rule appearing in the **Federal Register** on October 19, 1994 (59 FR 52707), that would provide additional protection to public health and safety from the risk of a core-melt accident. This action is necessary to correct an omission.

FOR FURTHER INFORMATION CONTACT: Gary M. Holahan, Director, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 504–2884.

On page 52713, in § 50.67(c)(4)(i), first sentence, the text in parentheses should read "(and throughout the shutdown or refueling outage as necessary to accommodate unforeseen contingencies)."

Dated at Rockville, Maryland, this 20th day of October, 1994.

For the Nuclear Regulatory Commission

Sarah Wigginton,

Acting Chief, Rules Review and Directives Branch.

[FR Doc. 94–26421 Filed 10–24–94; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–CE–07–AD]

Airworthiness Directives; Beech Aircraft Corporation Models 34C, T–34C, and T–34C–1 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Corporation (Beech) Models 34C, T–34C, and T–34C–1 airplanes. The proposed action would require replacing the eight wing attachment steel bolts and hardware with Inconel bolts and hardware. A report of the right lower aft wing attachment nut assembly separating in two pieces on a Model T–34C–1 airplane prompted the proposed action. The actions specified by the proposed AD are intended to prevent the wing from separating from the fuselage because of failure of this assembly.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–07-

AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–07–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–07–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report of the right lower aft wing attachment nut assembly separating in two pieces on a Beech Model T–34C–1 airplane. Laboratory investigation of the nut assembly revealed that stress corrosion caused the failure. If the separated assembly is not detected and corrected, and is operated in that condition, the wing could separate from the fuselage.

Beech has issued Service Bulletin (SB) No. 2487, dated August 1993, which specifies procedures for installing Inconel wing attachment hardware on Models 34C, T–34C, and T–34C–1 airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent the wing from separating from the fuselage because of failure of this assembly.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech 34C, T–34C, and T–34C–1 airplanes of the same type design, the proposed AD would require replacing the eight wing attachment steel bolts and hardware with Inconel bolts and hardware. The proposed actions would be accomplished in accordance with Beech SB No. 2487, dated August 1993.

The compliance time for the proposed AD is presented in calendar time instead of hours time-in- service (TIS). The FAA has determined that a calendar time for compliance is the most desirable method because the unsafe condition described by the proposed AD is caused by stress corrosion. Stress corrosion initiates as a result of airplane operation, but can continue to develop regardless of whether the airplane is in service or in storage. Therefore, to ensure that the above-referenced condition is detected and corrected on all airplanes within a reasonable period of time without inadvertently grounding any airplanes, a compliance schedule based upon calendar time instead of hours TIS is proposed.

The FAA estimates that 494 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $800 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $612,560. This figure is based on the assumption that no affected airplane owners/operator has accomplished the proposed replacement.

The Beech Aircraft Company has informed the FAA that 89 wing attachment assembly kits have been sold. Assuming that each of these kits is installed on an affected airplane, this would reduce the cost impact of the proposed AD upon U.S. operators of the affected airplanes by $110,360 from $612,560 to $502,200.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

Beech Aircraft Corporation: Docket No. 94–CE–07–AD.

Applicability: The following model and serial number airplanes, certificated in any

category, that have steel wing attachment assembly bolts and hardware:

Model	Serial Nos.
34C	GP–1 through GP–50.
T–34C	GL–2 through GL–353.
T–34C–1 ...	GM–1 through GM–71 and GM–78 through GM–98.

Compliance: Within whichever of the following occurs later, unless already accomplished:

- Four years after airplane manufacture;
- Four years after installing a new wing attachment assembly; or
- Within the next 30 calendar days after the effective date of this AD.

To prevent the wing from separating from the fuselage because of failure of the wing attachment nut assembly, accomplish the following:

(a) Replace all eight steel wing attach bolts and hardware with Inconel bolts and hardware in accordance with the ACCOMPLISHMENT INSTRUCTIONS section in Beech Service Bulletin No. 2487, dated August 1993.

Note 1: Replacing all eight steel wing attach bolts and hardware with Inconel bolts and hardware as required by this AD eliminates the repetitive inspection requirements of AD 85–22–05, Amendment 39–5146, for the affected airplanes.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 19, 1994.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–26372 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–CE–10–AD]

Airworthiness Directives; Pilatus Britten-Norman BN2A, BN2B, and BN2T Islander Series and BN2A Mk III Trislander Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Pilatus Britten-Norman BN2A, BN2B, and BN2T Islander and BN2A Mk III Trislander series airplanes that are equipped with a nose wheel steering disconnect system with either a Modification NB/M/503 or Modification NB/M/733 nose undercarriage unit. The proposed action would require repetitively inspecting the nose wheel steering drive ring for cracks, and replacing any cracked drive ring. A report of the rudder pedals jamming in the central position during a takeoff on one of the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent failure of the nose wheel steering system because of a cracked drive ring, which could result in the inability to move the rudder pedals.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–10–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Britten-Norman Ltd, Bembridge, Isle of Wight, United Kingdom, PO35 5PR. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Delano D. Castle, Program Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.3830, extension 2716; facsimile (322) 230.6899; or Mr. John P. Dow, Sr., Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–10–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–10–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on Pilatus Britten-Norman BN2A, BN2B, and BN2T Islander and BN2A Mk III Trislander series airplanes that are equipped with a nose wheel steering disconnect system with either a Modification NB/M/503 or Modification NB/M/733 nose undercarriage unit. The CAA advises that the rudder pedals jammed in the central position during a takeoff run on a BN2B Islander series airplane. Initial investigation revealed that the nose wheel steering drive ring had fractured and the broken portion of

the ring became snagged in the cut-away section of frame 19 where the steering cables pass through. This caused the inability to move the rudder pedals. Further investigation showed that the drive ring had cracked from the small radius of the left front lug across the ring and also through the grease nipple hole at the rear left side of the ring.

Pilatus Britten-Norman has issued Service Bulletin No. BN–2/SB.214, Issue 1, dated September 23, 1993, which specifies procedures for inspecting the nose wheel steering drive ring. In order to assure the continued airworthiness of these airplanes in the United Kingdom, the CAA listed the actions specified in this service bulletin in the Mandatory Aircraft Modifications and Inspections Summary, Issue 8, dated March 1994, as UK CAA AD 005–09–93.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Britten-Norman BN2A, BN2B, and BN2T Islander and BN2A Mk III Trislander series airplanes of the same type design that are equipped with a nose wheel steering disconnect system with either a Modification NB/M/503 or Modification NB/M/733 nose undercarriage unit, the proposed AD would require repetitively inspecting the nose wheel steering drive ring for cracks, and replacing any cracked drive ring. The proposed inspection would be accomplished in accordance with Pilatus Britten-Norman Service Bulletin No. BN–2/SB.214, Issue 1, dated September 23, 1993. The drive ring replacement, if necessary, would be accomplished in accordance with the applicable maintenance manual.

The FAA estimates that 15 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $825. This figure does not take into account the cost of repetitive inspections nor the cost of replacing any cracked drive ring. The FAA has no way of determining how many repetitive inspections each operator would incur over the lifetime of the airplane or how many drive rings may be cracked.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

Pilatus Britten-Norman: Docket No. 94–CE–10–AD.

Applicability: BN2A, BN2B, and BN2T Islander and BN2A Mk III Trislander series airplanes, certificated in any category, that are equipped with a nose wheel steering disconnect system with either a Modification NB/M/503 or Modification NB/M/733 nose undercarriage unit.

Compliance: Required within the next 100 hours time-in-service (TIS), unless already accomplished, and thereafter at intervals not to exceed 100 hours TIS.

To prevent failure of the nose wheel steering system because of a cracked drive ring, which could result in the inability to move the rudder pedals, accomplish the following:

(a) Visually inspect the nose wheel steering drive ring for cracks in accordance with the ACTION section of Pilatus Britten-Norman Service Bulletin No. BN–2/SB.214, Issue 1, dated September 23, 1993. Prior to further flight, replace any cracked nose wheel steering drive ring in accordance with the applicable maintenance manual.

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

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

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

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Britten-Norman Ltd, Bembridge, Isle of Wight, United Kingdom, PO35 5PR; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Issued in Kansas City, Missouri, on October 19, 1994.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–26371 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–U

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments.

SUMMARY: The Commission proposes to amend flammability standards applicable to children's sleepwear in sizes 0 through 6X and sizes 7 through 14. The amendments proposed below would revise the definition of "children's sleepwear" in the standard for sizes 0 through 6X to exclude garments in some infant sizes and tight-fitting garments from the products which are subject to the standard, and would revise the definition of "children's sleepwear" in the standard for sizes 7 through 14 to exclude "tight-fitting garments." The Commission is proposing these amendments because it has reason to believe that the existing children's sleepwear standards may not be limited to those sleepwear garments which present an unreasonable risk of burn deaths and injuries. Information available to the Commission indicates that by removing certain garments which do not present that unreasonable risk of injury, the proposed amendments would afford consumers a wider selection of sleepwear garments for children without diminishing the protection provided by the children's sleepwear standards.[1]

DATES: (1) Written Comments concerning the proposed amendments should be received by the Commission not later than January 9, 1995. (2) The Commission will provide opportunity for oral presentations of data, views, and arguments concerning the proposed amendment at a date to be announced.

ADDRESSES: Written comments concerning the proposed amendments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone: (301) 504–0800; or delivered to the Office of the Secretary, room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be submitted in five copies and captioned "Amendment of Children's Sleepwear Standards."

FOR FURTHER INFORMATION CONTACT: Terrance R. Karels, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0962, extension 1320.

SUPPLEMENTARY INFORMATION:

A. Background

Provisions of the Flammable Fabrics Act (FFA) (15 U.S.C. 1191 et seq.) authorize issuance of flammability standards and regulations to protect the public from unreasonable risks of death, injury, and property damage from fires associated with products of wearing apparel made from fabric and related materials.

In 1971, the Secretary of Commerce issued a flammability standard for children's sleepwear in sizes 0 through 6X to protect young children from death and serious burn injuries which had been associated with ignition of sleepwear garments, such as nightgowns and pajamas, by small open-flame sources. The standard for sleepwear in sizes 0 through 6X became effective in 1972 and is now codified at 16 CFR part 1615. In 1973, authority to issue flammability standards under provisions of the FFA was transferred from the Department of Commerce to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2079(b)). In 1974, the Commission issued a flammability standard for children's sleepwear in sizes 7 through 14. That standard became effective in 1975 and is now codified at 16 CFR part 1616.

Both standards prescribe a test which requires that specimens of fabrics, seams, and trim of children's sleepwear garments must self-extinguish after exposure to a small-open flame. Both standards require manufacturers of children's sleepwear subject to their provisions to test prototypes of sleepwear garments with acceptable results before beginning production. Both standards also require manufacturers to sample and test garments from regular production. Failure to comply with the sampling and testing requirements of the standards is a violation of section 3 of the FFA (15 U.S.C. 1192). The standards do not require or prohibit the use of any particular type of fabric or garment design as long as the manufacturer successfully completes the prescribed prototype and production testing.

Each standard defines the term "children's sleepwear" to mean "any product of wearing apparel" in the sizes covered by the standard "such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping." Each standard excludes diapers and underwear from its coverage. See 16 CFR 1615.1(a) and 1616.2(a).

B. Garments Subject to the Sleepwear Standards

Before the effective date of the standard for children's sleepwear in sizes 0 through 6X, questions arose about the specific types of garments which are subject to the requirements of that standard because they are "intended to be worn primarily for sleeping and activities related to sleeping." To respond to those questions, the Federal Trade Commission (FTC), the agency responsible for enforcement of the standard at that time, published an enforcement polity statement in the **Federal Register** of March 23, 1972 (37 FR 5982). Briefly summarized, that policy statement announced that in determining whether a garment is "intended to be worn primarily for sleeping or activities related to sleeping" the FTC would consider (1) the nature of the garment and its suitability for use by children for sleeping or activities related to sleeping; (2) the manner in which the garment is distributed and promoted; and (3) the likelihood that the garment will be used by children for sleeping or activities related to sleeping in a substantial number of cases.

After the Commission issued the flammability standard for children's sleepwear in sizes 7 through 14, the agency became aware of various "borderline" garments which may or may not be intended "primarily for sleeping or activities related to sleeping." Some of these garments were described in packaging, labeling, and advertising as "playwear," "daywear," or "underwear." Because the FTC policy statement applied only to sleepwear garments in sizes 0 through 6X, the Commission decided to issue a new policy statement concerning the scope of the standard for sleepwear in sizes 7 through 14, and to revise and reissue the policy statement concerning the scope of the standard for sizes 0 through 6X.

The Commission published a proposed revision of the policy statement concerning the scope of the sleepwear standard for sizes 0 through 6X and a new policy statement concerning the scope of the standard for sizes 7 through 14 in 1979; in 1980 the Commission issued final policy statements. Those policy statements were the subject of an action for judicial review and were set aside by a U.S. Court of Appeals in 1981. See *National Knitwear Manufacturers Association v. CPSC*, 606 F2d 81 (4th Cir. 1981).

In 1984, the Commission issued new policy statements to replace the ones set aside on judicial review. The Commission's 1984 policy statements incorporate and amplify the factors which were identified in the FTC policy as relevant to determining whether a garment is an item of "children's sleepwear" because it is intended to be worn "primarily for sleeping and

[1] The Commission voted 2–1 to propose amendments of the children's sleepwear flammability standards, Chairman Ann Brown dissenting.

activities related to sleeping." (1)[2] The 1984 policy statements are codified at 16 CFR 1615.64 and 1616.65.

The Commission's issuance of policy statements in 1983 did not definitively resolve all questions about the differences between those children's garments which are sleepwear and are subject to the sleepwear standards and those which are not. In 1984, the Commission staff developed a pamphlet entitled *Enforcement Policy on Children's Sleepwear,* which described and illustrated various styles of sleepwear and non-sleepwear garments. Since its initial publication, the Commission staff has revised this pamphlet five times. The last publication was in 1989, entitled *Supplemental CPSC Staff Guide to the Enforcement Policy Statements of the Flammability Standard for Children's Sleepwear* (2).

Nevertheless, the Commission staff continued to receive a large volume of inquiries about the status of particular garments as sleepwear or non-sleepwear as well as complaints about alleged violations of the children's sleepwear standards by firms manufacturing or importing garments which were subject to the standards' definitions of "children's sleepwear" but which did not meet the requirements of the applicable standard. During the same time, the staff also became aware of an increased demand by consumers for children's sleepwear made from 100 per cent untreated cotton fabric. Although the standards do not prohibit any specific type of fabric in the production of children's sleepwear, 100 per cent cotton fabric cannot pass the flammability tests in the standards unless treated with a flame retardant.

In 1991, the Commission decided to re-examine the scope of the children's sleepwear standards and to consider the possibility of amending the definitions of the term "children's sleepwear" in the two standards. This undertaking resulted in the initiation of this rulemaking proceeding in 1993.

C. Statutory Provisions

Section 4(g) of the FFA (15 U.S.C. 1193(g)) provides that a proceeding for issuance or amendment of a flammability standard is initiated by publication in the **Federal Register** of an advance notice of proposed rulemaking (ANPR). Section 4(g) of the FFA requires that the ANPR must describe the product and the risk of injury under consideration; summarize the regulatory alternatives being considered; provide information about existing standards which may be relevant; invite interested persons to submit comments on the product, risk of injury, and regulatory alternatives under consideration; invite interested persons to submit an existing standard or portion of a standard to the Commission for publication as the proposed standard or amendment; and invite interested persons to submit a statement of intent to develop or modify a voluntary standard to address the risk of injury under consideration.

If the Commission decides to continue the proceeding after consideration of comments and submissions received in response to the ANPR, section 4(i) of the FFA requires the Commission to publish a notice of proposed rulemaking (NPR). The NPR must set forth the text of the proposed rule and a preliminary regulatory analysis containing a discussion of the anticipated benefits and costs of the proposed rule and other regulatory alternatives considered by the Commission. Provisions of section 4(d) of the FFA provide that interested persons shall be given the opportunity to make oral presentations of data, views, or arguments as well as to submit written comments on the proposed rule.

To issue a final standard or amendment, section 4(j) of the FFA requires the Commission to publish a notice of final rulemaking setting forth the text of the final rule and the Commission's final regulatory analysis of costs, benefits, and alternatives to the rule. Section 4(j) also requires that the notice of final rulemaking must contain the Commission's findings with regard to the provisions and extent of compliance with any voluntary standard that may be applicable to the risk of injury under consideration. Additionally, section 4(b) of the FFA requires the notice of final rulemaking to contain findings that the standard or amendment is needed to protect the public from the unreasonable risk of death, injury, or significant property damage from fires associated with the fabric or product under consideration; is reasonable, technologically practicable and appropriate; and is limited to those fabrics or products which have been determined to present an unreasonable risk of death, injury, or significant property damage.

D. Publication of ANPR

The Commission began this proceeding to consider amendment of the children's sleepwear standards by publication of an ANPR in the **Federal Register** of January 13, 1993 (58 FR 4111). The ANPR identified the products under consideration as children's sleepwear garments in sizes 0 through 14, and the risk of injury as death or personal injury from fires resulting from ignition of children's sleepwear (4).

As required by section 4(g) of the FFA, the ANPR also described the regulatory alternatives being considered by the Commission. Briefly summarized, the alternatives listed in the ANPR were:

(1) Amendment of the children's sleepwear standards to exempt tight-fitting sleepwear garments and sleepwear garments in infant sizes. Children's sleepwear garments exempted from the requirements of the sleepwear standard would be subject to the provisions of the Standard for the Flammability of Clothing Textiles (16 CFR part 1610). That standard prohibits the manufacture, importation, or sale of garments which are "dangerously flammable because of rapid and intense burning," but does not require garments to self-extinguish when exposed to a small open-flame ignition source, or

(2) Issuance of an enforcement policy statement to announce that the Commission will not apply the requirements of the children's sleepwear standards to tight-fitting sleepwear garments and garments in infant sizes as long as those garments meet the requirements of the clothing textiles flammability standard.

Section 4(g) also requires the ANPR to include information about all standards known by the Commission to be relevant to the proceeding. The ANPR discussed provisions of flammability standards for children's sleepwear issued by Australia, Canada, and New Zealand. The Canadian and New Zealand standards have less stringent flammability performance requirements for tight-fitting children's sleepwear garments than for loose-fitting children's sleepwear. The Canadian standard also makes special provisions for sleepwear garments in infant sizes and children's sleepwear intended for use in hospitals. It is noteworthy that there have been no burn deaths associated with children's sleepwear reported in Canada since its standard was promulgated in 1987.

At the same time the Commission published the ANPR, it also announced that it would not enforce the children's sleepwear standards in instances involving garments in sizes 0 through 14 which are labeled and marketed as "underwear" if those garments are skin-tight or nearly skin-tight and are essentially identical in design and fit to

[2] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's Public Reading Room, 4330 East-West Highway, room 419, Bethesda, Maryland 20814, or by calling the Office of the Secretary (301) 504–0800.

underwear garments (5). See 58 FR 4078, January 13, 1993.

E. Response to ANPR

In response to the ANPR, the Commission received more than 2,100 written comments from individuals, firms, and organizations. Comments were received from all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and from United States citizens living abroad (3), (6). More than 95 percent of these comments favored modification of the standards to exempt some or all children's sleepwear garments from their requirements. More than one-third of all comments received in response to the ANPR were in the form of prepared letters with space for the commenter's name, or letters that were identical in their wording (3), (6).

The significant issues raised by those comments and the Commission's assessment of those issues is set forth below.

1. Should Consumers Be Able To Purchase Non-Complying Sleepwear Garments if They Desire?

Several comments express the view that consumers should be able to purchase children's sleepwear which does not meet the flammability requirements of the children's sleepwear standards— specifically, children's sleepwear made from untreated 100 percent cotton—rather than garments which are manufactured to comply with the children's sleepwear standards if they choose to do so. Many of these comments state that parents are the parties with primary responsibility for their children's safety. A large number of comments from consumers stated that parents prefer to dress their children in cotton garments for sleeping. Reasons given for preferring untreated 100 percent cotton sleepwear include lower price, increased comfort to the wearer, and the avoidance of skin irritation or unpleasant odors which some comments assert are associated with certain man-made fabrics or fabrics with flame-retardant treatment. Some of these comments express the view that both children's sleepwear standards should be revoked in their entirety (6).

Other comments express the view that the government has a duty to establish mandatory safety requirements to protect children from risks of death and serious injury, and that consumer preference must yield to mandatory requirements needed to protect children from serious burn hazards (6).

Some comments urge the Commission to extend the flammability requirements of the children's sleepwear standards to cover other children's garments—specifically garments made from lightweight fabrics and long underwear (6).

The Commission observes that section 4 of the FFA (15 U.S.C. 1193) authorizes the agency to issue or amend mandatory requirements for the flammability of wearing apparel only when such requirements are "*needed to adequately protect the public* against *unreasonable risk of the occurrence of fire* leading to death, injury, or significant property damage." (Emphasis added.) If a flammability standard has been issued under the FFA to address an unreasonable risk of fire deaths or injuries associated with a particular type or class of garments, that standard cannot be amended or revoked solely to accommodate consumer preference for noncomplying garments.

However, section 4 of the FFA further requires that in order to issue or amend a standard, the Commission must find, among other things, that the standard or amendment is "limited" to include only those garments which have been determined to present an "unreasonable risk" of burn deaths or injuries, or significant property damage. Consequently, if the coverage of the children's sleepwear standards currently includes garments which do not present an unreasonable risk of fire leading to death, injury, or significant property damage, the Commission concludes that the scope of the standards could be narrowed to remove those garments from the coverage of the standards.

For the same reasons, a flammability standard cannot be broadened to include other types of garments unless the Commission finds that those other types of garments present an "unreasonable risk" of fire resulting in death, injury, or significant property damage.

In the course of this rulemaking proceeding, the Commission has reviewed information about burn injuries and deaths associated with children's sleepwear garments and other types of children's clothing since 1980. On average, each year about four children younger than fifteen years of age died from fires associated with clothing of all types (10).

From its review of burn injury data, the Commission estimates that on average, about 1,150 children were treated each year in hospital emergency rooms for burn injuries associated with clothing of all types during the period from 1980 through 1993. Of that total, the Commission estimates that each year, about 90 burn injuries to children were associated with sleepwear, about 860 were associated with day wear, and about 200 were associated with other types of clothing or unspecified types of clothing (10).

From available data, the Commission estimates that virtually no infants younger than one year old were treated in hospital emergency rooms for burn injuries associated with clothing. The Commission also found that most thermal burn injuries associated with sleepwear involved females, whereas most burn injuries associated with daywear involved males. Thermal burn injuries from nightwear were usually associated with nightgowns or pajamas that probably were not tight-fitting (10).

This review of information about burn deaths and injuries associated with children's clothing suggests that the children's sleepwear standards in their current form may cover certain garments which do not present an unreasonable risk of burn deaths or injuries: specifically, sleepwear garments for infants younger than one year of age, and some tight-fitting sleepwear garments for children ranging in age from one to about fifteen years old.

This information also indicates that notwithstanding the existence of mandatory flammability requirements for children's sleepwear for more than 20 years, burn injuries to children continue to be associated with sleepwear, particularly nightgowns and pajamas (10). For this reason, the Commission concludes that the injury data do not support revocation of the children's sleepwear standards in their entirety. Finally, from this review of information about burn deaths and injuries, the Commission is unable to identify other specific types of children's clothing which may present an unreasonable risk of burn deaths or injuries. For this reason, the Commission is unable to find support from the injury data for extension of the requirements of the children's sleepwear standards to other types of children's garments.

2. Can the Protection Afforded to Children by the Sleepwear Standards Be Maintained if Garments in Infant Sizes and Tight-Fitting Garments Are Exempted From the Standards?

This question is the principal issue raised by the ANPR and was the subject of many comments. In order to address this issue, the Commission must also consider its correlative: To what extent have the sleepwear standards prevented burn deaths and injuries to children?

After careful consideration of the events leading to issuance of the children's sleepwear standards and all available information about burn injuries and deaths associated with children's sleepwear, the Commission is

not able to estimate quantitatively the number of burn deaths and injuries which may have been avoided because of the requirements of those standards. Statistically projectable data are not available about the numbers of deaths and burn injuries associated with children's sleepwear before the issuance of the standard for sizes 0 through 6X (6). Data compiled by the Commission show a measurable reduction in burn deaths and injuries associated with all types of clothing, including children's sleepwear, during the past 20 years (6).

However, as many commenters observed, the household environment has also changed during that time period. The number of persons who smoke cigarettes has declined, contributing to a reduction in the number of lighters and matches in the nation's households (6), (14). Voluntary standards have been issued or revised to address many sources of ignition in the household, including gas-fueled ranges and space heaters and kerosene heaters. As noted in the ANPR, sales of both gas-fueled ranges and kerosene heaters have declined in recent years (4).

After considering all available information, the Commission has reason to believe that the children's sleepwear standards have contributed to the general decline in burn deaths and injuries associated with clothing, but cannot quantitatively assess the extent of that contribution.

a. Can Sleepwear Garments for Infants Be Exempted From the Standard for Sizes 0 Through 6X Without Reducing the Level of Protection That Standard Provides?

Many comments urge the Commission to exempt sleepwear garments intended to be worn by infants younger than one year old from the requirements of the standard. These comments observe that infants who are not capable of moving by themselves are not at risk of exposing their clothing to an ignition source (6).

Another group of comments opposes exempting garments in infant sizes. These comments state that the Commission considered and rejected such an exemption in 1978. Other comments opposed to such an exemption state that sleepwear garments for infants are not labeled to specify the age of the intended wearer, but rather the body measurements of the intended wearer (6).

The Commission has reviewed information about burn deaths and injuries to children younger than one year old associated with sleepwear, including a report prepared in 1978 in conjunction with a proposed exemption for sleepwear garments smaller than size 1 (11). The 1978 report discussed 66 cases in which children younger than one year old sustained burn injuries associated with clothing. In ten cases, the clothing involved was specifically identified as sleepwear; nine of these involved whole-house conflagrations and the other involved a home-made sleepwear garment. Consequently, none of these cases involved risks of injury which the sleepwear standards were intended to address. In all but two of the ten cases involving sleepwear garments, the burn victims were older than six months (11).

After considering comments received in response to the ANPR (6), child development literature (12), and available injury data (10), the Commission finds that the sleepwear garments intended for children younger than six months of age may not present an unreasonable risk of burn deaths or injuries to children. For this reason, the Commission has reason to believe that the standard for sizes 0 through 6X in its existing form may not be limited to those garments which present an unreasonable risk of fire leading to death, personal injury, or significant property damage, as required by section 4(b) of the FFA. Consequently, the Commission has preliminarily decided that garments in sizes suitable for children younger than six months of age could be exempted from the requirements of the sleepwear standard for sizes 0 through 6X without decreasing the protection afforded by that standard. The Commission also concludes that the exemption should be stated in terms of maximum dimensions for the chest and length of the garment. Separate maximum length dimensions are specified for one-piece and two-piece garments. The maximum dimensions specified were selected by considering body sizes of children approximately six months old as set forth in ASTM standard D 4910–89 "Standard Tables of Body Measurements for Infants, Ages 0 to 18 months," published by ASTM (formerly the American Society for Testing and Materials) (12).

The proposed amendment also requires that an exempted infant garment must be labeled with the words and figures "0 to 6 mos." The label required by the proposed amendment is for the use of the Commission staff when determining whether a garment is exempted from the requirements of the children's sleepwear standard because it is intended to be worn by infants younger than six months old. For this reason, it is not required to be permanently attached to the garment, but must be visible to the consumer when the garment is offered for sale at retail.

In addition to meeting the dimensional and labeling requirements, garments in infant sizes must meet the applicable requirements of the flammability standards for clothing textiles and vinyl plastic film (16 CFR parts 1610 and 1611) to be eligible for the exemption from the children's sleepwear standard made by the amendment proposed below.

b. Can Tight-Fitting Garments Be Exempted From the Sleepwear Standards Without Reducing the Protection They Provide?

Many of the comments favoring exemption of tight-fitting garments from the children's sleepwear standard express the view that cotton sleepwear is as safe or safer than sleepwear which complies with the applicable standard. Other comments express support for an exemption of tight-fitting garments from the sleepwear standards if available information demonstrates that such an exemption would not reduce the protection against burn injuries provided by the standards. A small number of comments express the view that the standards should not be changed because they have effectively reduced risks of serious burn injuries to children from ignition of sleepwear garments (6).

After careful consideration of all comments on this issue (6), technical literature (8), (11), injury data (10), and provisions of sleepwear standards in Australia, Canada, New Zealand and the United Kingdom (11), the Commission concludes that tight-fitting garments could be exempted from the standards without reducing the level of protection against burn injuries which they provide to children.

Currently available information from technical literature demonstrates that tight-fitting garments are less likely to contact an ignition source and, if ignited, burn less rapidly than loose-fitting garments (8), (11). Burn injury data indicate that in the event of clothing ignition, burn injuries associated with close-fitting garments are less severe than those associated with loose-fitting garments (10).

As noted in the ANPR, the Canadian standard for children's sleepwear prescribes flammability requirements for pajamas, nightgowns, and robes which are similar to the requirements of the sleepwear standards codified at 16 CFR parts 1615 and 1616. However, the Canadian standard provides that close-fitting polo pajamas and sleepers, as well as sleepwear garments in infant sizes and sleepwear garments used in

hospitals shall meet less stringent flammability requirements which are similar to those of the standard for clothing textiles codified at 16 CFR part 1610 (4).

By letter dated September 13, 1993, the Director of Product Safety of the Canadian government advised the Commission that since promulgation of the Canadian sleepwear standards in 1987, no burn deaths associated with children's sleepwear have been reported in Canada. The Director of Product Safety added that a planned five-year study to collect data about burn injuries associated with children's sleepwear in Canada had been discontinued because of a lack of burn cases (11).

For these reasons, the Commission concludes that to the extent the children's sleepwear standards in their current form are applicable to tight-fitting sleepwear garments, they may apply to some garments which are not associated with an unreasonable risk of burn deaths and injuries and may not be limited to those garments which present an unreasonable risk, as required by section 4(b) of the FFA.

Several comments address the issue of defining the term "tight-fitting" garment. Some comments suggest exempting specific types of garments such as "ski pajamas" or "long johns." Others state that exempted garments should be required to have specific features, such as tight cuffs at the wrists and ankles. Some comments observe that the Department of Commerce has withdrawn the commercial standard for sizing of children's apparel which is cited in both children's sleepwear standards (6).

Section 4(b) of the FFA requires that a flammability standard must be "stated in objective terms." The amendments proposed below exempt "tight-fitting" sleepwear garments from the standard for sizes 0 through 6X and the standard for sizes 7 through 14. The proposed amendments define the term "tight-fitting garment" by specifying maximum dimensions for the following parts of the garment: Chest, waist, seat, upper arm, thigh, wrist, and ankle (12). The proposed amendments specify the specific points on the garment at which measurements are taken to calculate the maximum dimensions.

The maximum dimensions specified for garments in sizes for infants six to 24 months old were selected by considering body sizes of children approximately six months old set forth in a proposed revision of ASTM standard D 4910 (12). The maximum dimensions selected for the various locations on the garment in each size from 2 through 6X are based on dimensions specified in a draft ASTM standard tentatively designated "Standard Table of Body Measurements for Pre-School Children Sizes 2–6X/7." (12) The ASTM committee which is developing this draft standard has several members who are employed by manufacturers of children's garments as well as members from academic institutions.

Maximum dimensions of the specified locations on garments in sizes 7 through 14 are based on a report of an anthropometric study of children ranging in age from infancy to the age of 18 years, conducted in 1977 by the University of Michigan (12). Maximum dimensions are given for both boys' and girls' garments in the proposed definition of "tight-fitting garment" for the standard for sizes 7 through 14. The Commission is aware that at this time sleepwear garments are not marketed in girls' sizes 9, 11, and 13. However, dimensions for those sizes are provided in the proposed amendments to the standard for size 7 through 14 published below. Garments which are not explicitly labeled and promoted for use by girls must meet the maximum dimensions listed for boys' garments in each size to be exempted from the requirements of the sleepwear standard for sizes 7 through 14.

To be eligible for the exemption from the requirements of the children's sleepwear standards, a tight-fitting garment must not exceed the maximum dimensions specified for each size in the amendments proposed below. The proposed amendments also require that an exempted garment must be labeled to indicate the size to which it was manufactured. The size label required by the proposed amendment is for the use of the Commission staff when determining whether a garment meets the dimensional requirements for an exempt sleepwear garment. For this reason, the label is not required to be permanently affixed to the garment, but it must be visible when the garment is offered for sale to consumers.

The proposed amendments also require that when offered for sale to consumers, exempted garments in sizes for 6 to 9 months and larger must be clearly and conspicuously labeled with a statement to advise consumers that the garment is not flame-resistant and should be tight-fitting for the safety of the child. If the proposed amendments are issued on a final basis, this labeling statement will be one component of an information and education campaign to advise consumers that the safety of these sleepwear garments is dependent upon their tight fit.

Finally, garments exempted from the flammability requirements of the amendments proposed below must comply with applicable provisions of the flammability standards for clothing textiles and vinyl plastic film (16 CFR parts 1610 and 1611).

c. Alternatives to an Exemption for Sleepwear Garments in Infant Sizes and for Tight-fitting Garments

Some comments suggest that rather than exempt sleepwear garments in infant sizes and tight-fitting garments from the sleepwear standards, the Commission should provide additional guidance about the differences between children's sleepwear and non-sleepwear garments, including long underwear (6).

As discussed above, since 1984, the Commission staff has attempted to clarify the standards' definitions of "children's sleepwear" garments by written descriptions and drawings and to distinguish sleepwear from non-sleepwear garments in a publication distributed to the children's garment industry. However, the staff has not been able to provide definitive guidance that resolves all questions about the distinction between sleepwear and non-sleepwear garment. Constantly changing styles and fashions in children's apparel have been a major obstacle to this effort. The Commission has reason to believe that further attempts to provide guidance through additional revisions of the staff enforcement policy guides are not likely to meet with success (6), (17).

Some comments suggest that the Commission should require labeling of all children's sleepwear garments to indicate their relative flammability. Other comments urge the Commission to require labeling of those sleepwear garments which do not meet the flammability requirements of the children's sleepwear standards. These comments state that labeling of some or all children's sleepwear garments would be preferable to prohibiting the sale of garments which do not comply with the requirements of the children's sleepwear standards (6).

Research into the effectiveness of labeling indicates that in order for a label to be effective, it must be: (1) Noticed, (2) read and understood, and (3) acted upon. That research also indicates that as consumers become more familiar with a product, they are more likely to ignore information about the product. Additionally, if a product is not perceived as hazardous, the likelihood is greater that a label will go unnoticed (12).

Children's sleepwear garments are products that are familiar to most consumers. Generally, those garments

are not perceived as presenting a safety hazard. Most sleepwear garments offered for sale to consumers bear labels stating size, price, fiber content, and laundering instructions. All of these factors decrease the likelihood that consumers would notice and read additional label information about the flammability of the garment (12).

Even if a label is noticed and read, its message must also be understood before it can be acted upon. Explaining the nature of the flammability hazard associated with children's sleepwear and the steps that should be taken to avoid the hazard would be extremely difficult given the limited space that would be available on a label (12). For these reasons, the Commission concludes that labeling some or all children's sleepwear garments would not be effective as the sole means to communicate the flammability hazard associated with those garments or a practical alternative to the performance requirements of the standards.

F. Preliminary Regulatory Analysis

As noted above, section 4(i) of the FFA requires the notice of proposed rulemaking to contain a regulatory analysis consisting of: (1) A preliminary description of potential benefits and potential costs of the proposed standard or amendment, and an indication of those likely to receive the benefits and to bear the costs; (2) a discussion of the reasons for not publishing any existing standard submitted in response to the ANPR as the proposed standard or amendment, and for concluding that any statement of intent to develop or modify a voluntary standard to address the risk of injury under consideration is not likely to result in the development of an adequate voluntary standard; and (3) a description of any reasonable alternatives to the proposed standard or amendment, together with a summary description of potential benefits and costs of each alternative and a brief explanation of why each such alternative has not been published as the proposed standard or amendment.

1. Potential Benefits of the Proposed Amendments

One potential benefit of the proposed amendments is that a greater variety of children's sleepwear will be available to consumers (14).

Consumers may also benefit from decreases in relative prices of children's sleepwear because of increased penetration of the sleepwear market by imported goods. Costs of testing and uncertainty about the applicability of the children's sleepwear standards may have restrained imports of sleepwear to the United States in recent years. Imported garments account for only nine percent of all children's sleepwear sold in 1992, whereas imported garments constituted 52 percent of all sales of adult sleepwear. The exemptions from the children's sleepwear standards made by the amendments proposed below are expected to increase imports of lower- and mid-priced garments, resulting in greater competition within the sleepwear industry, and lower prices to consumers (14).

If consumers elect to dress their children in tight-fitting sleepwear garments which are exempted from the requirements of the children's sleepwear standards by the amendments proposed below in place of loose-fitting non-sleepwear garments, the number of burn deaths and injuries associated with non-sleepwear garments worn by children when sleeping may decrease (8), (12), (14).

Additionally, domestic manufacturers who decide to produce garments exempted by the proposed amendments may also enjoy greater sales. The ability of domestic manufacturers to produce children's sleepwear garments from cotton rather than man-made fabrics customarily used in the production of complying children's sleepwear may lead to reduced prices of children's sleepwear (14).

2. Potential Costs of the Proposed Amendments

The potential cost of the exemptions to the children's sleepwear standards made by the proposed amendment is the possibility of increased societal costs of future burn deaths or injuries associated with the exempted garments (14). However, the Commission has reason to believe that few if any additional burn deaths or injuries to children will result from the proposed amendments.

On the basis of epidemiological data, the Commission expects that exempting sleepwear garments in infant sizes from the requirements of the sleepwear standards will not result in increased risk of burn injuries to children younger than six months of age. Infants younger than six months old are not capable of moving by themselves, and for that reason are not likely to come within range of ignition sources when an adult is not present (11), (12).

As noted above, the household environment in which children wear sleepwear has changed since the first sleepwear standard was issued in 1971. The number of adults who smoke cigarettes has declined by about 20 million since 1974, resulting in the presence of fewer matches and lighters in the nation's households. Ignition hazards presented by ranges and space heaters have also decreased (6), (14).

The Commission also observes that in 1970, sales of all children's sleepwear garments averaged about one and one-half garments per child (14), (15). The average number of sleepwear garments purchased per child each year has not changed appreciably since 1970 (14), (15). Because it is reasonable to assume that children use several garments as sleepwear during the course of a year, a logical inference is that children have probably always used more non-sleepwear garments for sleeping than garments manufactured to comply with the children's sleepwear standards (14). Consequently, providing an exemption from the requirements of the standards for a limited class of sleepwear garments in infant sizes and tight-fitting garments is not expected to increase risks of burn deaths and injuries associated with children's sleepwear.

3. Existing Standards and Statements of Intent To Develop a Voluntary Standard

No existing standard was submitted for publication as the proposed standard in response to the ANPR. No statement of intent to develop or modify a voluntary standard was submitted in response to the ANPR.

4. Alternatives to the Proposed Amendments

a. Make No Change to the Standards

There would be no change in burn deaths and injuries to children which might otherwise be attributable to the proposed amendments. Consumers would forgo all potential benefits of increased choice of children's sleepwear garments and reductions in prices that might result from issuance of the proposed amendments (14).

b. Do Not Amend the Standards; Issue a Statement of Policy to the Effect That the Commission Will Not Apply the Standards to Garments in Infant Sizes or Tight-fitting Sleepwear Garments

While this alternative might result in some benefits of increased choice and lower prices to consumers, domestic manufacturers and importers might be reluctant to change business practices in reliance on such a policy statement because of uncertainty about future Commission decisions to change that policy. Such uncertainty might result in continued low levels of imported sleepwear garments and little if any domestic production of exempted garments subject to the provisions of the policy statement (14).

G. Impact on Small Businesses

In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission hereby certifies that the amendments to the children's sleepwear standards proposed below will not have a significant economic impact on a substantial number of small entities, including small businesses, if issued on a final basis (14).

The amendments proposed below would provide an exemption from the requirements of the children's sleepwear standards for certain sleepwear garments in infant sizes and certain tight-fitting sleepwear garments. However, no importer or domestic manufacturer is required to produce the exempted garments. Consequently, any economic impact of the proposed amendments, either positive or negative, will result from business decisions of regulated firms rather than any provision of the proposed amendments (14).

H. Environmental Considerations

The proposed amendments fall within the categories of Commission actions described at 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. Because the proposed amendments, if issued on a final basis, will not change any aspect of the testing required by the standard, the proposed action does not have any potential to produce significant environmental effects. For that reason, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Textiles, Warranties.

Conclusion

Therefore, pursuant to the authority of section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)) and section 4 of the Flammable Fabrics Act (15 U.S.C. 1193), the Commission hereby proposes to amend title 16 of the Code of Federal Regulations, Chapter II, Subchapter D, Parts 1615 and 1616 to read as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X

1. The authority for Part 1615 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–570; 15 U.S.C. 1193.

§ 1615.1 [Amended]

2. Sections 1615.1 (c) through (m) are redesignated §§ 1615.1 (d) through (n).

3. Section 1615.1 is amended by revising paragraph (a) and adding new paragraphs (c) and (o) to read as follows:

§ 1615.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended, the following definitions apply for the purposes of this Standard:

(a) *Children's Sleepwear* means any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping, except:

(1) Diapers and underwear;

(2) "Infant garments," as defined by paragraph (c) of this section; and

(3) "Tight-fitting garments," as defined by section 1615.1(o), below.

* * * * *

(c) *Infant garment* means a garment which:

(1) If a one-piece garment, does not exceed 68 centimeters (21 inches) in length; if a two-piece garment, has no piece exceeding 37.1 centimeters (14½ inches) in length;

(2) Does not exceed 48.3 centimeters (19 inches) at the chest, calculated by placing the garment on a horizontal, flat surface, with the outer surface of the garment exposed, measuring the distance from arm pit to arm pit, and multiplying that value by two;

(3) Complies with all applicable requirements of the Standard for the Flammability Clothing Textiles (16 CFR part 1610) and the Standard for the Flammability Vinyl Plastic Film (16 CFR part 1611); and

(4) Bears a label stating "0–6 mos." If the label is not visible to the consumer when the garment is offered for sale at retail, the same figures and letters must appear legibly on the package of the garment.

* * * * *

(o) *Tight-fitting garment* means a garment which:

(1) In each of the sizes listed below does not exceed the maximum dimension specified below for the chest, waist, seat, upper arm, thigh, wrist, or ankle:

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
6–9 mos[3]							
Maximum Dimension[1]							
Centimeters (inches)	45.7 (18)	47.6 (18¾)	47 (18½)	14 (5½)	25.9 (10¼)	10.3 (4)	12.2 (4⅞)
9–12 mos							
Maximum Dimension[1]							
Centimeters (inches)	47 (18½)	48.3 (19)	48.3 (19)	14.3 (5⅝)	26.7 (10½)	10.5 (4⅛)	12.8 (5)
12–18 mos							
Maximum Dimension[1]							
Centimeters (inches)	49.5 (19½)	49.5 (19½)	50.8 (20)	14.9 (5⅞)	28.3 (11⅛)	10.5 (4⅛)	13.1 (5⅛)
18–24 mos							
Maximum Dimension[1]							
Centimeters (inches)	52.1 (20½)	50.8 (20)	53.3 (21)	15.6 (⅛)	29.5 (11⅝)	10.9 (4¼)	13.5 (5¼)
Size 2							
Maximum Dimension[1]							
Centimeters (inches)	50.8 (20)	50.8 (20)	53.3 (21)	15.6 (6⅛)	29.8 (11½)	11.4 (4½)	14 (5½)
Size 3							
Maximum Dimension[1]							
Centimeters (inches)	53.3 (21)	52.1 (20½)	55.9 (22)	16.2 (6⅜)	31.4 (12⅜)	11.8 (4⅝)	14.9 (5⅞)
Size 4							
Maximum Dimension[1]							
Centimeters (inches)	55.9 (22)	53.3 (21)	58.4 (23)	16.8 (6⅝)	33.0 (13)	12.1 (4¾)	15.9 (6¼)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 5							
Maximum Dimension [1] Centimeters (inches)	58.4 (23)	54.6 (21½)	61.0 (24)	17.5 (6⅞)	34.6 (13⅝)	12.4 (4⅞)	16.8 (6⅝)
Size 6							
Maximum Dimension [1] Centimeters (inches)	61.0 (24)	55.9 (22)	63.5 (25)	18.1 (7⅛)	36.2 (14¼)	12.7 (5)	17.8 (7)
Size 6X							
Maximum Dimension [1] Centimeters (inches)	62.9 (24¾)	57.2 (22½)	65.4 (25¾)	18.7 (7⅜)	37.8 (14⅞)	13.0 (5⅛)	18.7 (7⅜)

[3] Maximum dimensions are calculated by placing the garment on a horizontal, that surface, with the outer surface of the garment exposed; measuring the distances specified below; and multiplying that value by two:
Chest—measure distance from arm pit to pit.
Waist—measure narrowest distance between arm pits and crotch.
Seat—measure widest location between waist and crotch.
Upper arm—measure a line perpendicular to the sleeve extending from the outer edge of the sleeve to the arm pit.
Thigh—measure a line perpendicular to the leg extending from the outer edge of the leg to crotch.
Wrist—measure the width of the end of the sleeve.
Ankle—mesure the width of the end of the leg.

(2) Has no item of fabric, ornamentation or trim, such as lace, appliques, or ribbon, which extends more than 6 centimeters (¼ inch) from the outer surface of the garment;

(3) Has all sleeve openings tapered toward the wrists, and all leg openings tapered toward the ankles;

(4) In the case of a two piece garment having a top piece with fastenings, has a bottom fastening within 15 centimeters (6 inches) of the bottom of the top piece of the garment;

(5) Complies with all applicable requirements of the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611);

(6) Bears a label stating the size of the garment in following words and figures: "Size [_____ to _____ mos.] or [2–6X]." If the label is not visible to the consumer when the garment is offered for sale at retail, the same figures and letters must appear legibly on the package of the garment; and

(7) When displayed for sale to consumers, is clearly and conspicuously labeled with the following statement: "Garment is not-flame resistant. For child's safety, garment should be tight-fitting. Loose-fitting clothing is more likely to contact an ignition source and burn."

* * * * *

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14

1. The authority for Part 1616 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–570; 15 U.S.C. 1193.

2. Section 1616.2 is amended by revising paragraph (a) and adding a new paragraph (m), to read as follows:

§ 1616.2 Definitions.

In addition to the definitions given in section of the Flammable Fabrics Act, as amended (sec. 2, 81 Stat. 586; 15 U.S.C. 1191), the following definitions apply for purposes of this Standard:

(a) *Children's sleepwear* means any product of wearing apparel size 7 through 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping, except:

(1) Diapers and underwear; and

(2) "Tight-fitting garments" as defined by section 1616.2(m), below.

* * * * *

(m) *Tight-fitting garment* means a garment which:

(1) In each of the sizes listed below does not exceed the maximum dimension specified below for the chest, waist, seat, upper arm, thigh, wrist, or ankle:

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 7 Boys [4]							
Maximum Dimension [1] Centimeters (inches)	60.2 (23¾)	53.5 (21)	60.4 (23¾)	17.6 (7)	35 (13¾)	12.3 (4⅞)	16.2 (6⅜)
Size 7 Girls							
Maximum Dimension [1] Centimeters (inches)	58.9 (23¼)	54.2 (21⅜)	62 (24½)	17.9 (7)	36.5 (14⅜)	12.3 (4⅞)	16.5 (6½)
Size 8 Boys [2]							
Maximum Dimension [1] Centimeters (inches)	62.7 (24⅝)	55.6 (21⅞)	63.8 (25⅛)	18.5 (7¼)	36.5 (14⅜)	12.5 (5)	16.9 (6⅝)
Size 8 Girls							
Maximum Dimension [1] Centimeters (inches)	61.3 (24⅛)	55.4 (21¾)	64.6 (25⅜)	18.5 (7¼)	38.2 (15)	12.8 (5)	17.4 (6⅞)
Size 9 Boys [2]							
Maximum Dimension [1] Centimeters (inches)	65.1 (25⅝)	57.1 (22½)	66.1 (26)	19.2 (7½)	38.6 (15¼)	13.1 (5⅛)	17.5 (6⅞)
Size 9 Girls							
Maximum Dimension [1] Centimeters (inches)	64.4 (25⅜)	57.5 (22⅝)	67.7 (26⅝)	19.5 (76⅝)	40.1 (15¾)	13.2 (5¼)	18 (7)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 10 Boys[2]							
Maximum Dimension[1] Centimeters (inches)	67 (26⅜)	59.2 (23¼)	68.3 (26⅞)	19.9 (7⅞)	39.5 (15½)	13.3 (5¼)	18.4 (7¼)
Size 10 Girls							
Maximum Dimension[1] Centimeters (inches)	66.4 (26⅛)	59.6 (23½)	70.6 (27¾)	19.9 (7⅞)	42.6 (16¾)	13.3 (5¼)	18.7 (7⅜)
Size 11 Boys[2]							
Maximum Dimension[1] Centimeters (inches)	69.1 (27¼)	60.9 (24)	71.1 (28)	20.6 (8⅛)	42.4 (16¾)	13.4 (5¾)	18.2 (7⅛)
Size 11 Girls							
Maximum Dimension[1] Centimeters (inches)	70 (27½)	61.8 (24⅜)	74.2 (29¼)	20.6 (8)	44.3 (17½)	13.2 (5¼)	18.7 (7⅜)
Size 12 Boys[2]							
Maximum Dimension[1] Centimeters (inches)	71.3 (28)	62.9 (24¾)	74.2 (29¼)	21.4 (8⅜)	43.2 (17)	14.1 (5½)	19.6 (7¾)
Size 12 Girls							
Maximum Dimension[1] Centimeters (inches)	72.9 (28¾)	63.8 (25⅛)	77.9 (30⅝)	21.6 (8½)	46.4 (18¼)	14 (5½)	19.3 (7⅝)
Size 13 Boys[2]							
Maximum Dimension[1] Centimeters (inches)	75.4 (29⅝)	65.7 (25⅞)	77.4 (30½)	22.8 (9)	45.8 (18)	14.4 (5⅝)	20.1 (7⅞)
Size 13 Girls							
Maximum Dimension[1] Centimeters (inches)	75.8 (29⅞)	65.9 (26)	82.2 (32⅜)	22.5 (8⅞)	48.2 (19)	14.2 (5⅝)	20 (7⅞)
Size 14 Boys[2]							
Maximum Dimension[1] Centimeters (inches)	79.4 (31¼)	68 (26¾)	82.4 (32½)	24.2 (9½)	48.3 (19)	15.5 (6⅛)	21.7 (8½)
Size 14 Girls							
Maximum Dimension[1] Centimeters (inches)	78.2 (30¾)	68 (26¾)	86.5 (34)	23.4 (9¼)	51.8 (20⅜)	14.7 (5¾)	20.7 (8⅛)

[4] Garments not explicitly labeled and promoted for wear by girls must not exceed these maximum dimensions.

(2) Has no item of fabric, ornamentation or trim, such as lace, appliques, or ribbon, which extends more than 6 centimeters (¼ inch) from the outer surface of the garment;

(3) Has all sleeve openings tapered toward the wrists, and all leg openings tapered toward the ankles;

(4) In the case of a two piece garment having a top piece with fastenings, has a bottom fastening within 15 centimeters (6 inches) of the bottom of the top piece of the garment;

(5) Complies with all applicable requirements of the Standard for the Flammability of Clothing Textiles (16 CFR part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR part 1611);

(6) Bears a label stating the size of the garment in following words and figures: "Size [7–14]." If the label is not visible to the consumer when the garment is offered for sale at retail, the same figures and letters must appear legibly on the package of the garment; and.

(7) When displayed for sale to consumers, is clearly and conspicuously labeled with the following statement: "Garment is not-flame resistant. For child's safety, garment should be tight-fitting. Loose-fitting clothing is more likely to contact an ignition source and burn."

(15 U.S.C. 1193; 15 U.S.C. 2079(B))

Dated: October 17, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. **Federal Register** notice "Flammability Standards for Children's Sleepwear; Statements of Enforcement Policy" published by the Consumer Product Safety Commission; 4 pages; March 20, 1984 (49 FR 10249).

2. *Supplemental CPSC Staff Guide to the Enforcement Policy Statements of the Flammability Standard for Children's Sleepwear—Garment Diagrams and Assessments*, published by the Division of Regulatory Management, Consumer Product Safety Commission; 27 pages; 1989.

3. Memorandum from Terrance R. Karels, ECPA, to the Commission, entitled "Children's Sleepwear Project"; 12 pages; July 19, 1994.

4. **Federal Register** notice "Standards for the Flammability of Children's Sleepwear: Sizes 0 Through 6X and 7 Through 14; Advance Notice of Proposed Rulemaking," published by the Consumer Product Safety Commission; 4 pages; January 13, 1994 (58 FR 4111).

5. **Federal Register** notice "Standards for the Flammability of Children's Sleepwear: Sizes 0 Through 6X and 7 Through 14; Stay of Enforcement," published by the Consumer Product Safety Commission; 1 page; January 13, 1994 (58 FR 4078).

6. Tabular summaries of comments and staff responses to comments to the Advance Notice of Proposed Rulemaking; 50 pages; July 19, 1994.

7. "Statement by The Children's Sleepwear Coalition In Response to the Consumer Product Safety Commission's Advance Notice of Proposed Rulemaking"; 10 pages; March 25, 1993.

8. Memorandum from Linda Fansler, ESME, to Terrance R. Karels, ECPA, entitled "Technical Rationale Supporting Tight-Fitting Children's Sleepwear Garments"; 11 pages; March 14, 1994.

9. Memorandum from Linda Fansler, ESME, to Terrance R. Karels, ECPA, entitled "Recent Conversation Between Staff of Consumer and Corporate Affairs Canada and Commission Staff"; 4 pages; July 17, 1992.

10. Memorandum from Dr. Terry L. Kissinger, EPHA, to Terrance R. Karels, ECPA, entitled "Injury Data Related to the Children's Sleepwear Standards"; 13 pages: February 8, 1994.

11. Memorandum from Dr. Terry L. Kissinger, EPHA, to Terrance R. Karels, ECPA, entitled "Results of Review of Available Literature," and attachments; 21 pages; April 1, 1994.

12. Memorandum from George Sweet, EPHF, to Terrance R. Karels, ECPA, entitled "Human Factors Issues Regarding

Sleepwear," and attachment; 8 pages; March 8, 1994.

13. Memorandum from George Sweet, EPHF, to Terrance R. Karels, ECPA, entitled "Garments Intended for Infants"; 4 pages; July 8, 1994.

14. "Preliminary Regulatory and Regulatory Flexibility Analyses for the Proposed Amendments to the Children's Flammability Standards," by Anthony C. Homan, Directorate for Economic Analysis; 7 pages; June, 1994.

15. "Market Sketch—Children's Sleepwear," by Anthony C. Homan, Directorate for Economic Analysis; 14 pages; March, 1992.

16. Memorandum from Eva S. Lehman, HSPS, to Terrance R. Karels, ECPA, entitled "Toxicological Evaluation of Fabrics Used in Children's Sleepwear"; 3 pages; June 7, 1994.

17. Memorandum from Patricia Fairall, CERM, to Terrance Karels, ECPA, entitled "Compliance History—Enforcement of Children's Sleepwear"; 6 pages; April 20, 1994.

18. Memorandum from James F. Hoebel, Acting Director, ESME, to Terrance R. Karels, ECPA, entitled "Amendments to Children's Sleepwear Standards"; 3 pages; July 7, 1994.

19. Memorandum from Dr. Terry L. Kissinger, EPHA, to Terrance R. Karels, ECPA, entitled "Proposed Amendment to Children's Sleepwear Standards"; 7 pages; July 15, 1994.

[FR Doc. 94–26100 Filed 10–21–94; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH65–1–6498b; FRL–5081–1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA proposes to approve Ohio's Rule 3745-35-07, entitled "Federally Enforceable Limitations on Potential to Emit" and submitted April 20, 1994, as a revision to Ohio's State Implementation Plan (SIP). USEPA further proposes to authorize Ohio to include such limitations as conditions within federally enforceable State operating permits (FESOPs). In the final rules section of this Federal Register, the USEPA is approving Ohio's Rule 3745-35-07 as a direct final rule without prior proposal because USEPA views the action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to the proposal of that action. If USEPA receives adverse public 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. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this action must be received by November 25, 1994.

ADDRESSES: Written comments should be submitted to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), USEPA, 77 West Jackson Blvd., Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Air Enforcement Branch, Regulation Development Section (AE–17J), USEPA, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION: Supplementary Information is provided in the rules section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 19, 1994.

Valdas Adamkus,

Regional Administrator.

[FR Doc. 94–26353 Filed 10–24–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[SD4–1–5671b; FRL–5077–7]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of South Dakota for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). The implementation plan was submitted by the State to satisfy the Federal mandate, found in section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. In the final rules section of this Federal Register, the EPA is approving the South Dakota PROGRAM in a direct final rule without prior proposal because the Agency views this submittal as noncontroversial and anticipates no adverse comments. A detailed rationale for the 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 the EPA receives adverse comments, then the direct final 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 document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by November 25, 1994.

ADDRESSES: Written comments should be addressed to Laura Farris, 8ART-AP, at the EPA Regional Office listed below. Copies of the State's submittal and EPA's technical support document are available for inspection during normal business hours at the following location: Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART-AP,Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2405, (303) 294–7539.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title which is located in the rules section of the Federal Register.

Dated: September 14, 1994.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 94–26354 Filed 10–24–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–80; RM–8445]

Television Broadcasting Services; Iron Mountain and Menominee, Michigan, Wittenberg, Wisconsin and Ely, Minnesota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismissed a petition for rule making filed by Douglas A. Maszka d/b/a Tri-Cities Television Company requesting the substitution of Channel *25 for vacant Channel *17 at

Iron Mountain, Michigan, allotment of Channel 31 at Minominee, Michigan, and allotment of Channel 17 at Wittenberg, Wisconsin. No interest was expressed in applying for the proposed channels. Therefore, in keeping with Commission policy to refrain from allotting channels absent an expression of interest, petitioner's request is being dismissed.

With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 94–80, adopted October 12, 1994, and released October 20, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission'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 Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–26390 Filed 10–24–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC61

Endangered and Threatened Wildlife and Plants; Notice of Public Hearings and Reopening of Comment Period on Proposed Extension of Endangered Status for the Jaguar in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearings and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that three public hearings will be held, and the comment period reopened, regarding the proposed rule to extend endangered species status to the jaguar (*Panthera onca*) in the United States. These hearings and reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal.

DATES: Three public hearings have been scheduled for the following dates and times: Tuesday, November 15, 1994, 6:00 p.m. to 9:00 p.m., Thatcher, Arizona; Thursday, November 17, 1994, 7:00 p.m. to 10:00 p.m., in El Paso, Texas; and Tuesday, November 29, 1994, 7:00 p.m. to 10:00 p.m., in Weslaco, Texas. The comment period for this proposal, which originally closed September 12, 1994, is now reopened from November 15, 1994, to December 14, 1994. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The November 15, 1994, public hearing will be held at Lee Little Theater, Eastern Arizona College, 600 Church Street, Thatcher, Arizona. The November 17, 1994, public hearing will be held at the North Hall room at the El Paso Convention and Performing Arts Center, 1 Civic Center Plaza, El Paso, Texas. The November 29 public hearing will be held at Hoblitzelle Auditorium, Texas A&M Experimental Station, 2415 East Highway 83, Weslaco, Texas. Written comments and materials should be sent to the State Supervisor, Arizona Ecological Services State Office, U.S. Fish and Wildlife Service, 2321 West Palm Road, Suite 103, Phoenix, Arizona, 85021. Comments and materials received will be available for public inspection by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Lorena Wada or Timothy Tibbitts, at the above address, telephone (602) 379–4720.

SUPPLEMENTARY INFORMATION:

Background

The jaguar is currently listed as endangered from the border between the United States and Mexico southward including Mexico, Central America, and South America. In the United States the primary threat to this species is from shooting. Loss and modification of the jaguar's habitat may have also contributed to their decline.

While no breeding population of the jaguar is known to survive in the U.S., the species is present in northern Mexico, and wandering individuals occasionally cross the border. Jaguars historically occurred in Arizona, New Mexico, Texas, and possibly, Louisiana and California. A minimum of 64 jaguars were killed in Arizona since 1900. The most recent was in 1986. A proposed rule to extend endangered status to the jaguar in the U.S., without critical habitat, was published in the **Federal Register** on July 13, 1994 (59 FR 35674).

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. The Service has determined that good cause exists, in that full participation of the affected public in the species listing process will allow the Service to consider the best scientific and commercial data available in making a final determination on the proposed action.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if requested within 45 days of the publication of a proposed rule. In response to numerous requests, the Service is holding three hearings. The three public hearings will be held on the dates and at the addresses described above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to the Service. To facilitate the uninhibited exchange of information, cameras and videotape recorders will not be allowed within the public hearing rooms. Legal notices announcing the dates, times, and locations of the hearings will be published in newspapers concurrently with this **Federal Register** notice.

Author

The primary author of this notice is Lorena L.L. Wada (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 18, 1994.

Lynn B. Starnes,

Acting Regional Director.

[FR Doc. 94–26370 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Third Extension of Comment Period on Data Pertaining to the Subspecies Taxonomy of the California Gnatcatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period on the data pertaining to the subspecies taxonomy of the California gnatcatcher is extended for a third time. The notice of availability opening the public comment period was published on June 2, 1994, which opened the comment period until August 1, 1994. On July 28, 1994, the Service extended the comment period to August 31, 1994. On August 26, 1994, the Service extended the comment period again to October 31, 1994. This notice extends the comment period until December 1, 1994, as a result of a court order made on September 30, 1994.

DATES: Comments and materials must be received by December 1, 1994.

ADDRESSES: Copies of the subject data are available from the U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials concerning these data should be submitted to the above address. The data, public comments, and other materials received will be available for public inspection during normal business hours at the above address .

FOR FURTHER INFORMATION CONTACT: Gail Kobetich, Field Supervisor, at the address listed above (telephone 619/431–9440, facsimile 619/431–9624).

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1993, the U.S. Fish and Wildlife Service (Service) published a final rule in the **Federal Register** determining the coastal California gnatcatcher to be a threatened species (58 FR 16741). In its decision to the list the gnatcatcher, the Service relied, in part, on taxonomic studies conducted by Dr. Jonathan Atwood of the Manomet Bird Observatory, Manomet, Massachusetts. As is the standard practice in the scientific community, the Service did not request, nor was it offered, the data collected and used by Dr. Atwood in reaching his conclusions. Instead, the Service depended upon the conclusions published by Dr. Atwood in a peer-reviewed scientific article on the subspecific taxonomy of the California gnatcatcher (Atwood 1991).

In response to a suit filed by the Endangered Species Committee of the Building Industry Association of Southern California and the other plaintiffs, the United States District Court of the District of Columbia vacated the listing of the coastal California gnatcatcher because the Service did not make available Atwood's data for public review and comment. In response to the court decision, Dr. Atwood released his data to the Service, which the agency made available to the public for review and comment on June 2, 1994 (59 FR 28508). On June 16, 1994, the court reinstated threatened status for the coastal California gnatcatcher until the Secretary of the Interior determines in a finding whether the listing should be revised or revoked in light of his review of the subject data and public comments received during the comment period. As a result of the court order of July 27, 1994, the Secretary must publish this finding in the **Federal Register** by December 31, 1994.

On July 1, 1994, the plaintiffs requested a 100-day extension in the comment period. Because the Secretary had no objection to a 30-day extension, both parties agreed to an extension in the comment period to August 31, 1994, which the Service published in the **Federal Register** on July 28, 1994 (59 FR 38426). On July 27, 1994, the court ordered the comment period extended to October 31, 1994. The Service published this extension in the **Federal Register** on August 26, 1994 (59 FR 44125).

In order that the plaintiffs may depose Dr. Atwood regarding his studies of the gnatcatcher, the court ordered on September 30, 1994, that the comment period be extended again to December 1, 1994. In addition, the court ordered that the Secretary publish the finding whether the listing should be revised or revoked in the **Federal Register** by February 1, 1995.

References Cited

Atwood, J.L. 1991. Subspecies limits and geographic patterns of morphological variation in California gnatcatchers (*Polioptila californica*). Bulletin of the Southern California Academy of Sciences 90:118–133.

Authority

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

List of Subjects in 50 CFR Part 17

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

Dated: October 18, 1994.

Thomas Dwyer,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 94–26374 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Threatened Status for the Goliath Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) announces a reopening of the comment period on the proposed rule to list the goliath frog (*Conraua goliath*) as threatened through to November 1, 1994, in order to allow additional time for receipt of comments from affected countries.

DATES: Comments from all interested parties must be received by November 1, 1994.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: 725, Arlington Square, U.S. Fish and Wildlife Service; Washington, D.C. 20240. Fax number (703) 358–2276. Express and messenger delivered mail should be addressed to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday at the Arlington, Virginia, address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Office of Scientific Authority, at the above address, or by phone at (703) 358–1708.

SUPPLEMENTARY INFORMATION:

Background

Following the receipt and review of a petition dated April 9, 1991, to add the goliath frog to the List of Endangered and Threatened Wildlife, the Service proposed in a September 12, 1991, **Federal Register** notice (56 FR 46397) to list the goliath frog as threatened. The information received in response to the

request for comments contained in the proposed rule, as well as the comments received at the March 2–13, 1992, meeting of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), left questions as to whether listing under the Act is warranted. Consequently, a final decision has yet to be announced, and the comment period was reopened on July 19, 1994 (59 FR 36737) to close on October 17, 1994.

Additional information was requested from the CITES Management Authorities of the range countries, i.e., Cameroon, Equatorial Guinea, and Gabon, before September 10, 1994. However, the official contact with those countries through the U.S. Embassies in those countries was completed at a later date. Therefore, in order to provide adequate opportunity to receive additional information those countries were informed that their comments would be accepted until November 1, 1994.

Public Comments Solicited

The Service intends that any final decision on the proposed rule will accurately reflect the status of the species and will be based on the best available scientific and commercial information. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, private interests, and other parties. Information is sought on the listing criteria described in the Act:

(1) The present or threatened destruction, modification, or curtailment of this species' habitat or its range;

(2) Any overutilization for commercial, recreational, scientific, or educational purposes;

(3) Disease factors or natural predation that may threaten this species;

(4) Any inadequacies of existing regulatory mechanisms; and

(5) Other natural or manmade factors affecting this species' continued existence.

The Service is particularly interested in the following information:

(1) Information on habitat requirements, distribution of that habitat, and threats to that habitat, as well as documentation of past or future habitat losses and threats to that habitat throughout the range of the goliath frog; and in particular quantification of the loss of rainforest in the species' range, and information on the displacement or extirpation of the species when rainforest along river habitat of the species is opened for cultivation.

(2) Information as to any known population estimates or surveys of this species;

(3) Further information on local utilization of this species;

(4) Any information on the reproductive biology of this species, especially as it may relate to its ability to sustain harvest;

(5) Information as to the extent of commercial trade in this species, especially information on international trade other than imports into the United States; and

(6) Information as to current ability to transport and maintain and reproduce this species in captivity.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 14, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–26202 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 205
Tuesday, October 25, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–94–36]

Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Clarkton and Chadbourn, North Carolina, tobacco markets.

Date: November 10, 1994.
Time: 1 p.m. local time.
Place: North Carolina National Guard Armory, U.S. Highway 76—South, Fair Bluff, North Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Clarkton and Chadbourn, North Carolina. The application was made by Jimmy Green, Bright Leaf Warehouse, J.E. Wood and C.W. Dennis, New Clarkton Warehouse, of Clarkton, North Carolina; Ward Shaw and Weldon Edmund, Square Deal Tobacco Warehouse, Inc., and Cecil E. Isley, Growers Tobacco Warehouse, Chadbourn, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3), issued under the Tobacco Inspection Act, as amended (7 U.S.C. 511 *et seq.*) and the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*).

Dated: October 19, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–26416 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. TB–94–32]

Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Fairmont and Fair Bluff, North Carolina, tobacco markets.

Date: November 10, 1994.
Time: 9 a.m. local time.
Place: North Carolina National Guard Armory, U.S. Highway 76—South, Fair Bluff, North Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Fairmont and Fair Bluff, North Carolina. The application was made by Chan Smith, Gold Leaf Warehouse, Al Lewis, Big Brick Warehouse, W.R. Dickerson, Robeson Co. Warehouse, R. Hoke Smith, Twin State Warehouse, Joey Mitchell, Fairmont Tobacco Warehouse, Danny Nance, Hi-Dollar Warehouse, and Beasley Strickland, Big 5-Peoples Warehouse, Fairmont, North Carolina; E.D. Meares, Jr., Fair Bluff Warehouse, B.A. Powell, A.H. Powell Warehouse Co., and H.B. Enzor, New Planters Warehouse, Fair Bluff, North Carolina.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3), issued under the Tobacco Inspection Act, as amended (7 U.S.C. 511 *et seq.*) and the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*).

Dated: October 19, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–26417 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. TB–94–37]

Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Kingstree and Hemingway, South Carolina, tobacco markets.

Date: November 9, 1994.
Time: 9 a.m. local time.
Place: County Complex Auditorium, Corner of Main and Jackson Streets, Kingstree, South Carolina.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Kingstree and Hemingway, South Carolina. The application was made by Durward Lewis, Hemingway Tobacco Board of Trade, Joe King, Growers Big Four Warehouse, and Carl Creel, Peoples Tobacco Warehouse, Hemingway, South Carolina; and Dan Bradham, Sales Supervisor, Kingstree Tobacco Market.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3), issued under the Tobacco Inspection Act, as amended (7 U.S.C. 511 *et seq.*) and the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*).

Dated: October 19, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–26415 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. TB–94–35]

Public Hearing Regarding Establishment of a New Tobacco Auction Market

Notice is hereby given of a public hearing regarding an application to combine the Ocilla-Fitzgerald and Tifton, Georgia, tobacco markets.

Date: November 7, 1994.
Time: 9 a.m. local time.
Place: Irwin County Court House, Irwin Avenue (U.S. Route 129—South), Ocilla, Georgia.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services to a new market, which would be a consolidation of the currently designated markets of Ocilla-Fitzgerald and Tifton, Georgia. The application was made by Richard S. Rogers, Goldleaf Tobacco Warehouse and the Ocilla-Fitzgerald Tobacco Board of Trade, Fitzgerald, Georgia, and William Shotwell, Growers Tobacco Warehouse and the Tifton Tobacco Board of Trade, Tifton, Georgia.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1 through 29.3), issued under the Tobacco Inspection Act, as amended (7 U.S.C. 511 *et seq.*) and the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 *et seq.*).

Dated: October 19, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–26414 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Boise River Wildfire Recovery Project, Boise National Forest, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Rabbit Creek, Bannock Creek and Star Gulch Wildfires burned a total of 182,000 acres in July, August, and September of 1994. Approximately 173,000 acres burned within the boundaries of National Forest System lands. Personnel on the Boise National Forest intend to prepare an Environmental Impact Statement to assess opportunities to salvage the economic value of fire killed and imminently dead trees in combination with treatments to promote regeneration of trees on forested areas, maintain or improve hydrologic conditions of affected watersheds, and protect long-term soil site productivity. These activities are to occur on 95,000 acres of the Idaho City and Mountain Home Ranger Districts.

All proposals will provide visual resource needs on river segments eligible for wild, scenic, or recreational classification under the Wild and Scenic Rivers Act, and provide for wildlife and fisheries habitat.

Past experience with wildfire timber recovery efforts on the Boise National Forest have proved that prompt action is required to recover the economic value of fire killed trees. The trees, mostly ponderosa pine and Douglas-fir, are expected to lose 20 to 80 percent of their economic value after just one summer season. In addition, there is an expected benefit to watershed recovery from the slash that is created by salvage harvest operations.

Proposals for treatment of the area will be based on area burn intensity, slope characteristics, soil and land types, wildlife habitat needs, soil erosion and sediment reduction techniques, visual quality protection, and economics.

SUPPLEMENTARY INFORMATION: There are approximately 23,000 acres burned within Inventoried Roadless Areas (IRAs). The IRAs affected are Breadwinner, Grand Mountain, Mt. Heinen and Ten Mile/Black Warrior. In addition, approximately 35,000 acres of an area recommended for wilderness designation burned. Approximately 30,000 acres burned within the Sawtooth Wilderness.

Within the burn area are approximately 1,000 acres of the 6,865-acre Boise Basin Experimental Forest, slightly more than 300 acres of the 445-acre Bannock Creek Research Natural Area, and approximately 100 acres of the proposed 874-acre North Fork Boise River Research Natural Area.

Approximately 45 miles of eligible Wild, Scenic and Recreational River segments (North Fork Boise, Middle Fork Boise, Crooked, and Bear Rivers) were included in the fire area. Many acres of wildlife and fish habitat were affected.

Burn intensities in the fire area varied considerably. Within the fire perimeter, approximately 46,000 acres burned at high intensity, 46,000 acres burned at moderate intensity and 85,000 acres burned at low intensity. Approximately 5,000 acres inside the fire perimeter did not burn.

Proposed Action

Treat approximately 95,000 acres of National Forest System lands to recover the economic value of the timber, promote regeneration of trees on forested areas, maintain or improve hydrologic conditions of affected watersheds, and protect long-term soil site productivity.

Approximately 18,000 acres of suitable timber lands are not expected to regenerating naturally, and will be planted. Of these, approximately 4,000 acres are within the IRAs. All other suitable timber acres are projected to reforest naturally and will be monitored for natural regeneration success.

The fire area includes the Boise Basin Experimental Forest which will be treated as lands suitable for harvest.

Salvage harvest may occur in the IRAs (Breadwinner, Grand Mtn., Mt. Heinen, and Ten Mile/Black Warrior outside of Management Area 28).

No harvest will occur within the Recommended Wilderness (Forest Plan Management Area 28 portion of the Ten Mile/Black Warrior IRA) or the Sawtooth Wilderness.

No harvest will occur within the Research Natural Areas, or within the one-quarter mile corridor of river segments eligible for wild or scenic classification.

In moderate to high intensity burn areas, only dead trees will be harvested. In low intensity burn areas, dead and imminently dead trees (those with more than 75 percent of the crown scorched or infested with bark beetles) will be harvested.

Snags required for wildlife habitat or shade for regeneration will be left in all areas.

Protection of bald eagle and osprey roost trees will be achieved by maintaining a strip at least 200 feet wide along the North Fork Boise River. Trees may be removed for public safety.

Visual quality objectives will be met on river segments eligible for recreational classification, and on trails and roads.

Cultural resource sites will be protected.

Riparian areas will be protected.

Sensitive plant habitat which remains will be protected.

The Cottonwood drainage is important for elk calving and big game summer range, and receives high levels of use from people. In recognition of this, the treatment prescription for this area will maintain security habitat for big game.

On areas where surplus trees occur, a combination of helicopter, skyline, jammer and tractor systems will be used in the harvest effort. To protect watersheds and fisheries habitat, tractor logging will be limited to slopes less than 30 percent in moderate to high intensity burn areas, and less than 40 percent in low intensity burn areas. Harvest trees will be fully suspended from the ground during logging operations in riparian areas. One end suspension will be allowed in skyline areas unless analysis shows full suspension is needed to limit erosion. The Idaho Forest Practices Act and watershed and fisheries evaluation guidelines will be used to determine protection measures on streams.

Some temporary road construction will be required to access helicopter landings. Minor amounts of reconstruction of existing roads will also be required. No roads or log landings will be constructed in the IRAs.

Issues

Initial scoping has indicated that a key issue to the Proposed Action is salvage harvesting in IRAs and the potential effect it may have on the wilderness attributes of the area.

Alternatives to the Proposed Action

Two alternatives to the Proposed Action have been identified. They are the No Action alternative and an alternative that would not include salvage harvesting in the IRAs. Other alternatives may be developed as issues are raised and information is received.

Decision To Be Made

The Boise National Forest Supervisor will decide the following: what amount, type and distribution of dead and imminently dead trees, within the fire areas are needed to maintain post-fire ecological function, how should dead and imminently dead trees within fire areas, not needed to maintain ecosystem function be harvested, and still protect those functions, and what forested acres need to be planted to aid ecosystem recovery.

Public Involvement Meetings

Open houses have been conducted in Boise and Idaho City, Idaho in October, 1994. Additional presentations will be made upon request.

Agency/Public Contacts

Contacts have been made with the U.S. Fish and Wildlife Service as to threatened and endangered species listed for the project area, area residents, conservation groups, and timber industry. A summary of the project methodology was mailed to key individuals, groups and agencies for a response to the Proposed Action and issues identification. This mailing list consisted of about 350 people who are generally interested in the Boise National Forest and Idaho City NEPA projects, and people who were interested in the Boise National Forest's Foothills Wildfire Timber Recovery Project in 1992.

Schedule

Draft Environmental Impact Statement, November 30, 1994. Final EIS, January, 1995. Implementation, March, 1995.

Comments

Comments concerning the proposed project and analysis should be received in writing on or before November 26, 1994. Mail comments to Terry Padilla, Idaho City Ranger District, Boise National Forest, PO Box 129, Idaho City, ID 83631, Telephone, (208) 364–4330. Further information can be obtained at the same location.

The comment period on the Draft Environmental Impact will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft Environmental Impact Statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1002 (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 environmental impact statement.

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

Responsible Official

Cathy Barbouletos, Acting Forest Supervisor, Boise National Forest, 1750 Front Street, Boise, ID 83702.

Dated: October 18, 1994.

Cathy Barbouletos,

Acting Forest Supervisor.

[FR Doc. 94–26369 Filed 10–24–94; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Iain S. Baird
Bettie Baca
Carolyn P. Acree
Anthony A. Das
Glenn T. Piercy
Sonya G. Stewart
Donald E. Humphries
Wyndom D. Wynegar

H. James Reese,

Executive Secretary, Office of the Secretary Performance Review Board.

[FR Doc. 94–26552 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–BS–M

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Mammals: General Incidental Take Permits, Small Take Exemptions, and Certificates of Inclusion.

Agency Form Number: None assigned.

OMB Approval Number: 0648-0083.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 9 hours.

Number of Respondents: 27.

Avg Hours Per Response: 15 minutes (some file more than once).

Needs and Uses: Under the Marine Mammal Protection Act, no marine mammals may be taken in the course of commercial fishing operations unless the taking constitutes an incidental catch. There has been a general permit issued to the American Tunaboat Association. Fishermen can apply to be included under this general permit. The information supplied by applicants is used to authorize the incidental take.

Affected Public: Individuals, businesses or other for–profit institutions, small businesses or organizations.

Frequency: Annually, on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: October 19, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–26387 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Population Survey – November 1994 Computer Ownership and Usage Supplement.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 715 hours.

Number of Respondents: 55,000.

Avg Hours Per Response: 0.8 minutes.

Needs and Uses: We request OMB approval to collect data concerning ownership and usage of home computers as a one–time supplement to the November 1994 Current Population Survey which will be conducted during the week of November 13 – 19. Questions will concern current use of computers and on–line services, interest in using such services if they are not being currently used, price sensitivity, privacy concerns, and use by school–age children. We will collect these data at the request of the Department of Commerce (DOC). The data gathered will allow DOC to analyze computer ownership and use (including use of on–line services) by various demographic and geographic segments of the population. The information will permit a better understanding of the actions required to meet the goal of "universal service" (ensuring that information resources are available to all at affordable prices) contained in the "Agenda for Action" released by the Information Infrastructure Task Force on September 15, 1993. It will also provide data for evaluating the size of the market for National Information Infrastructure services and products, which is important for stimulating private investment —another goal of the agenda.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–26445 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1995 Panel Dress Rehearsal for the Survey of Income and Program Participation (SIPP) Redesign.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 15,230 hours.

Number of Respondents: 15,230.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The proposed 1995 Dress Rehearsal is part of a program of evaluation and development emerging from a comprehensive reassessment of SIPP. The SIPP redesign is an evolving process that has multiple developmental and testing stages. The initial stage involved developing an automated survey instrument that incorporated numerous content and forms design changes. The next stage involved small–scale pretests to make sure the components of the automated instrument and case management system interact as planned. These pretests were approved under OMB number 0607–0779. The third stage involved content tests to evaluate changes made to the pretest instrument based largely on cognitive research and reactions to the pretest instrument. These content tests were approved under OMB number 0607–0783. The fourth stage, the subject of this request, is a national sample dress rehearsal scheduled for February 1995, during which the SIPP will be managed in a fully automated production environment. Full implementation is scheduled for February 1996. These developmental stages are interspersed by an ongoing series of smaller, specifically–focused content, instrument, and systems tests.

Affected Public: Individuals or households.

Frequency: Twice in 1995.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 20, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–26446 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–07–F

Foreign-Trade Zones Board

[Docket 31–94]

Proposed Foreign-Trade Zone—St. Clair County, Michigan; (Port Huron Customs Port of Entry) Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Huron-St. Clair County Industrial Development Corporation (IDC), (a Michigan non-profit corporation), requesting authority to establish a general-purpose foreign-trade zone in St. Clair County, Michigan, within the Port Huron 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 October 17, 1994. The applicant is authorized to make the proposal under Act No. 154 of the Public Acts of 1963 of the State of Michigan.

The proposed zone would consist of four sites (326 acres) in the Cities of Port Huron and Marysville and in Port Huron Township: *Site 1* (Port Huron Seaway Terminal—2 acres), 2336 Military Street, Port Huron, owned by the City of Port Huron; *Site 2* (Port

Huron Industrial Park—300 acres), 16th and Dove Streets, Port Huron, owned by the City of Port Huron; *Site 3* (International Industrial Park, Inc.,—15 acres), 330 Griswold Rd., Port Huron Township, owned by CIPA–USA; and, *Site 4* (Wilkie Brothers Warehouse—9 acres), 1765 Michigan Avenue, Marysville, owned by Wilkie Investment and Blue Water Investment.

The application contains evidence of the need for zone services in the Port Huron area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as sugar beet pellets, corn gluten pellets, grain screening pellets, cull beans, woodpulp, copper and steel. No manufacturing approvals are being sought for either site at this time. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 57 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on November 17, 1994, 9:00 a.m., in the Public Meeting Room at the Municipal Office Center, 100 McMorran Boulevard, Port Huron, Michigan 48060.

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 December 27, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 9, 1995).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Office of the Port Director, U.S. Customs Service, 526 Water Street, Room 301, Port Huron, Michigan 48060–5471.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 19, 1994.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 94–26444 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–835, A–549–812, A–791–802]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Furfuryl Alcohol From the People's Republic of China, the Republic of South Africa and Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: October 25, 1994.

FOR FURTHER INFORMATION CONTACT: John Brinkmann (202–482–5288) or Cindy Robinson (202–482–4087), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230.

POSTPONEMENT OF PRELIMINARY DETERMINATIONS: The Department of Commerce ("the Department") is postponing the preliminary determinations in the antidumping duty investigations of furfuryl alcohol from the People's Republic of China (PRC), the Republic of South Africa (South Africa) and Thailand. The deadline for issuing these preliminary determinations is now no later than December 9, 1994.

On June 20, 1994, the Department initiated antidumping duty investigations of furfuryl alcohol from the PRC, South Africa and Thailand (59 FR 32953, June 27, 1994). The notice stated that we would issue our preliminary determinations on November 7, 1994.

On July 15, 1994, the U.S. International Trade Commission determined that there was a likelihood that a U.S. domestic industry was materially injured, or threatened with material injury, by reason of imports of furfuryl alcohol from the PRC, South Africa and Thailand.

On October 7, 1994, pursuant to 19 CFR 353.15(c), QO Chemicals, Inc., the petitioner, requested that the Department postpone until December 9, 1994, the issuance of its preliminary determination in each of the above investigations in order to ensure that adequate time is available for the Department and petitioner to fully address the issues in these investigations. Petitioner's request for postponement was timely, and the Department finds no compelling reasons to deny the request. Therefore, we are postponing the deadline for issuing these determinations until no later than December 9, 1994.

This notice is published pursuant to section 733(c)(2) of the Tariff Act of 1930, as amended. and 19 CFR 353.15(d).

Dated: October 18, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–26443 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

Business Development Center Applications: San Jose, CA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: The Minority Business Development Agency is revising the performance period for the San Jose MBDC. The revised performance period will be January 1, 1995 through December 31, 1995. The original announcement was published in the Thursday, June 16, 1994 issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Steve Saho at (415) 744–3001.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: October 19, 1994.

Melvin Jackson,

Chief of Operations, Minority Business Development Agency.

[FR Doc. 94–26451 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Applications: Las Vegas, NV

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Correction.

SUMMARY: The Minority Business Development Agency is revising the performance period for the Las Vegas MBDC. The revised performance period will be January 1, 1995 to December 31, 1995. The original announcement was published in the May 11, 1994 issue of the **Federal Register** and later revised and published in the Wednesday, June 22, 1994 issue.

FOR FURTHER INFORMATION, CONTRACT: Steve Saho at (415) 744–3001.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: October 19, 1994.

Melvin Jackson,

Chief of Operations, Minority Business Development Agency.

[FR Doc. 94–26450 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–21–M

Business Development Center Applications: Boston, MA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice (Cancellation)

SUMMARY: The Minority Business Development Agency (MBDA) is cancelling the announcement to solicit competitive applications under its Minority Business Development Center (MBDC) Program to operate a Boston, Massachusetts MBDC for a three (3) year period, starting December 1, 1994 to November 30, 1995 (closing date, August 25, 1994). Refer to the **Federal Register** dated, July 19, 1994, 59 FR 36739.

11.800 Minority Business Development Center, (Catalog of Federal Domestic Assistance)

Dated: October 20, 1994.

Melvin Jackson,

Chief of Operations, Minority Business Development Agency.

[FR Doc. 94–26449 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–21–P

Business Development Center Applications: Boston, MA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications for its Boston Minority Business Development Center (MBDC). The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Boston Metropolitan Area. The award number of the MBDC will be 01–10–95001–01.

DATES: The closing date for applications is December 16, 1994. Applications must be received in the New York Regional Office on or before December 16, 1994. A pre-application conference will be held on November 21, 1994, from 10:30 a.m. to 4:00 p.m., at Thomas P. O'Neill Federal Building, 10 Causeway Street, Room 347 (L. Rise), Boston, Massachusetts.

ADDRESSES: U.S. Department of Commerce, Minority Business Development Agency, New York Regional Office, 26 Federal Plaza, Room 3720, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William Fuller at (212) 264–3262.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (12 months) from March 1, 1995 to February 29, 1996, is estimated at $222,196. The total Federal amount of $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share 15% ($33,329) in non-federal (cost sharing) contributions for a total project cost of $222,196. Cost sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (25 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs", is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients. In the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information and requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Pre-Award Costs—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy—All non-profit and for-profit applicants are subject to a

name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination—The Department Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contacting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications—Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American Made Equipment or Products—Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center, (Catalog of Federal Domestic Assistance)

Dated: October 20, 1994.

Melvin Jackson,

Chief of Operations, Minority Business Development Agency.

[FR Doc. 94–26452 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–21–M

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Board of Overseers

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on Monday, November 14, 1994, from 8:30 a.m. to 4 p.m. The Board of Overseers consists of nine members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of the meeting on November 14, 1994, will be for the Board of Overseers to receive and then discuss reports from the National Institute of Standards and Technology with the chairman of the Judges Panel of the Malcolm Baldrige National Quality Award. These reports will cover the following topics: Overview of the 1994 award program; report by the contractor, American Society for Quality Control; discussion of the Overseers survey of CEOs; discussions of plans for the 1995 award, develop recommendations and report same to the Director of the National Institute of Standards and Technology.

DATES: The meeting will convene November 14, 1994 at 8:30 a.m., and adjourn at 4 p.m. on November 14, 1994.

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.

Dated: October 18, 1994.

Samuel Kramer,

Associate Director.

[FR Doc. 94–26397 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–03–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Macau

October 20, 1994.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 20, 1994.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6709. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the

Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 8913, published on February 24, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 20, 1994.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 17, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on October 20, 1994, you are directed to amend the directive dated February 17, 1994 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Macau:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
313	1,604,544 square meters.
315	1,166,701 square meters.
333/334/335/833/834/835.	238,375 dozen of which not more than 125,566 dozen shall be in Categories 333/335/833/835.
336/836	56, 500 dozen.
338	306,869 dozen.
339	1,285,366 dozen.
340	290,452 dozen.
341	177,388 dozen.
342	80,250 dozen.
345	49,070 dozen.
347/348/847	726,351 dozen.
351/851	67,800 dozen.
359–C/659–C [2]	321,000 kilograms.
359–V [3]	113,000 kilograms.
633/634/635	504,777 dozen.
638/639/838	1,488,428 dozen.
640	105,828 dozen.
642/842	111,914 dozen.
647/648	528,499 dozen.
659–S [4]	107,000 kilograms.
Sublevel in Group II	
445/446	86,652 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.4030, 6104.12.0040, 6104.19.2040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.0044, 6110.90.0046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.4030, 6204.12.0040, 6204.19.3040, 6211.32.0070 and 6211.42.0070.

[4] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–26447 Filed 10–24–94; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

October 20, 1994.

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

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

EFFECTIVE DATE: October 20, 1994.

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

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States has agreed to increase the 1994 designated consultation level for Category 670–L.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 9730, published on March 1, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 20, 1994.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 23, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on October 20, 1994, you are directed to amend the February 23, 1994 directive to increase the limit for Category 670–L [1] to 8,405,405 kilograms [2].

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

[1] The limit has not been adjusted to account for any imports exported after December 31, 1993.

[2] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

Sincerely,
Rita D. Hayes,
Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 94–26448 Filed 10–24–94; 8:45 am]
BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Solicitation and Acceptance of Donations

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (the Corporation) is announcing that it is soliciting cash donations and donations of goods and services from private sector companies, foundations, and individuals in order to leverage federally appropriated resources in carrying out its national service program.

ADDRESSES: Responses to this notice should be mailed to the Office of Private Sector Outreach, 7th Floor, 1100 Vermont Avenue, N.W., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: The Office of Private Sector Outreach at (202) 606–5000, ext. 260.

SUPPLEMENTARY INFORMATION: The Corporation is a new government corporation that encompasses the work and staff of two previously existing federal agencies, the Commission on National and Community Service and ACTION. The Corporation's mission is to engage Americans of all ages and backgrounds in community-based service. This service will address the nation's education, public safety, human, and environmental needs to achieve direct and demonstrable results. In doing so, the Corporation will foster civic responsibility, strengthen the ties that bind us together as a people, and provide education opportunity for those who make a substantial commitment to service.

The Corporation funds a new national service initiative called AmeriCorps that includes a wide variety of programs operated by grantees, the National Civilian Community Corps, and the Volunteers in Service to America (VISTA) program. The Corporation also supports service-learning initiatives for elementary and secondary schools and institutions of higher education called Learn and Serve America, and operates the senior volunteers programs previously supported by ACTION.

Pursuant to the National and Community Service Trust Act of 1993 (the Act), the Corporation may "solicit, accept, hold, administer, use, and dispose of, in furtherance of [the purposes of national service], donations of any money, or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise." 42 U.S.C. 12651g(a)(2)(A). Such donations "shall be considered to be a gift, devise, or bequest to, or for the use of, the United States," 42 U.S.C. 12651g(a)(2)(B), and therefore may be allowable as a charitable tax deduction under the Internal Revenue Code. 26 U.S.C. 170. The Corporation may also "solicit and accept the voluntary services of individuals" to assist the Corporation in carrying out the national service program. 42 U.S.C. 12651g(a)(2)(A).

The Corporation is striving to build innovative public/private partnerships that support national and community service programs throughout the country. The Corporation's primary goal is to foster strategic linkages between private sector companies, foundations, government agencies, and community service organizations, in order to multiply their combined abilities to address shared community problems. To this end, the Corporation seeks to leverage its federally appropriated resources with donations of goods and services from private sector companies, foundations, and individuals. Such goods and services include, but are not limited to, the following:

- apparel;
- footwear;
- food and beverages;
- communication equipment and services;
- transportation (air, bus, train tickets)
- print and broadcast media services;
- transportation equipment and services;
- computer equipment and services;
- gardening and building supplies;
- office equipment and supplies;
- books and other printed material;
- printing and duplication services;
- facilities for training and special events;
- audiovisual equipment and services;
- sporting equipment;
- arts and crafts supplies;
- marketing, public relations, and advertising services;
- financial, accounting, and legal services;
- any other goods and services that will further the mission and goals of the Corporation.

The Corporation is also interested in receiving cash donations.

The Chief Executive Officer (the CEO) of the Corporation, or his or her designee, has the authority to solicit donations on behalf of the Corporation and to accept or reject donations offered to the Corporation. In order to be accepted, the donations must further the goals and missions of the Corporation and must be economically advantageous to the Corporation, considering foreseeable expenditures for matters such as storage, transportation, maintenance, and distribution. The CEO will only solicit or accept, donations if the solicitation or acceptance "will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and * * * will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs." 42 U.S.C. 12651g(a)(2)(C). In addition, the CEO will not solicit or accept, products or services from the manufacturers, distributors, or sellers of alcohol, tobacco, or firearms products.

Dated: October 19, 1994.
Terry Russell,
General Counsel Corporation for National Service.
[FR Doc. 94–26337 Filed 10–24–94; 8:45 am]
BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement/Report (DEIS/R) for the Queens Gate Entrance Channel Deepening Project, Long Beach Harbor, Los Angeles County, CA

AGENCY: U.S. Army Corps of Engineers, Los Angeles District (LAD), South Pacific Division, DOD.

ACTION: Notice of intent.

SUMMARY AND PROPOSED ACTION: The Los Angeles District (LAD) and the Port of Long Beach (POLB) are proposing to dredge a navigation channel from the Queens Gate entrance of the harbor to the −76 foot contour depth to allow vessels to enter the harbor fully loaded. The dimensions of the proposed navigation channel are approximately 1,200 feet in width, 15,000 feet in length, to a depth of −76 feet MLLW (from current depths of between −59 and −69 MLLW). Alternative disposal scenarios for the five (5) million cubic

yards of material generated by dredging include beach nourishment (i.e., on and or near shore) at Alamitos Peninsula, Seal, and/or Surfside/Sunset Beaches, disposal in the borrow pits located off the Long Beach oil islands in San Pedro Bay and/or the POLB shipping channel, and/or disposal at the Environmental Protection Agency (EPA) approved offshore disposal site known as LA–2. Figure 1 identifies the overall project area; Figure 2 delineates the proposed dredge area, and Figure 3 depicts potential renourishment and disposal areas. Because of the complexity of the Figures referenced in this summary, they cannot be printed in the **Federal Register** but are available from the address given for the Los Angeles District, Mr. Russell Kaiser, Environmental Planning Section.

ALTERNATIVES: A full array of alternatives will be developed for future analyses.

The proposed plan, viable project alternatives, and the "no action" plan will be carried forward for detailed analysis in the National Environmental Policy Act/California Environmental Quality Act document.

SCOPING PROCESS: Potential impacts associated with the proposed action and alternatives will be fully evaluated. Resource categories that will be analyzed include: geology oceanography/water quality, air and noise quality, marine resources, cultural resources, socioeconomics, land/water use, recreation, ground and vessel traffic and safety, energy, and aesthetics. The Los Angeles District will be conducting a public scoping meeting with the Port of Long Beach on 1 November 1994, at 7 p.m., in the Board room at the Port of Long Beach Administrative Building, 925 Harbor Plaza, Long Beach, California.

ADDRESSES: Commander, U.S. Army Corps of Engineers, Los Angeles District, Environmental Planning Section, P.O. Box 2711, Los Angeles, California 90053.

FOR FURTHER INFORMATION CONTACT: Mr. Russell L. Kaiser, (213) 894–0247.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–26476 Filed 10–24–94; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.073]

Office of Educational Research and Improvement—National Diffusion Network (NDN); Program Effectiveness Panel (PEP) Notice of Deadline for Submitting Projects for Validation by PEP for NDN Grants

SUMMARY: The NDN is a federally funded dissemination system that helps improve the quality of public and private schools, colleges, and other educational institutions by sharing information about and assisting in the implementation of successful education programs, products, and processes. The Department conducts a grants competition each spring to fund the dissemination and implementation of new projects.

To be eligible to compete for NDN funds, projects must have obtained validation from the Program Effectiveness Panel (PEP). The PEP is the NDN's primary mechanism for validating the effectiveness of educational programs developed by schools, universities, and other entities. Based on evidence which applicants submit, the PEP judges the difficulties of the goals which particular programs are designed to meet, whether those programs are effective in attaining their goals, and whether similar results are likely to be attained by others who use the program. Any project or product approved by the PEP becomes a member of the National Diffusion Network, and may begin to disseminate that project under the auspices of the NDN, and also becomes eligible to compete for NDN funding, as desired.

This notice establishes an annual deadline by which projects must be submitted to PEP for validation. Projects received by PEP by the deadline will receive validation results in sufficient time to determine whether the project is eligible to compete for NDN funds in the following spring grant competition.

State educational agencies, local educational agencies, institutions of higher education, and other public or non-profit private agencies, organizations and institutions are eligible to submit applications to PEP.

Deadline to Submit Projects for PEP Approval: December 31, 1994.

Submission Criteria and Information Contact: Patricia Hobbs or Linda Jones, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 510, Washington, D.C. 20208–5645. Telephone (202) 219–2134. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 2962.

Dated: October 18, 1994.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 94–26358 Filed 10–24–94; 8:45 am]

BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on July 31, 1991, an arbitration panel rendered a decision in the matter of *Minnesota Department of Jobs and Training, State Services for the Blind and Visually Handicapped v. Department of Veterans Affairs (Docket No. R-S/87–8).* This panel was convened by the Secretary of Education pursuant to the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d-1(b), upon receipt of a complaint filed by the Minnesota Department of Jobs and Training, State Services for the Blind and Visually Handicapped on January 15, 1987. The Randolph-Sheppard Act creates a priority for blind individuals to operate vending facilities on Federal property. Under section 107d-1(b), the State licensing agency (SLA) may file a complaint with the Secretary if the SLA determines that an agency managing or controlling Federal property fails to comply with the Act or regulations implementing the Act. The Secretary then is required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act, 20 U.S.C. 107d-2(c), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

The Minnesota Department of Jobs and Training, the SLA, filed an

arbitration complaint under the Act stating that it had provided vending machine services at the St. Cloud Veterans Administration Hospital since 1977 pursuant to a contract with the Veterans Canteen Service (VCS) under which the SLA paid commissions to VCS. The contract expired in June 1986, and the SLA requested from VCS that it be given a priority to operate the vending machines under the Act. Subsequently, the SLA submitted to the Veterans Administration (now the Department of Veterans Affairs (DVA)) a non-competitive bid that did not include the payment of commissions to DVA by blind vendors.

DVA denied the permit application on the grounds that the Act does not apply to DVA medical and domiciliary facilities served by the VCS, and, therefore, all potential contractors, including the SLA, had to comply with the DVA's competitive bidding procedures. On June 19, 1987, the U.S. Department of Education (ED), Rehabilitation Services Administration (RSA), convened an arbitration panel to hear this dispute. In conjunction with the filing of the arbitration complaint against DVA/VCS, the SLA obtained a Federal court injunction. On July 2, 1987, the court enjoined VCS from awarding a vending machine contract to anyone other than the SLA pending the completion of the arbitration panel's decision.

In an Opinion and Order dated September 2; 1988, the arbitration panel convened by the Secretary (1) rejected DVA's claim that medical facilities served by VCS were exempt from the priority provisions of the Act, finding that the narrow exemption afforded VCS (and the military exchanges) from the income-sharing requirements of the statute did not incorporate a broader exemption from the priority provisions; and (2) found that both the Act and the VCS statute serve important public purposes and that the two statutes could be harmonized. The panel issued additional findings, conclusions, and orders as follows: the priority requirement of the Act is met when prior right or an opportunity exists for a licensed blind person to operate a vending facility. Normally this is accomplished through a permit application and approval process. However, in particular instances negotiated arrangements other than the standard permit application and approval process might be used that are mutually acceptable to all parties. While holding that VCS is not required to approve the SLA's permit application for vending machine services at the Medical Center, the arbitration panel maintained that VCS could not deny the SLA a priority for a licensed blind person to provide these services.

The panel also held that the 17 percent commission rate on gross sales payable by the blind vendor, considering his income, was inequitable. Because of insufficient basis or guidelines in the record, the panel withheld prescribing any specific commission rate and ordered DVA to continue without interruption the existing arrangement under which the blind vendor provided vending machine services at the Medical Center. However, the panel ruled that commission payments were to be suspended until the SLA and the DVA could reach a new agreement or, in the absence of an agreement, until the panel issued a final award. The panel retained jurisdiction during a mandated six-month negotiation period.

On February 10, 1989, DVA requested the panel to reconsider its decision, arguing that arbitration panels have no authority to issue binding rules and orders against Federal agencies and that contracting decisions made by the VCS Administrator are committed by law to that Administrator's sole discretion and are judicially unreviewable.

On November 30, 1989, the panel issued an Interim Opinion and Directive. In this opinion, the panel rejected DVA's challenge to its authority to issue orders. The panel concluded that its powers under the Act were not limited to mere declaratory findings. The panel further ordered the parties to continue negotiations and to report back within 45 days if there were any unresolved issues at that time. The parties were specifically directed to present to the panel a joint submission of issues, if any, that remained unresolved.

On January 24, 1990, the parties joined in a letter report to the panel stating they had not reached a contract or agreement and that other issues still remained unresolved.

On February 12, 1990, the SLA and DVA sent to the panel a joint statement listing the unresolved issues. By letter dated June 19, 1990, RSA authorized the panel to reconvene and decide the issues jointly agreed upon by the parties, with any modifications deemed appropriate by the panel.

Arbitration Panel Decision

After reviewing the evidence and arguments at the original hearings in 1988, DVA's Petition for Reconsideration in 1989, and the evidence and arguments submitted at the reconvened hearing in 1990, the panel issued a final Decision and Order dated July 31, 1991. The panel reaffirmed the findings contained in its original Opinion and Order that the priority requirement of the Act is met when a prior right or an opportunity exists for a licensed blind person to operate a vending facility. In view of the longstanding and recognized practice of DVA in contracting out vending machine services and receiving commissions pursuant to authority granted to the VCS Administrator to enter into agreements with outside suppliers for canteen services, the panel found that these contract arrangements have carried out the mission of VCS in an effective, high-quality, and self-sustaining manner. Accordingly, the panel concluded that the SLA, in providing vending service under a contract or agreement with VCS, should pay a commission to VCS. Upon concluding that a 17 percent commission rate on gross sales generated at the St. Cloud Medical Center was in fact fair and equitable, the panel ordered the SLA to pay a commission to the VCS of 17 percent effective as of the date of the issuance of the Decision and Order. The panel found that the SLA need not pay commissions to the VCS from the effective date of the panel's order dated September 2, 1988, suspending payment of commissions, to the effective date of this current Decision and Order. In addition, the panel (1) held that the SLA in providing services under contract or agreement with VCS need not pay for costs of storage and utilities; (2) concluded that, under the terms of the contract to be negotiated and executed between the parties, VCS should have no right to install and operate its own vending machines at the Veterans Administration Medical Center in St. Cloud; (3) directed the parties to proceed to implement by contractual arrangement the elements tentatively agreed upon for providing vending services at the St. Cloud Medical Center as indicated in the parties' joint progress report on July 24, 1990; (4) ordered that the contract be entered into between the SLA and VCS for a term of five years subject to renegotiation; (5) ordered that disputes that may arise in negotiating the contract between the SLA and VCS be resolved in accordance with the procedures under the Randolph-Sheppard Act until there is further clarification or delineation as to the proper forum for resolving the particular dispute; and (6) ordered the parties to enter into an agreement for the continued operation of vending machines by a blind person at the

Medical Center in St. Cloud consistent with the Decision and Order.

One panel member concurred in part and dissented in part, concluding that (1) the VCS may not require the SLA or its assigned blind vendor to pay a commission as a condition for the right to operate vending machines at the VA Medical Center in St. Cloud; and (2) the blind vendor's assignment to a facility under the Act being for an indefinite period, the vendor's license to operate the facility may not expire except for cause.

The decision of the arbitration panel was appealed to the United States District Court for the District of Minnesota by the State of Minnesota, Department of Jobs and Training, State Services for the Blind and Visually Handicapped and, subsequently, to the United States Court of Appeals for the Eighth Circuit by the Department of Veterans Affairs and the Department of Education. On March 11, 1994, the U.S. Court of Appeals for the Eighth Circuit upheld the District Court's findings that the DVA/VCS is not exempt from the Randolph-Sheppard Act and must comply with ED regulations on blind vendors' operation of vending facilities. Specifically, the court found that the regulations require the issuance of permits for an indefinite period of time and prohibit the charging by VCS of commissions on sales from blind vendors' operations without the approval of the Secretary of Education. The court rejected the VCS contention that the Randolph-Sheppard Act's permit system interferes with its mission to provide merchandise to hospitalized veterans at reasonable prices and to remain self-sustaining. Although the Veterans Canteen Act empowers the VCS to operate canteens on DVA property, nothing in the Veterans Canteen Act authorizes the VCS to exercise this statutory control over Randolph-Sheppard vendors who also operate on DVA property. Because blind vendors operate vending facilities under the Randolph-Sheppard Act and ED regulations, the blind vendors' operation is neither a VCS canteen nor subject to the Veterans Canteen Act and the VCS regulations.

The views and opinions expressed by the arbitration panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: October 19, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–26359 Filed 10–24–94; 8:45 am]

BILLING CODE 4001–01–P

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on April 13, 1992, an arbitration panel rendered a decision in the matter of *Malcolm Graham* v. *Texas Commission for the Blind* (Docket No. R–S/90–2). This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(a) upon receipt of the original complaint filed by petitioner Malcolm Graham on January 8, 1990. The Randolph-Sheppard Act (the Act) creates a priority for blind individuals to operate vending facilities on Federal property and also governs the operation of blind-operated vending facilities on State or other property. Under section 107d–1(a), a blind licensee dissatisfied with the State's operation or administration of the vending facility program authorized under the Act may request a full evidentiary hearing from the State licensing agency (SLA). If the licensee is dissatisfied with the State agency's decision, the licensee may complain to the Secretary, who is then required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230 Switzer Building, Washington, DC. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

The complainant, Malcolm Graham, is a blind vendor licensed by the Texas Commission for the Blind, the SLA under the provisions of the Act. He entered the Texas Business Enterprise Program (BEP) in April 1985 and received academic and on-the-job training in all phases of management of a vending facility. Subsequently, Mr. Graham operated a vending facility at the La Costa Office Park and then in 1986 moved to the Texas Supreme Court Building.

During the early part of 1989, Mr. Graham became delinquent in payment of his quarterly sales taxes and did not respond to payment requests from the Texas Comptroller's office. On June 15, 1989, Mr. Graham, recuperating from an accident, went to his vending facility and encountered two agents from the Comptroller's office attempting to seize complainant's cash register because of non-payment of sales taxes. The complainant allegedly verbally and physically assaulted one of the agents from the Comptroller's office, who summoned police.

On June 16, 1989, the then Director of the BEP telephoned the complainant informing him of his removal from the operation of the vending facility in the Texas Supreme Court Building. This action was followed by a written notification to Mr. Graham detailing the reasons for his removal: failure to pay sales taxes as required by section 10 of the Texas Business Enterprise Operations Manual; lack of proper standards of conduct and behavior as required by section 12(F) of the manual; and endangering the SLA's investment in a facility per section 15.8(A). Mr. Graham was informed that his license to operate a Business Enterprise Vending Facility was revoked effective July 15, 1989. The complainant was also informed of his right to an administrative review. Subsequently, on September 28, by telegram to the Texas Commission for the Blind, Mr. Graham requested an administrative review or full evidentiary hearing.

The evidentiary hearing occurred on October 24, 1989, and on November 28, 1989, the hearing officer sustained the actions of the Texas Commission for the Blind. Subsequently, Mr. Graham requested the Secretary of Education to convene an arbitration panel to overturn the hearing officer's decision and the SLA's final agency action. A hearing of this matter was held on February 14, 1992.

Arbitration Panel Decision

The arbitration panel addressed two major concerns. The first issue was whether Mr. Graham had been denied due process, and the second issue was whether the revocation of his vendor's license constituted an appropriate response to his violation of the Texas Business Enterprise Operations Manual.

The arbitration panel reviewed section 16 of the Texas Commission for the Blind's BEP Operations Manual regarding resolution of vendor dissatisfaction. The procedures provide for, first, an administrative review. If the vendor's dissatisfaction is not resolved, the second step is a full evidentiary hearing. If the vendor is still dissatisfied, the vendor may request that

an arbitration panel be convened to resolve the dispute.

The panel ruled that Mr. Graham did not receive an informal administrative review. However, the panel felt that the absence of such a review did not constitute harm to the due process rights of the complainant for several reasons. The SLA postponed the revocation of Mr. Graham's license, taking into consideration his injuries from the accident. After the notice of license revocation on July 15, 1989, Mr. Graham responded in a telegram on September 28, 1989, with a request for either an informal administrative review or a formal evidentiary hearing. During testimony at the arbitration hearing, complainant acknowledged that his request was deliberate in that he did not specify which type of hearing he was seeking. However, Mr. Graham stated he was aware of the SLA rules regarding the two types of hearings.

The panel ruled that the Texas Commission for the Blind acted appropriately in granting the complainant's request for an evidentiary hearing. The panel further noted that the Texas BEP Operations Manual states that revocation of a vendor's license is not final until after a full evidentiary hearing.

The panel concluded that the SLA did not have to wait indefinitely for a hearing request from complainant and that the SLA's process did not harm Mr. Graham's due process rights.

Concerning the SLA's proper termination of the vendor's license, the panel ruled that documents and testimony clearly established the vendor's sales tax delinquency, as well as his behavior on June 15, 1989.

Therefore, the majority of the panel ruled that the SLA's decision to revoke Mr. Graham's license rather than put him on probation was reasonable and justified. The action taken by the SLA resulted from complainant's delinquent sales tax liability and his inappropriate verbal and physical behavior on June 15, 1989, toward the State Comptroller's office agent. The complainant's conduct constituted multiple violations of the SLA's Operations Manual. One panel member dissented but declined to write a dissenting opinion.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: October 19, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–26360 Filed 10–24–94; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following Advisory Committee meeting:

Environmental Management Advisory Board

DATE AND TIMES: Thursday, October 27, 1994 from 8:30 a.m. to 5:30 p.m. Friday, October 28, 1994 from 8:30 a.m. to 12:30 p.m.

PLACE: Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, VA 22204.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Secretary, Environmental Management Advisory Board, EM–5, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–4400.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on issues confronting the Environmental Management program and the Programmatic Environmental Management Impact Statement, from the perspectives of affected groups and State and local Governments. The Board will help to improve the Environmental Management Program by assisting in the process of securing consensus recommendations, and providing the Department's numerous publics with opportunities to express their opinions regarding the Environmental Management Program. The notice is being published less than 15 days prior to meeting due to programmatic issues that had to be resolved prior to publication.

Tentative Agenda

Thursday, October 27, 1994

8:30 a.m.
Co-Chairs Open the Meeting
Environmental Management Board Issues/ Discussions
Breakout Sessions
12:00 p.m. Lunch
1:30 p.m. Breakout Sessions
5:00 p.m. Public Comment Session
5:30 p.m. Meeting Adjourns

Friday, October 28, 1994

8:30 a.m. Co-Chairs Reopen the Meeting
Plenary Session
—Breakout Session Reports
—Selection of Issues
General Board Business
12:30 p.m. Meeting Ends

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact James T. Melillo at the address or telephone number listed above. Individuals wishing to orally address the Board during the public comment session should call (800) 862–8860 and leave a message. Individuals may also register on October 27, 1994 at the meeting site. Every effort will be made to hear all those wishing to speak to the Board, on a first come, first serve basis. Those who call in and reserve time will be given the opportunity to speak first. The Board Co-Chairs are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes: A meeting transcript and minutes will be available for public review and copying at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 4, 1994.

Marcia Morris,

Advisory Committee Management Officer.

[FR Doc. 94–26518 Filed 10–24–94; 8:45 am]

BILLING CODE 6450–01–M

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (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) Frequency of

collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before November 25, 1994. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Herbert Miller, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Miller may be telephoned at (202) 254–5346.

SUPPLEMENTARY INFORMATION:

1. Energy Information Administration
2. EIA–895
3. N.A.
4. Monthly Quantity of Natural Gas Report
5. New
6. Monthly
7. Voluntary
8. State or local governments
9. 33 respondents
10. 12 responses
11. .5 hours per response
12. 198 hours
13. EIA–895 will collect monthly information from the appropriate State agencies that collect data concerning natural gas production. Data are needed to provide a continuation of baseline production data published in several of EIA's monthly and annual reports.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. § 3506 (a) and (c)(1)).

Issued in Washington, DC, October 17, 1994.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 94–26362 Filed 10–24–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG95–1–000, et al.]

Nanjing Power Partners Ltd Partnership, et al.; Electric Rate and Corporate Regulation Filings

October 18, 1994.

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

1. Nanjing Power Partners Limited Partnership

[Docket No. EG95–1–000]

On October 7, 1994, Nanjing Power Partners Limited Partnership ("Applicant") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to 18 CFR Part 365.

Applicant is a Delaware limited partnership formed to acquire an indirect ownership interest in a proposed approximately 40 MW coal-fired electric generating facility to be located in the People's Republic of China and to engage in project development activities with respect thereto.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. EI Power (China) II, Inc.

[Docket No. EG95–2–000]

On October 7, 1994, EI Power (China) II, Inc. ("Applicant") filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to 18 CFR Part 365.

Applicant is a Delaware limited partnership formed to acquire an indirect ownership interest in a proposed approximately 40 MW coal-fired electric generating facility to be located in the People's Republic of China and to engage in project development activities with respect thereto.

Comment date: November 7, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Heartland Energy Services, Inc.

[Docket No. ER94–108–001]

Take notice that on September 30, 1994, Heartland Energy Services, Inc. (HES) tendered for filing with the Federal Energy Regulatory Commission information related to the above docket.

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

4. Edison Sault Electric Company

[Docket No. ER94–1502–000]

Take notice that on September 30, 1994, Edison Sault Electric Company tendered for filing an amendment in the above-referenced docket.

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

5. Public Service Company of New Mexico

[Docket No. ER95–8–000]

Take notice that on October 5, 1994, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Termination of the 1991–1994 Power Sale Agreement between Public Service Company of Colorado (PSCO) and PNM (PNM Rate Schedule FERC No. 102). Termination of that agreement is to be effective as of September 30, 1994. PNM requests waiver of the applicable notice requirements.

Copies of the filing have been served upon PSCO and the New Mexico Public Utility Commission.

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

6. Florida Power & Light Company

[Docket No. ER95–9–000]

Take notice that on October 5, 1994, Florida Power & Light Company filed a letter notice dated September 27, 1994, from Florida Keys Electric Cooperative Association, Inc. to FPL. This letter contains information provided pursuant to Section 11.1 of the Long-Term Agreement to Provide Capacity and Energy by Florida Power & Light Company to Florida Keys Electric Cooperative Association, Inc., dated August 15, 1991. FPL requests that the proposed notice be made effective January 1, 1995.

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

7. Indianapolis Power & Light Company

[Docket No. ES95–3–000]

Take notice that on October 11, 1994, Indianapolis Power & Light Company

filed an application under § 204 of the Federal Power Act seeking authorization to issue up to $150 million of unsecured short-term promissory notes from time to time through December 31, 1996, having a maturity of one year or less after the date or issue.

Comment date: November 10, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas Gas and Electric Company

[Docket No. ES95–4–000]

Take notice that on October 12, 1994, Kansas Gas and Electric Company filed an application under § 204 of the Federal Power Act seeking authorization to issue not more than $250 million of promissory notes on or before December 31, 1996, with a final maturity date no later than December 31, 1997.

Comment date: November 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Western Resources, Inc.

[Docket No. ES95–5–000]

Take notice that on October 12, 1994, Western Resources, Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue not more than $500 million of promissory notes on or before December 31, 1996, with a final maturity date no later than December 31, 1997.

Comment date: November 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. LSP-Cottage Grove, L.P.

[Docket No. QF94–142–000]

On October 13, 1994, LSP-Cottage Grove, L.P. tendered for filing an amendment to its filing in this docket.

The amendment pertains to the ownership structure and technical aspects of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: November 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. LSP-Whitewater Limited Partnership

[Docket No. QF94–155–000]

On October 13, 1994, LSP-Whitewater Limited Partnership tendered for filing an amendment to its filing in this docket.

The amendment pertains to the ownership structure and technical aspects of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: November 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26403 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2323–012]

Notice of Application

October 19, 1994.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New License.

b. *Project No.:* 2323–012.

c. *Date Application Filed:* December 27, 1991; *Date Offer of Settlement Filed:* October 6, 1994.

d. *Applicant:* New England Power Company.

e. *Name of Project:* Deerfield River Project.

f. *Location:* On the Deerfield River, Windham and Bennington Counties, Vermont, and Franklin and Berkshire Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Mark E. Slade, New England Power Company, 25 Research Drive, Westborough, MA 10582, (508) 366–9011.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Deadline Dates:* Comments due: November 1, 1994, reply comments due: November 14, 1994.

k. A joint Offer of Settlement among New England Power Company, the U.S. Environmental Protection Agency, the National Park Service, the U.S. Fish and Wildlife Service, the Massachusetts Division of Fisheries and Wildlife, American Rivers, Inc., American Whitewater Affiliation, the Appalachian Mountain Club, the Conservation Law Foundation, the Deefield River Compact, the Deefield River Watershed Association, New England FLOW, and Trout Unlimited was filed with the Commission on October 12, 1994. Comments and reply comments concerning the Offer of Settlement are due as listed above.

l. *Available Location of the Offer of Settlement:* A copy of the Offer of Settlement is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at New England Power Company, 25 Research Drive, Westborough, MA, 01582.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26347 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1566–000]

Central Illinois Light Co.; Notice of Filing

October 19, 1994.

Take notice that Central Illinois Light Company (CILCO) on October 6, 1994, tendered for filing with the Commission substitute pages to the contract amendment to the Service Schedules contained in CILCO's Interconnection Agreement with Central Illinois Public Service Company (CILCO Rate Schedule FERC No. 26). These substitute pages have been filed for the purpose of reflecting maximum weekly prices for certain service schedules.

CILCO proposes the revised rate schedule changes to be effective on October 16, 1994.

Copies of the filing were served on Central Illinois Public Service Company and the Illinois Commerce 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 October 28, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26346 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–044]

Frontier Gas Storage Co.; Notice of Sale Pursuant to Settlement Agreement

October 19, 1994.

Take notice that on October 12, 1994, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Avenue NW., Washington, D.C. 20004, in compliance with the provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–00 et, al., submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu of Frontier's gas storage inventory on an "as metered" basis to Interenergy Corporation (Interenergy).

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985 Order, Frontier is "authorized to commence the sale of its inventory, fourteen days after filing the executed agreement with the Commission, and may continue making such sale unless the Commission issues an order either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter.

Any person desiring to be heard or to make a protest with reference to said tariff sheet filing should, within ten days of the publication of such notice in the **Federal Register** file with the Federal Energy Regulatory Commission (825 North Capitol Street NE., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 or 385.211. 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. 94–26345 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–042]

Frontier Gas Storage Co.; Notice of Sale Pursuant to Settlement Agreement

October 19, 1994.

Take notice that on October 12, 1994, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., NW., Washington, DC 20004, in compliance with the provisions of the Commission's February 13, 1985 Order in Docket No. CP85–487–000 et al., submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu of Frontier's gas storage inventory on an "as metered" basis to Prairielands Energy Marketing, Inc. (Prairielands), for term ending October 31, 1995.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985 Order, Frontier is "authorized to commence the sale of its inventory, fourteen days after filing the executed agreement with the Commission, and may continue making such sale unless the Commission issues an order either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter.

Any person desiring to be heard or to make a protest with reference to said tariff sheet filing should, within ten days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (825 North Capitol Street, NE., Washington, DC 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. 94–26400 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–043]

Frontier Gas Storage Co.; Notice of Sale Pursuant to Settlement Agreement

October 19, 1994.

Take notice that on October 12, 1994, Frontier Gas Storage Company (Frontier), % Reid or Priest, Market Square, 701 Pennsylvania Avenue, NW., Washington, DC 20004, in compliance with the provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000 et, al., submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu of Frontier's gas storage inventory on an "as metered" basis to Prairielands Energy Marketing, Inc. (Prairielands), for term ending September 30, 1995.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory, fourteen days after filing the executed agreement with the Commission, and may continue making such sale unless the Commission issues an order either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter.

Any person desiring to be heard or to make a protest with reference to said tariff sheet filing should, within ten days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (825 North Capitol Street NE., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. 94–26401 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1695–000]

Monongahela Power Co.; Notice of Filing

October 11, 1994.

Take notice that on September 30, 1994, Monogahela Power Company, tendered for filing proposed changes in its FERC Electric Tariff, First Revised Volume No. 1. The proposed change to the base rate would initially increase revenues from jurisdictional sales and service by $303,733.00 based on the twelve-month period ending December 31, 1995. The proposed effective date

for the increased rates is December 1, 1994.

The changes proposed are for the purpose of recovering increased costs incurred by the Company, the modify capacity requirements for new delivery points and to update language in the existing tariff.

Copies of the filing were served upon the jurisdictional customers and the Public Utility 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 October 25, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26399 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–12–000]

Southern Natural Gas Co.; Notice of Petition for Declaratory Order

October 19, 1994.

Take notice that on October 13, 1994, Southern Natural Gas Company (Southern) filed in Docket No. RP95–12–000 a Petition for Declaratory Order pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure. Southern requests that the Commission declare that a certain payment that Southern proposes to make to purchase an annuity for purposes of reducing the payment obligations arising under a restructuring of Southern's gas purchase contract with Jim Walter Resources, Inc. (JWR), pursuant to the Commission's Order No. 636, *et al.*, will qualify as a GSR cost as that term is defined in Section 31.2 of the General Terms and Conditions of Southern's FERC Gas Tariff, Seventh Revised Vol. No. 1. The petition is on file with the Commission and open to public inspection.

Southern's GSR settlement with JWR provides that Southern will make monthly payments of $675,000 to JWR through the year 2001. In order to reduce the total amount of this GSR cost, Southern proposes to make a lump-sum payment to a financial institution to purchase an annuity or other similar financial instrument (Annuity) at a net present discounted value to provide these monthly payments.

Southern does not seek as part of this Declaratory Order any determination on the prudence or eligibility of such one-time payment or the prudence and eligibility of the settlement payments to JWR. Nor does Southern seek to revise its Tariff or GSR recovery mechanisms to allow for open-ended recovery of hedging costs or the costs of other financial instruments. Southern seeks in this proceeding the Commission's determination regarding whether the proposed purchase of an Annuity (which would eliminate Southern's need to include in its quarterly GSR filing the $675,000 monthly payments to JWR) would constitute an appropriate incurred cost under Section 31.2(a) of Southern's Tariff, and thereby qualify as a GSR expense that Southern has incurred for which Southern could file to recover in accordance with the GSR recovery mechanisms provided for in Southern's Tariff.

Upon receipt of the requested declaratory order and completion of the proposed transaction, Southern would make a compliance filing to remove the charges presently associated with the monthly payments of $675,000 and replace such with the Annuity purchase amount as recovered under the 3-year period provided for in Southern's Tariff.

Any person desiring to be heard or make any protest with reference to said petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions or protests should be filed on or before November 2, 1994. 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 must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26349 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11290–001 Alaska]

Taiya Inlet Hydro; Notice of Surrender of Preliminary Permit

October 19, 1994.

Take notice that Taiya Inlet Hydro, Permittee for the Taiya Inlet Project No. 11290, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11290 was issued November 9, 1992, and would have expired October 31, 1995. The project would have been located in Tongass National Forest, on Dayebas Creek, in Haines Borough, Alaska.

The Permittee filed the request on August 29, 1994, and the preliminary permit for Project No. 11290 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26348 Filed 10–24–94; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders for the Week of August 15 Through August 19, 1994

During the week of August 15 through August 19, 1994, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to

contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: October 18, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Capozzi Bros. Fuel Co. Bridgeport, CT, Lee–0143, Reporting Requirements

Capozzi Bros. Fuel Co. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity, a serious hardship or an unfair distribution of burdens. Accordingly, on August 16, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Cooperative Oil Company, Osage, IA, Lee–0132, Reporting Requirements

Cooperative Oil Company filed an Application for Exception from the requirement that it file Form EIA–782B, the "Resellers'/ Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was not experiencing a serious hardship or adversely affected by the reporting requirement in a way that was significantly different from the burden borne by similar reporting firms. Accordingly, on August 19, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Hattenhauer Dist. Co. The Dalles, OR, Lee–0146, Reporting Requirements

Hattenhauer Distributing Company filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. Accordingly, on August 19, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Johnson Oil Company Gaston, IN, Lee–0121, Reporting Requirements

Johnson Oil Company filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. Accordingly, on August 19, 1994 the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

[FR Doc. 94–26364 Filed 10–24–94; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; Week of August 8 Through August 12, 1994

During the week of August 8 through August 12, 1994, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: October 18, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Applebee Oil & Propane, Ovid, MI, LEE–0145 Reporting Requirements

Applebee Oil & Propane filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Accordingly, on August 11, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Pro Fuels, Inc., Chadds Ford, PA, LEE–0144 Reporting Requirements

Pro Fuels, Inc., filed an Application for Exception from the Energy Information Administration (EIA), requirement that it file Forms EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report," and EIA–821, the "Annual Fuel Oil and Kerosene Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Accordingly, on August 11, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

[FR Doc. 94–26363 Filed 10–24–94; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5093–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 1445.03; Continuous Release Reporting Regulation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; was approved 09/19/94; OMB No. 2050–0086; expires 09/30/97.

EPA ICR No. 1442.07; Land Disposal Restrictions Phase II, Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes; was approved 08/29/94; OMB No. 2050–0085; expires 11/30/95.

EPA ICR No. 0318.05 Inventory (NEEDS SURVEY) of Publicly-Owned Wastewater Treatment Works (POTW'S) in the United States; was approved 09/27/94; OMB No. 2040–0050; expires 09/30/97.

EPA ICR No. 1706.01; NSPS for Starch Production Plants—Subpart XXX; was approved 09/28/94; OMB No. 2060–0310; expires 09/30/97.

EPA ICR No. 1697.01; NSPS for Volatile Organic Compounds (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry Wastewater; was approved 09/28/94; OMB No. 2060–0311; expires 09/30/97.

EPA ICR No. 1604.04; NSPS for Secondary Brass and Bronze Production Plants—Subpart M; was approved 09/28/94; OMB No. 2060–0110; expires 09/30/97.

EPA ICR No. 1135.05; NSPS for Magnetic Tape Coating Facilities—Subpart SSS; was approved 09/28/94; OMB No. 2060–0171; expires 09/30/97.

EPA ICR No. 1214.03; Pesticide Product Registration Maintenance Fee; was approved 09/29/94; OMB No. 2070–0100; expires 09/30/97.

EPA ICR No. 1425.03; Application for Reimbursement to Local Governments; was approved 09/21/94; OMB No. 2050–0077; expires 09/30/97.

EPA ICR No. 0328.04; Spill Prevention, Control, and Countermeasure Plans; was approved 09/21/94; OMB No. 2050–0021; expires 09/30/96.

EPA ICR No. 1630.02; Implementation of the Oil Pollution Act Facility Response Plan Requirements; was approved 07/30/94; OMB No. 2050–0135; expires 07/31/97.

OMB Disapprovals

EPA ICR No. 0270.32; Interim Enhanced Surface Water Treatment Rule; was disapproved 09/13/94.

Extensions of Expiration Dates

EPA ICR No. 0229; Discharge Monitoring Report (DMR), and Amendments; expiration date extended to 01/31/95.

EPA ICR No. 1365; Asbestos-Containing Materials in Schools Rule, Revised Model Accreditation Plan, Amendment; expiration date extended to 03/31/95.

EPA ICR No. 1153; NESHAP for Benzene Equipment Leaks (Subpart V) Information Requirements; expiration date extended to 03/31/95.

EPA ICR No. 1136; NSPS for Petroleum Refinery Wastewater Systems–Reporting and Recordkeeping–Subpart QQQ; expiration date was extended to 02/28/95.

EPA ICR No. 1071; NSPS for Stationary Gas Turbines (Subpart GG)–Information Requirements; expiration date was extended to 02/28/95.

EPA ICR No. 1304; Application for Preauthorization of CERCLA Response Action and Claim for CERCLA Response Action; expiration date was extended to 03/31/95.

Dated: October 19, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–26384 Filed 10–24–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1033–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia (FEMA–1033–DR), dated July 7, 1994, and related determinations.

EFFECTIVE DATE: October 13, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 13, 1994, the President amended the cost-sharing arrangements concerning the Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the State of Georgia, resulting from torrential rain, high wind, tornadoes and flooding resulting from Tropical Storm Alberto on July 3 through July 25, 1994, is of sufficient severity and magnitude that special conditions are warranted regarding the cost-sharing arrangements concerning Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act") for the Public Assistance program.

Therefore, I amend my previous declaration to authorize Federal funds for Public Assistance at 90 percent of total eligible costs. This 90 percent reimbursement applies to all authorized Public Assistance costs, including debris removal to eliminate immediate threats to public health and safety, emergency work to save lives and protect public health and safety, and repair or reconstruction of uninsured public and private non-profit facilities.

This adjustment to State and local cost sharing applies only to Public Assistance costs eligible for such adjustment under the law. The law specifically prohibits a similar adjustment for funds provided to States for the Individual and Family Grant program. These funds will continue to be reimbursed at 75 percent of total eligible costs.

Please notify the Governor of the State of Georgia and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–26395 Filed 10–24–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1041–DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1041–DR), dated October 18, 1994, and related determinations.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 18, 1994, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from severe thunderstorms and flooding on October 14, 1994, and continuing, is of sufficient severity and magnitude to warrant

a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint R. Dell Greer of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

The counties of Angelina, Austin, Bastrop, Brazos, Burleson, Chambers, Fayette, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Lee, Liberty, Madison, Montgomery, Nacogdoches, Polk, San Jacinto, Trinity, Tyler, Washington, Waller, and Walker for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–26396 Filed 10–24–94; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Jean A. Bein, 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 November 15, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Jean A. Bein, Arvada, Colorado; to acquire an additional 60.01 percent, for a total of 66.30 percent, of the voting shares of Berthoud Bancorp, Inc., Berthoud, Colorado, and thereby indirectly acquire The Berthoud National Bank, Berthoud, Colorado.

2. Frederick L. Bein, Fischers, Indiana; to acquire an additional 25.99 percent, for a total of 32.67 percent, of the voting shares of Berthoud Bancorp, Inc., Berthoud, Colorado, and thereby indirectly acquire The Berthoud National Bank, Berthoud, Colorado.

3. Stewart Whitham, as trustee, Garden City, Kansas, to acquire an additional 64.49 percent (for a total 68.14 percent), John Poos, as trustee, Garden City, Kansas, to acquire an additional 64.49 percent (for a total of 82.73 percent), and Jennifer Jensik, as trustee, Nixa, Missouri, to acquire an additional 45.66 percent (for a total of 49.31 percent) of the voting shares of Western Bancorp, Inc., Garden City, Kansas, and thereby indirectly acquire Western State Bank, Garden City, Kansas.

Board of Governors of the Federal Reserve System, October 19, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26380 Filed 10–24–94; 8:45 am]

BILLING CODE 6210–01–F

Compass Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 19, 1994,

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Compass Bancshares, Inc., Birmingham, Alabama; Compass Bank of Texas, Inc., and Compass Bancorporation of Texas, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of Southwest Bankers, Inc., San Antonio, Texas, and Bank Asset Management Corporation, Wilmington, Delaware, and thereby indirectly acquire The Bank of San Antonio, San Antonio, Texas.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Royal Bancshares, Inc., Elroy, Wisconsin; to merge with Iowa Grant Bankshares, Inc., Cobb, Wisconsin, and thereby indirectly acquire Cobb State Bank, Cobb, Wisconsin.

2. San Jose Banco, Inc., Fremont, Indiana; to acquire 80 percent of the voting shares of First National Bank of Fremont, Fremont, Indiana.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Minnesota Valley Bancshares, Inc., Minnetonka, Minnesota; to merge with Minnwest, Inc., Minnetonka, Minnesota, and thereby indirectly acquire Minnwest Bank Dawson, Dawson, Minnesota; Minnwest Bank Luverne, Luverne, Minnesota; Minnwest Bank Montevideo, Montevideo, Minnesota; and Minnwest Bank Ortonville, Ortonville, Minnesota.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community Bankshares, Inc., Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Plains State Financial Corporation,

Walsenburg, Colorado, and thereby indirectly acquire First National Bank of Walsenburg, Walsenburg, Colorado.

Board of Governors of the Federal Reserve System, October 19, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26379 Filed 10–24–94; 8:45 am]

BILLING CODE 6210–01–F

Firstar Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 14, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin, and Firstar Corporation of Iowa, Des Moines, Iowa; to acquire 100 percent of the voting shares of First Federal Savings Bank of Moline, FSB, Des Moines, Iowa, which is in the process of converting to a national bank.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. HCB Bancorp, Palmyra, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Harrison County Bank, Palmyra, Indiana.

2. LCS Bancorp, Inc., Litchfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Litchfield Community Savings, S.B., Litchfield, Illinois.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Dutton Bancorporation, Inc., Dutton, Montana; to become a bank holding company by acquiring at least 100 percent of the voting shares of Dutton State Bank, Dutton, Montana.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Westamerica Bancorporation, San Rafael, California; to merge with PV Financial, Modesto, California, and thereby indirectly acquire Pacific Valley National Bank, Modesto, California.

Board of Governors of the Federal Reserve System, October 19, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26381 Filed 10–24–94; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Report of the Tar, Nicotine, and Carbon Monoxide Content of 933 Varieties of Domestic Cigarettes

ACTION: Notice.

SUMMARY: The Federal Trade Commission publishes the Report of the Tar, Nicotine, and Carbon Monoxide Content of 933 Varieties of Domestic Cigarettes.

DATES: October 25, 1994.

ADDRESSES: Copies of the full report are available from the FTC's Public Reference Branch, Room 130, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3222.

FOR FURTHER INFORMATION CONTACT: Phillip S. Priesman Attorney, Federal Trade Commission, Bureau of Consumer Protection, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. Telephone (202) 326–2484.

SUPPLEMENTARY INFORMATION: These are the most recent test results of the tar, nicotine, and carbon monoxide levels of the smoke of domestic cigarettes reported by the FTC. The Tobacco Institute Testing Laboratory (TITL), a private laboratory operated by the cigarette industry, conducted the tar, nicotine, and carbon monoxide testing for the widely-available domestic cigarette varieties. This testing was conducted under the review of a representative of the FTC through periodic unannounced inspections. TITL provided the results to the respective cigarette companies. The companies provided the data generated by TITL regarding their own brands to the FTC in response to compulsory process issued by the Commission. Cigarette smoke from generic (no brand-name), private label, and not-widely-available cigarettes was not tested by TITL, but was tested by the cigarette companies and provided under compulsory process to the FTC. The methodology, processes and procedures that the companies and TITL employed are the same as those the Commission has followed in the past.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–26328 Filed 10–24–94; 8:45 am]

BILLING CODE 6750–01–M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers on acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION, BETWEEN: 09/19/94 AND 09/30/94

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Memorial Health System, Abraham Lincoln Healthcare System, Inc., Abraham Lincoln Memorial Hospital	94-2096	09/19/94
Tidewater Inc., George P. Mitchell, Brazos Gas Compressing Company	94-2099	09/19/94
Insituform Technologies Inc., James D. Monaghan, Gelco Services Inc	94-2104	09/19/94
CMS Energy Corporation, Walter International, Inc., Walter International, Inc	94-2105	09/19/94
Principal Mutual Life Insurance Company, CIGNA Corporation, CIGNA Healthcare of Kansas/Missouri, Inc	94-2118	09/19/94
The SGK Equity Fund, L.P., Ronald M. Simon, c/o RSI Home Products, Inc., RSI Home Products, Inc	94-2119	09/19/94
CIGNA Corporation, Principal Mutual Life Insurance Company, Principal Health Care of Ohio, Inc	94-2156	09/19/94
DOVatron International Incorporated, George Schreyer, Multilayer Technology, Inc	94-2168	09/19/94
DOVatron International Incorporated, Marina Schreyer, Multilayer Technology, Inc	94-2176	09/19/94
Western Wireless Corporation, Sterling Cellular Holdings Limited Partnership, Kansas 4 Cellular Limited Partnership	94-1996	09/20/94
Kellwood Company, Robert Adler, Halmode Apparel, Inc	94-2103	09/20/94
Arkansas Best Corporation, Merle Chambers, Clipper Exxpress Co	94-2131	09/20/94
Acme-Cleveland Corporation, TxPORT, Inc., TxPORT, Inc	94-2142	09/20/94
Meredith Corporation, Cook Inlet Region, Inc., Cook Inlet Television Partners, L.P., Cook Inlet	94-2147	09/20/94
Meredith Corporation, WCC Associates, Cook Inlet Television Partners, L.P. and Cook Inlet	94-2148	09/20/94
Acklands Limited, a Canadian company, WSR Corporation, Rose Auto Sales-Florida, Inc	94-2167	09/20/94
J.R. Simplot Company, Robert L. Ellis, Mid-America Potato Company	94-2061	09/21/94
Natural Gas Clearinghouse, Union Pacific Corporation, Union Pacific Resources Company	94-2144	09/21/94
General Electric Company, GTE Corporation, GTE Spacenet Corporation	94-1682	09/22/94
MEDIQ Incorporated, James R. Leininger, M.D., KCI Therapeutic Services, Inc	94-2046	09/22/94
Harvest States Cooperatives, SQF Partners, L.P., Saffola Quality Foods, Inc	94-2079	09/22/94
Harnischfeger Industries, Inc., Joy Technologies, Inc., Joy Technologies, Inc	94-2085	09/22/94
First Data Corporation, Envoy Corporation, Envoy Corporation	94-2138	09/22/94
Siemens Aktiengesellschaft, Pyramid Technology Corporation, Pyramid Technology Corporation	94-2048	09/23/94
Citizens Utilities Company, Foothills Cablevision, Ltd., Foothills Cablevision, Ltd	94-2081	09/23/94
Century Communications Corp., Foothills Cablevision, Ltd., Foothills Cablevision, Ltd	94-2082	09/23/94
Cargill, Incorporated, Illinois Cereal Mills, Inc. ESOP, Illinois Cereal Mills, Inc	94-2095	09/23/94
Praxair, Inc., Gas Tech, Incorporated, Gas Tech, Incorporated	94-2116	09/23/94
Citizens Utilities Company, American Cable TV Investors 4, Ltd., American Cable TV Investors 4, Ltd	94-2124	09/23/94
Century Communications Corp., American Cable TV Investors 4, American Cable TV Investors 4	94-2125	09/23/94
Mr. Russell Berrie, OddzOn Products, Inc., OddzOn Products, Inc	94-2141	09/23/94
Mr. David Elias, Norwest Corporation, Gelco Payment Systems, Inc	94-2151	09/23/94
Kelso Investment Associates V, L.P., Joseph A. Murphy, Hosiery Corporation of America, Inc	94-2055	09/26/94
Sinclair Broadcasting Group, Inc., Sumner M. Redstone, Paramount Stations Group of Raleigh Durham Inc	94-2126	09/26/94
Pacific Mutual Life Insurance Company, Thomson Advisory Group Inc., Thomson Advisory Group Inc	94-2130	09/26/94
The Liberty Corporation, Integon Life Partners L.P., Integon Life Corporation	94-2132	09/26/94
Coastal Healthcare Group, Inc., Health Enterprises, Inc., Health Enterprises, Inc	94-2152	09/26/94
Mr. David Elias, H-G Holdings, Inc., H-G Holdings, Inc	94-2153	09/26/94
Jupiter Partners L.P., H-G Holdings, Inc., H-G Holdings, Inc	94-2154	09/26/94
Integrated Health Service, Inc., Warburg, Pincus Investors, L.P., Amcare, Inc	94-2172	09/26/94
Charles Schusterman, Samson Energy Company Limited Partnership, Samson Energy Company Limited Partnership	94-2181	09/26/94
Pacific Gas and Electric Company, Dow Chemical Company (The), Destec Properties Limited Partnership	94-2183	09/26/94
Computer Associates International, Inc., Newtrend Group L.P. (The), Newtrend L.P	94-2187	09/26/94
OneComm Corporation, Spectrum Resources of the Midwest, Inc., Spectrum Resources of the Midwest, Inc	94-2191	09/26/94
Whitehall Street Real Estate Limited Partnership V, Henry L. Hillman, Henry L. Hillman	94-2192	09/26/94
Inter-Regional Financial Group, Inc., Clayton Brown Holding Company, Clayton Brown Holding Company	94-2197	09/26/94
Intuit Inc., Robert R. and Martha L. Parsons, Parsons Technology, Inc	94-1970	09/27/94
Robert R. and Martha L. Parsons, Intuit, Inc., Intuit, Inc	94-1980	09/27/94
Bona Shipholding Ltd., Amoco Corporation, Amoco Transport Company	94-2145	09/27/94
Browning-Ferris Industries, Inc., STS Holdings, Inc., Gallatin National Company	94-2073	09/28/94
LDDS Communications, Inc., The Williams Companies, Inc., Williams Telecommunications Group, Inc	94-2137	09/28/94
Donald M. Koll and Dorothy Brittingham Koll, KMS Holding Corporation, a joint venture, KMS Holding Corporation, a joint venture	94-2146	09/28/94
Spartech Corporation, Pawnee Industries, Inc., Pawnee Industries, Inc	94-2158	09/28/94
Scitex Corporation, Carlton Communications PLC, ImMIX, a division of Carlton International Corporation	94-2186	09/28/94
Torchmark Corporation, American Income Holding, Inc., American Income Holding, Inc	94-2218	09/28/94
Electro Rent Corporation, Genstar Rental Electronics, Inc., Genstar Rental Electronics, Inc	94-2078	09/29/94
Bindley Western Industries, Inc., Kendall Drug Company, Kendall Drug Company	94-2134	09/29/94
Wickes Lumber Company, J. Frank Gerrity, II, Gerrity Company Incorporated	94-2179	09/29/94
Matsushita Electric Industrial Co., Ltd., Matsushita Electric Industrial Co., Ltd., Matsushita Floor Care Company	94-2190	09/29/94
VEBA AG, Iridium, Inc., Iridium, Inc	94-2202	09/29/94
Anheuser-Busch Companies, Inc., Redhook Ale Brewery, Incorporated, Redhook Ale Brewery, Incorporated	94-2203	09/29/94
General Motors Corporation, Computer Associates International, Inc., Computer Associates International, Inc	94-2222	09/30/94
Wasserstein Perella Group, Inc., Maybelline, Inc., Maybelline, Inc	94-2230	09/30/94
Applebee's International, Inc., Burton M. Sack, Pub Ventures of New England, Inc	94-2233	09/30/94
Burton M. Sack, Applebee's International, Inc., Applebee's International, Inc	94-2234	09/30/94
Hellman & Friedman Capital Partners II, L.P., Hoyts Corporation Holdings Pty Ltd., HUSH Holding U.S. Inc	94-2252	09/30/94

For further information contact: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–26329 Filed 10–24–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Child Abuse and Neglect Prevention and Treatment; Proposed Research and Demonstration Priorities for Fiscal Years 1995 and 1996

AGENCY: National Center on Child Abuse and Neglect (NCCAN), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of Proposed Fiscal Years 1995 and 1996 Child Abuse and Neglect Research and Demonstration Priorities for the Administration for Children and Families.

SUMMARY: The National Center on Child Abuse and Neglect (NCCAN) within the Administration on Children, Youth and Families (ACYF) announces the proposed priorities for research on the causes, prevention, identification, and treatment of child abuse and neglect; on appropriate and effective judicial procedures; and for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

Comments on the proposed priorities and suggestions for other topics are invited at this time. The actual solicitation of grant applications will be published separately in the **Federal Register**, at a later date, for each fiscal year, respectively. Solicitations for contracts will be announced, at a later date, in the Commerce Business Daily. Though these priority areas are proposed for Fiscal Years 1995 and 1996, NCCAN recognizes that, pending the reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA), these priorities may be supplemented and amended accordingly. Comments and recommendations about the reauthorization, though welcome, are not the focus of this announcement. In addition, no proposals, concept papers, or other forms of applications for funding should be submitted at this time.

Section 105(a)(2)(B) of the Child Abuse Prevention and Treatment Act of 1988 (CAPTA), as amended, requires the Department to publish proposed priorities for research and demonstration activities for the purpose of soliciting comments from the public, including individuals knowledgeable in the field of child abuse and neglect prevention and treatment. No acknowledgment will be made of the comments submitted in response to this notice, but all comments received by the deadline will be reviewed and given thoughtful consideration in the preparation of the final funding priorities over the next two years. Copies of the final program announcement will be sent to all persons who comment on these proposed priorities.

DATES: In order to be considered, comments must be received no later than December 27, 1994.

ADDRESSES: Comments should be mailed to: David W. Lloyd, Director, National Center on Child Abuse and Neglect, Attention: Comments/Proposed Priorities—Research and Demonstration, P.O. Box 1182, Washington, D.C. 20013. Comments may also be submitted via Internet:
<comments%acyf.nccan%acf.wdc@ban-gate.acf.dhhs.gov>

SUPPLEMENTARY INFORMATION:

I. Background

The proposed new research and demonstration priority areas have been developed from recommendations from several sources.

- The National Research Council (NRC), Commission on Behavioral and Social Sciences and Education (CBASSE), Panel on Research on Child Abuse and Neglect report, *Understanding Child Abuse and Neglect* (hereafter referenced as the NRC report) was produced by CBASSE in response to a request from the Administration on Children, Youth and Families (ACYF) in the Administration for Children and Families (ACF) to undertake a comprehensive review and synthesis of research on child abuse and neglect and to recommend research needs and priorities for the remainder of the decade;
- The American Psychological Society (APS) report on the field in Human Capital Initiative: Report of the National Behavioral Science Research Agenda Committee (APS Observer, February 1992);
- The Child Welfare League of America (CWLA) report on the field, *A Research Agenda for Child Welfare:* A Special Issue of *Child Welfare*, LXXIII, No. 5 (September-October, 1994);
- Reviews of current literature on child abuse and neglect;
- Findings from recently completed studies;
- Suggestions received from the field;
- Hearings and reports of the Advisory Board on Child Abuse and Neglect;
- Meetings held by the Inter-Agency Task Force on Child Abuse and Neglect and its Research Committee; and
- Other Departmental organizations and professional associations.

These recommendations have been considered in light of the vision and values of the Administration for Children and Families. The priorities described below especially embody the vision of building partnerships between the Federal government and individuals, families, front-line service providers, communities, American Indian tribes and Native communities, States and Congress to seek solutions that transcend traditional agency boundaries. More responsive services can be designed when gaps across services are bridged: when practitioners and researchers work together to ask and answer questions that will empower individuals to achieve active, healthy, productive lives in strong, supportive communities. Prevention efforts, especially, will have a positive impact on the quality of life and the development of children.

Since 1975, NCCAN has funded hundreds of research and demonstration projects addressing prevention, intervention, and treatment issues in child abuse and neglect. The topics over these 19 years have spanned the many and diverse interests of the field, the needs of public social service agencies, and the private sector, providing seed money for some efforts and platforms for others. Descriptions of these discretionary activities are available from The Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, D.C. 20013 (1–800–394–3366), hereafter referred to as the NCCAN Clearinghouse, in the following volumes: Compendium of Discretionary Grants: Fiscal Years 1975–1991 (April 1992); NCCAN Discretionary Grants: Profiles for Fiscal Year 1992 (June 1993); Profiles of Research and Demonstration Grants Addressing Issues of Child Neglect (June 1993); Profiles of Research Grants Funded by NCCAN: Fiscal Years 1988–1992 (March 1993); and Emergency Child Abuse and

Neglect Prevention Services Program (Fiscal Year 1991) (Revised April 1993).

In addition to projects funded under priority areas selected as a result of this announcement, NCCAN intends to continue funding for:

- The Clearinghouse on Child Abuse and Neglect Information;
- The National Information Clearinghouse for Infants With Disabilities and Life-Threatening Conditions;
- The National Child Abuse and Neglect Data System (NCANDS);
- The Consortium for Longitudinal Studies of Child Maltreatment;
- The National Data Archive on Child Abuse and Neglect; and
- The project "Measurement in Child Abuse and Neglect Research: An Update and Critical Review."

NCCAN is also actively pursuing Interagency Agreements to develop collaborative research and demonstration activities with members of the Inter-Agency Task Force on Child Abuse and Neglect.

More detailed information on these continuing projects supported by NCCAN as well as on other studies of child maltreatment are available through the NCCAN Clearinghouse.

Since the amount of Federal funds available for new grants in FY 1995 and 1996 is limited, respondents are encouraged to recommend how proposed issues should be prioritized.

The remainder of this document presents the proposed research and demonstration priorities; it is organized according to the following headings:

A. Proposed Research Priorities
   1. Family Preservation and Family Support for Targeted CAN Populations
   2. Model Development for Centers of Excellence in Research

B. Proposed Demonstration and Service Priorities
   1. Demonstration Models on Neglect
   2. Guardian ad Litem Model Demonstration

C. Working Groups
   1. Research Definitions
   2. Ethics, Confidentiality, Informed Consent, and Reporting

D. Symposia
   1. Domestic Violence and Child Abuse and Neglect
   2. Prevention

II. Proposed Child Abuse and Neglect Research and Demonstration Priorities for FY 1995 and 1996

A. Proposed Research Priorities

1. Research on Child Abuse and Neglect With a Focus on the Impact of Community-Based Family Support and Family Preservation Programs on Child Abuse and Neglect.

The research areas to be addressed in this priority are those that will expand the current knowledge base, build on prior research, contribute to practice, and provide insights into new approaches to the prevention of child maltreatment and preservation of families (i.e., physical abuse, sexual abuse, emotional maltreatment, or neglect) by family support and family preservation services as defined by the newly enacted Family Preservation and Family Support Services Program (Omnibus Budget Reconciliation Act of 1993, Subpart 2 of Title IV–B, the Child and Family Services Program of the Social Security Act). Congress has noted its interest in the outcomes and effectiveness of this legislation. For definitions of these services, see the legislation and Program Instructions. The Congressional intent of the legislative definition was further clarified in the Conference Committee Report.

Copies of the Family Preservation and Family Support legislation, Program Instruction, and additional information about family support and family preservation programs are available from the NCCAN Clearinghouse—Child Welfare Desk (1–800–394–3366). Copies are also available on the ACF electronic bulletin board system (1–800–627–8886).

States have reported to the National Child Abuse and Neglect Data System (NCANDS) that in 1992 their child protective service (CPS) agencies received and referred for investigation approximately 1.9 million reports involving approximately 2.9 million children who were the alleged victims of child abuse and neglect.

Over half of the reports were received from professionals in the community, including educators, social service professionals, health professionals, and representatives of law enforcement and justice agencies. Following investigations conducted by CPS agencies, nearly 1 million children, approximately 39 percent of those reported, were found to be substantiated or indicated victims of child maltreatment. Based on data from 37 States, it is estimated that approximately 18 percent of children who were the substantiated victims of maltreatment were removed from the home. Extrapolating this ratio to all States, it suggests that in 1992 an estimated 82 percent (800,000) substantiated victims of child maltreatment remained at home, where they may have received further services. These findings also suggest that, in 1992, 61 percent of those cases reported for child abuse and neglect are unsubstantiated and those children also remain in their homes. At this time, it is not known whether any follow-up, family preservation, or family support services are available for unsubstantiated cases to prevent the potential for future abuse and reporting.

Given this lack of knowledge about these families, NCCAN is particularly interested in four populations and four outcomes. The proposed research studies should examine one or more of the populations to examine service outcomes of family support and family preservation services. The first group consists of families who receive family support services, but have had no previous contact with child protective services, otherwise known as families who are not "in the system." The second group consists of families who have been referred to child protective services, whose cases were unsubstantiated or unfounded, but were found to need services, and were referred to family support programs. The third group consists of families who have been "in the system," whose child abuse or neglect cases were substantiated, who received family preservation or family support services, and whose cases are now closed. The fourth, and final, population would be those families whose child abuse or neglect cases have been substantiated, whose cases are "open," whose children have not been removed, and who are receiving family preservation services.

Outcomes of interest to NCCAN are: "case-finding" (families who have not been previously referred to CPS but, through participation in family support services, are discovered to be appropriate for reporting); the impact of family support and/or family preservation services on prevention; on recidivism; and on removal or non-removal of children. These four outcomes suggest a variety of research questions, as well as descriptive and/or experimental designs.

Applicants should plan and design the proposed studies in collaboration with State and/or local CPS/IV–B agencies as well as community-based organizations (CBO) providing family support services for a CPS/IV–B agency (e.g., Family Resource Center, Head

Start Center, non-custodial father program). Comments are also solicited regarding the suitability of denying consideration to applications that do not achieve and document this collaboration.

2. Model Development for Centers for Excellence in Research

NCCAN is interested in funding one or more multi-disciplinary Centers for Excellence in Child Abuse and Neglect Research. These Centers would be partnerships among university and State or community-based agencies that provide child welfare services, including mental health services. Special consideration will be given to locating at least one such Center at a historically black college or university. All proposals submitted for this priority must describe and defend the model proposed for the Center. The primary goal of these Centers is to foster collaboration, building on models used in medical research at the National Institutes of Health and the Preventive Intervention Research Center (PIRC) that successfully focused efforts on cancer and diabetes. Models are described below (for more details, see NRC, pp. 358–359). At this time, NCCAN does not endorse any particular model. Comments are solicited regarding the merits of requiring that models proposed under this announcement make provisions for multi-disciplinary research that include social work, law, nursing, medicine, psychology, sociology, social anthropology, and education and demonstrate respect for cultural diversity and provide opportunities and services with cultural sensitivity.

Since 1982, the National Institute of Mental Health (NIMH), has supported a number of Preventive Intervention Research Centers (PIRC). The PIRCs were developed, in part, as a response to several major problems faced similar to those currently being experienced by the field of child abuse and neglect. The goal of a PIRC is to provide a productive research environment where teams of investigators from a variety of disciplines interact and develop a program focused on the promotion of mental health and the prevention of mental and behavioral disorders and dysfunctions. Historically, the Centers provide support for a set of interrelated research projects and core or infrastructure functions. For more details about this model, see the NIMH Program Announcement PAR 94–038 (January, 1994).

The National Center for Injury Prevention and Control, of the Centers for Disease Control and Prevention (CDC), funds 10 *Injury Control Research Centers.* The Centers are multi-disciplinary and each is housed in a university. Each Center focuses on a unique aspect of injury control appropriate to its technical expertise and community setting. The Centers conduct applied research; provide opportunities for faculty development; provide training for community practitioners, other scientists, and students; provide technical assistance; disseminate findings and materials; and promote specific prevention initiatives relevant to their research findings and community needs.

Activities undertaken by the proposed Centers for Excellence in Research on Child Abuse and Neglect would include but not be limited to:

- Guidance and management of graduate and post-graduate Research and Medical Research Fellowships in Child Abuse and Neglect;
- Research opportunities for new researchers/career development (faculty);
- Support for the development of minority researchers;
- Training for professionals which replicates, adapts, and builds on the culturally relevant needs assessment and curriculum tools including, but not limited to, those developed under an NCCAN grant (#90–CA–1443) by the People of Color Leadership Institute (POCLI).

These products are available through the NCCAN Clearinghouse (1–800–394–3366); and

- Development and piloting of new methodologies and measures, or refinement of existing measures, for research and evaluation in child abuse and neglect. Development activities must include testing the validity and reliability of new and/or existing instruments with new populations and across cultures.

The themes for Centers for Excellence should include identification, prevention and treatment, with a special focus on, but not limited to, neglect, cultural sensitivity, disability, and training about child abuse and neglect.

B. Proposed Demonstration and Service Priorities

1. Demonstration Models on Neglect

The intent of this priority is to fund service models for the prevention of neglect. These models should make provision for both the early identification of families at risk of neglect and the identification of chronically neglectful families, and neglected children (in placements or reunified) who may be in need of special services.

Designing services for families that neglect children is a challenge. Both ecological and psychosocial factors influence the manifestation of neglect. The many differences and distinctions among neglectful families, including cultural distinctions, dictate a service model based on careful assessment of the family and services designed specifically for them.

The U.S. Advisory Board on Child Abuse and Neglect focuses on the ecological aspects. The Advisory Board's report, *Neighbors Helping Neighbors*, (1993), recommends several strategies for strengthening neighborhoods and improving the quality of support available to families within their own communities, as a national strategy for the protection of children. Their recommendations include: involving residents as participants, planners and managers of neighborhood services; the encouragement of foster grandparent programs; empowerment through home ownership; the implementation of prevention zones by public/private partnerships; and the funding of more family resource centers.

The importance of neighborhoods in combatting neglect is also emphasized in the *1994 Kids Count Data Book* (The Annie E. Casey Foundation, pp. 4–7).

The report issued by the National Research Council (NRC, 1993, pp. 50–52) also highlights the ecological aspects. The report suggests that "dysfunctional families are often part of a dysfunctional environment" (p. 50). Its recommendations for intervention programs include: home-based approaches (p. 264), impacts on socio-economic conditions (p. 134), and impacts on social isolation (p. 135).

Recent research focuses on the psychosocial foundations of neglect. DiLeonardi (1993), for example, reported that "family empowerment, the use of groups to develop social support networks, and the assistance of volunteers or paraprofessionals as home visitors or parent aides, appear to be beneficial" (p. 557) to prevent neglect among families reported for neglect. The study concluded that families were able to reverse their neglectful child-rearing patterns with this model of services.

Gaudin, Zuravin, and Polansky also found that family dynamics explains "a significant portion of the variance in quality of parenting/neglect" (Gaudin, 1993). Depression and substance abuse, for example, have been suggested as powerful forces in family dynamics and mediators of neglect.

In June of 1993, NCCAN sponsored a symposium on chronic neglect. The issues addressed included consensus

building on definitions, strategies for change through empowerment, research, treatment and policy topics. The *Proceedings* from this symposium will be available from the NCCAN Clearinghouse. A number of studies, referred to in the *Proceedings*, suggest that programs for neglectful families based on building interpersonal strengths, fostering individual empowerment, and ensuring the provision of basic human needs in a safe environment were most likely to improve parenting, self-esteem and coping ability among the neglectful population.

Recent work by the Kansas Cooperative Extension Service (Smith, C.A., Cudaback, D., Goddard, H.W., & Myers-Walls, J., 1994, *National Extension Parent Education Model*) may provide a useful guide for designing the parent education component of a comprehensive psycho-social model. Parent education can help parents in many ways including: learning to care for themselves, managing personal stress, managing family resources; providing children with developmentally appropriate opportunities and learning appropriate disciplinary techniques; maintaining developmentally appropriate expectations of children; improving communication skills, building social support systems; and learning to access community, social service, and family support resources.

Projects may either present innovative approaches or be replications of previously evaluated and promising models. Proposed models should build on previous research and NCCAN-sponsored Symposium findings and incorporate mental health, parenting education components and family support services. They should collect data on the costs and potential cost-benefits of providing the proposed services.

These projects may be based on one of two types of models described above: either the ecological, i.e., neighborhood model, or the psycho-social model. If a project chooses the ecological model, it must be aggressive in its outreach to the community; conversely, if a project chooses to follow the psycho-social model, it must include home-based/family support services, parenting education, and mental health services in its approach to addressing neglect.

NCCAN intends to fund up to ten demonstration projects on neglect (five in each model). Structurally, these projects are intended to function cooperatively as a cluster. Participation in a cluster affords the grantees the greatest opportunities to cooperate and collaborate. NCCAN will assist this cooperation by providing assistance through a technical assistance contract, encouraging meetings to develop use of common evaluation criteria, data elements, and measures to maximize comparability of evaluation findings. Evaluations will be required of each demonstration project. Priority will be given to those who provide evidence of a partnership between CPS/IV-B agencies which provide Family Preservation/Family Support services and community-based mental health/family resource centers.

2. Guardian ad Litem Model Demonstration

Since 1975, the Congress has required States to provide a guardian ad litem in every case of alleged child abuse or neglect that results in a judicial proceeding as a condition of eligibility for a grant under the Child Abuse Prevention and Treatment Act (CAPTA). Though there are enough attorneys in every jurisdiction to meet the needs of children for legal representation as attorneys or guardians ad litem (GAL), many States do not have funds to pay the attorneys, and most abused and neglected children and their parents are unable to afford attorneys' fees. As a result, in many locations, the juvenile court depends upon attorneys to represent children on a voluntary (*pro bono*) basis.

However, there are not enough attorneys who chose to provide free representation to children, especially since some proceedings are complicated and cases may last for 21 years. The Court-Appointed Special Advocate (CASA) movement developed in the 1980's and has spread throughout the nation to address these unmet needs. These well-trained volunteers help meet the need for representation of child clients. The impact on the outcomes for children of the GAL and CASA services is not known (NRC, p. 273).

In 1988, the Research, Demonstration and Evaluation Branch, Division of Program Evaluation, Administration on Children, Youth and Families conducted a study of the Guardian ad litem system. The report indicated that no single GAL model studied (Private Attorney, Staff Attorney, and CASA) was consistently superior to the others across five GAL roles (fact-finding and investigation, legal representation, negotiation/mediation, monitoring, and resource brokering). The findings also suggest that an optimal approach may be a "mixed model" and involve having a GAL who possesses, or has access to, the expertise and resources of attorneys, lay volunteers, and caseworkers to perform the broad range of functions and services contained in the definition of the child advocate (Final Report on the Validation and Effectiveness Study of Legal Representation through Guardian ad Litem, #105–89–1727).

The "mixed model" uses a combination of attorneys, volunteers, and/or trained staff members to perform the broad range of functions and services, resources and expertise, for child advocacy. The intent of this priority is for a demonstration project of this "mixed model" to explore, in greater detail, service delivery with this approach. If this "mixed model" is not currently in place, resources might be added on to an existing GAL representation model for this demonstration.

Based on four broad recommendations made in the report, the demonstration should design, justify, implement, and evaluate:

- A prototype for a formal, national system of GAL training, standards, and certification employed with a "mixed model" design;
- Recommendations for court-implemented formal terms of appointment, descriptions, and supervision of the GAL role with a "mixed model" design;
- Standards for caseload size that maximize effective and ethical representation within a "mixed model" design; and
- Estimations of the magnitude of resources required and costs of a "mixed model" design with selected cases. Applicants must establish working relationships with the appropriate local juvenile court system and child welfare agency and demonstrate cognizance of the positions and activities of national organizations (e.g., the National Association of the Counsel for Children, the National Court Appointed Special Advocates Association, and the ABA Center on Children and the Law).

C. Working Groups

The NCCAN proposes to establish two working groups during FY 1995 and/or 1996. The working groups would be composed of less than ten experts, chosen by the Commissioner in consultation with NCCAN and the field, and less than 6 Federal representatives representing those stakeholder agencies participating in the Inter-Agency Task Force on Child Abuse and Neglect and the Interagency Research Committee. The working groups would meet several times over the course of a year in person and by telephone conference calls, with technical assistance provided through a contractor, to plan symposia (for the

following fiscal year), identify appropriate "next steps," and produce one or several working papers on selected topics. Two topics are proposed here.

• Research Definitions: Creating Consensus for Research Purposes.

Researchers acknowledge, and the NRC report confirms, that the quality of information available to us for improving practice and informing policy about child abuse and neglect is hampered by the lack of agreement in current research definitions of abuse, neglect, intensity, and other characteristics of maltreatment. NCCAN will be providing assistance to the field by sponsoring and co-sponsoring efforts to standardize definitions of data collection categories and measurable attributes common to maltreatment participants and situations. Considerable collaboration through the Interagency Task Force on Child Abuse and Neglect, Interagency Research Committee is being pursued. Potential products of these activities include working paper(s) of standard data terms, behavior-driven operational definitions and parameters. (For additional information on this topic, see the NRC report, pp. 62–63.)

• Ethics, Confidentiality, Informed Consent, and Reporting: Issues for the Research Community.

Researchers struggle alone or in small groups with the ramifications of the research process. Some are unclear about their obligations to report disclosures of abuse or neglect in research situations. Researchers also are of varied opinions about:

• Inquiring directly of young children about abuse and neglect;

• Reporting families to systems where services are unavailable or may be punitive; and

• Providing treatment services within their projects designed for research.

With a working group, NCCAN intends to provide assistance to the field in cooperation with the Inter-Agency Task Force by providing a forum for the development of consensus on ethical issues as recommended in the NRC report. (For details, see NRC, "Ethical and Legal Issues in Child Maltreatment Research," pp. 324–336.) Background papers could include working papers on legal ethical issues, treatment issues, and reporting issues. Products could include: policy recommendations for Institutional Review Boards (IRBs), policy guidelines for grantees and others conducting research in child abuse and neglect, and (pending the cooperation of a professional association or journal) a summary monograph or special journal issue publication. Coordination with the NCCAN Clearinghouse project on State statutes would be required.

D. Symposia

In addition to the above activities, NCCAN proposes to convene symposia in FY 1995 and 1996 with selected experts on subject areas of critical concern to the field of child abuse and neglect. The selection of topics for the symposia will focus on issues in which some research and demonstration efforts have occurred but for which there may be no synchronized or congruous direction.

The purpose of each symposium is to review what is known to the field, but needs further exploration, and to identify areas about which little is known and which require closer examination. The symposia should result in recommendations for multi-year strategies for further exploring some topics and for identifying new areas for examination.

Comments are requested on the following symposia topics which NCCAN proposes to address in FY 1995 or 1996:

• Domestic Violence and Child Abuse and Neglect

Studies of domestic violence indicate that child abuse and neglect frequently occur within families where there is violence between the adults (Strauss, Gelles and Steinmetz, 1980; Walker, 1985; Stark and Flitcraft, 1985, 1988; Bowker, 1988; McCloskey and Koss, 1992). There is also a growing awareness that children who witness physical violence between their parents are at risk of emotional abuse and neglect (Rosenbaum and O'Leary, 1981; Goodman and Rosenberg, 1987; Crites and Coker, 1988).

In the 1980's NCCAN supported demonstration projects to provide services to children whose mothers are in domestic violence shelters, to train clinicians to identify both domestic violence and child abuse in families in a hospital setting, to prevent both domestic violence and child abuse. NCCAN also supported a research project on psychiatric and behavioral consequences for children of battered women during this period.

Programs that train child welfare practitioners in the clinical issues of domestic violence or vice versa, and programs that link domestic violence shelters and child welfare agencies have been created in a number of communities.

In 1993, NCCAN planned the Tenth National Conference on Child Abuse and Neglect in conjunction with the First National Family Violence Conference so that participants could attend both conferences during the same week. Moreover, each conference contained presentations about the relationship between family violence and child abuse and neglect. In June 1994, the Ford Foundation funded a meeting on "Domestic Violence and Child Welfare: Integrating Policy and Practice for Families" at the Wingspread Center, Racine Wisconsin. The meeting identified existing and potential projects and initiatives that integrate domestic violence and family preservation clinical issues, and that integrate an awareness of domestic violence concerns into child protective services programs and policies.

In collaboration with the Family Violence Prevention and Services Program in the Office of Community Services, NCCAN proposes to conduct one or more working meetings with national experts to build upon the work of the June 1994 meeting and previous programmatic efforts. The goals of the meeting(s) are to identify and refine further programmatic initiatives and policy directions that promote the safety and well-being of all family members.

• Prevention

In 1991, NCCAN sponsored a national child maltreatment prevention symposium. The Proceedings of that meeting (DePanfilis and Birch, Eds.) are available through the NCCAN Clearinghouse (1–800–394–3366). More than 100 invited participants, researchers and practitioners, took part in five separate work groups. Each considered what had been done to prevent child maltreatment, identified successful efforts, and examined the factors that lead to success in each of five areas: preventing sexual abuse, preventing maltreatment in substance abusing families, preventing neglect, changing public attitudes, examining the effects of neighborhood environments, and improving parenting in high-risk families.

The symposium participants made 18 recommendations for future research which helped shape subsequent priority area announcements, meeting agenda, and policy. NCCAN believes that, at the 5-year mark another symposium would be beneficial.

In addition to the topics cited above, practitioners and researchers are encouraged to propose other relevant subjects for symposia deliberations.

(Catalog of Federal Domestic Assistance Program Number 93.670, Child Abuse and Neglect Prevention and Treatment)

Dated: October 17, 1994.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 94–26356 Filed 10–24–94; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 94N–0202]

SmithKline Beecham Animal Health, et al.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three new animal drug applications (NADA's) and those portions of a fourth NADA providing for the use of nitrofurazone solution drug products. This action is being taken at the written request of the sponsors. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing the entries which reflect approval of the NADA's.

EFFECTIVE DATE: November 3, 1994.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0749.

SUPPLEMENTARY INFORMATION: FDA is withdrawing approval of three NADA's and those portions of a fourth NADA (6–475) providing for the use of nitrofurazone solution drug products. The NADA's are:

Sponsor	NADA No.
SmithKline Beecham Animal Health, 1600 Paoli Pike, West Chester, PA 19380	6–475
Veterinary Laboratories, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215	121–559
Fermenta Animal Health Co., 10150 North Executive Hills Blvd., Kansas City, MO 64153	126–023
Med-Pharmex, Inc., Biomed Laboratories, 325 East Arrow Hwy., San Dimas, CA 91773	126–950

The NADA's provide for over-the-counter use of 0.2 percent nitrofurazone solution on dogs, cats, and horses for prevention or treatment of topical bacterial infections, and prescription use for female equine genital tract infections and impaired fertility due to strains of certain bacteria.

One of the requirements of the Federal Food, Drug, and Cosmetic Act for receiving approval of a new animal drug is that the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice (21 U.S.C. 360b (c)(2)). New information has established that the labeled directions for use of the nitrofurazone solution products have not been followed in practice. When FDA informed the products' sponsors of this situation, they requested voluntary withdrawal of approval of their applications. By so doing they have waived their right to a hearing.

The withdrawals of approval are effective November 3, 1994. All manufacturing of the products must cease on this date. FDA, however, will exercise its enforcement discretion and will not take regulatory action, based on lack of approval, against the subject products if distributed from sponsor-owned facilities through December 31, 1994, and used before their expiration date.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 121–559, 126–023, and 126–950 and those portions of NADA 6–475 providing for the use of nitrofurazone solution drug products and all supplements and amendments thereto is hereby withdrawn, effective November 3, 1994. This withdrawal of approval does not affect the nitrofurazone-containing ointment and soluble powder products covered by NADA 6–475.

In a final rule published elsewhere in the issue of the **Federal Register**, FDA is removing and reserving § 524.1580d which reflects the approval of the NADA's.

Dated: September 21, 1994.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 94–26377 Filed 10–24–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National Cholesterol Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on Tuesday, December 6, 1994, from 9:00 a.m. to 3:00 p.m., at the Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland, 20814, (301) 652–2000.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Cholesterol Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: James I. Cleeman, M.D., Coordinator, National Cholesterol Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, 31 Center MSC 2480, Bethesda, Maryland 20892–2480, (301) 496–0554.

Dated: October 14, 1994.

Claude Lenfant,

Director, NHLBI.

[FR Doc. 94–26338 Filed 10–24–94; 8:45 am]

BILLING CODE 4140–01–P

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National Asthma Education and Prevention Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on Monday, November 21, 1994, from 9:00 a.m. to 3:00 p.m., at the Pooks Hill Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland, 20814, (301) 897–9400.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Asthma Education and Prevention Program. Attendance by the public will be limited to space available.

For detailed program information, agenda, list of participants, and meeting summary, contact: Mr. Robinson Fulwood, Coordinator, National Asthma Education and Prevention Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, 31 Center Drive, MSC 2480,

Bethesda, Maryland 20892–2480, (301) 496–1051.

Dated: October 14, 1994.

Claude Lenfant,

Director, NHLBI.

[FR Doc. 94–26339 Filed 10–24–94; 8:45 am]

BILLING CODE 4140–01–P

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on Friday, November 4, 1994, from 8:30 a.m. to 1:00 p.m. The meeting will be held at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814, (301) 897–9400.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: Dr. Edward J. Roccella, Coordinator, National High Blood Pressure Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, 31 Center Drive, MSC 2480, Bethesda, Maryland 20892–2480, (301) 496–0554.

Dated: October 14, 1994.

Claude Lenfant,

Director, NHLBI.

[FR Doc. 94–26340 Filed 10–24–94; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–94–3828]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments must be received within thirty (30) days from the date of this notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 17, 1994.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Assistance Response to the Northridge Earthquake: Low-Income Household Surveys.

Office: Policy Development and Research.

Description of the need for the information and its proposed use: These surveys will assess the effectiveness of the Federal government's emergency housing assistance to low-income households. The surveys will also determine how to provide guidance to future disaster policy, program adaption, and needed cooperative governmental operations.

Form number: None.

Respondents: Individuals or Households.

Frequency of submission: Annually.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Surveys	2,792		1.4		.52		2,005

Total estimated burden hours: 2,005.

Status: New.

Contact: Garland E. Allen, HUD, (202) 708–3700; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: October 17, 1994.

Proposal: Technical Suitability of Product Program, Section 521 of the National Housing Act.

Office: Housing.

Description of the need for the information and its proposed use: This information is needed under HUD's Technical Suitability of Products Program to determine the acceptance of materials and products to be used in structures approved for mortgages insured under the National Housing Act. The respondents are the product manufacturers seeking acceptance.

Form number: None.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	50		1		41		2,050
Recordkeeping	50		1		3		150

Total estimated burden hours: 2,200.
Status: Extension, no changes.
Contact: Donald R. Fairman, HUD, (202) 708–7440; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 18, 1994.

Proposal: Periodical Estimate for Partial Payment and Related Schedules.
Office: Public and Indian Housing.

Description of the need for the information and its proposed use: The Periodical Estimate for Partial Payment and related schedules are submitted monthly to the public housing agency (PHA) by a general contractor. The forms are used to establish the amount due on the project from a PHA for work completed during the current month.

Form Number: HUD–51001, 51002, 51003, and 51004.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of submission: Monthly and Recordkeeping.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–51001	12		145		3.5		6,090
HUD–51002	10		145		1		1,450
HUD–51003	36		145		1.5		7,830
HUD–51004	12		145		2.5		4,350
Recordkeeping	1,740		1		.25		435

Total estimated burden hours: 20,155.
Status: Reinstatement, no changes.
Contact: William C. Thorson, HUD, (202) 708–4703; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: October 18, 1994.

[FR Doc. 94–26455 Filed 10–24–94; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–920–95–1320–01; COC 57187]

Colorado; Notice of Invitation, Additional Lands for Coal Exploration License Application, Cyprus Empire Corporation

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Cyprus Empire Corporation in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Moffat County, Colorado. This notice contains lands which are an addition to the previous Notice of Invitation published in the Northwest Colorado Daily Press on September 22 and 29, 1994.

T. 6 N., R. 91 W., 6th P.M.
Sec. 6, lots 16 to 19, inclusive;
Sec. 7, lots 5 to 16, inclusive;
Sec. 8, lots 1 to 8, inclusive, lots 13 to 16, inclusive;
Sec. 17, lot 1 to 3, inclusive, lots 5 to 8, inclusive;
Sec. 18, lots 5 to 12, inclusive, lots 14, 15, and 18;
Sec. 30, lot 8.
T. 6 N., R. 92 W., 6th P.M.
Sec. 1, lots 5 to 8, inclusive, S½N½, and S½S½;
Sec. 2, lots 5 to 8, inclusive S½N½, and S½S½;
Sec. 3, lots 5 to 8, inclusive, S½N½, and N½S½;
Sec. 8, S½N½, and S½;
Sec. 9, S½NW¼, and SW¼;
Sec. 10, all;
Sec. 11, N½, and N½S½;
Sec. 12, S½NE¼, E½NW¼, N½S½, and SW¼SE¼;
Sec. 13, N½, W½SW¼, and SE¼;
Sec. 14, W½E½, SE¼NE¼, NW¼, W½SW¼, SE¼SW¼, and E½SE¼;
Sec. 15, all;
Sec. 17, NE¼NE¼, and N½SE¼NE¼;
Sec. 23, W½E½, and W½;
Sec. 24, W½NE¼, S½NW¼, and S½;
Sec. 25, lots 1, 2, and N½;
Sec. 26, N½, SW¼, and N½SE¼.
T. 7 N., R. 92 W., 6th P.M.
Sec. 34, lot 3, S½S½, and N½SE¼;
Sec. 35, S½S½.

The area described contains approximately 9,763.66 acres.

The additional lands for application for coal exploration license are available for public review during normal business hours under serial number COC 57187 at the Bureau of Land Management (BLM), Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the Craig District Office, 455 Emerson Street, Craig, Colorado 81625.

Written Notice of Intent to Participate should be addressed to the attention of the following persons and must be received by them within 30 days after publication of the Notice of Invitation in the **Federal Register**.

James E. Edwards, Jr., Management Team, Resource Services, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215
and
Marcus Middleton, Environmental Engineer, Cyprus Empire Corporation, P.O. Box 68, Craig, Colorado 81626.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate.

Dated: October 19, 1994.

James E. Edwards, Jr.,
Management Team Resource Services.

[FR Doc. 94–26373 Filed 10–24–94; 8:45 am]
BILLING CODE 4310–JB–M

[ES–020–05–1610–00]

Proposed Florida Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM), Eastern States, Jackson District, announces the availability of the Proposed Florida Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS). This document, prepared in accordance with section 202 of the Federal Land Policy and Management

Act of 1976 and section 202(c) of the National Environmental Policy Act of 1969, analyzes alternatives for managing BLM-administered public lands throughout the State of Florida. Reading copies will be available at the following public libraries:

Lykes Memorial Library, 238 Howell Avenue, Brooksville, FL
Staffordene Foggia Library, 6335 Blackbird Avenue, Brooksville, FL
State Library of Florida, Documents Section, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, FL
Walton—De Funiak Library, 100 Circle Drive, De Funiak Springs, FL
West Florida Regional Library, 200 West Gregory Street, Pensacola, FL
Palm Beach County Public Library, Reference Section, 3650 Summit Blvd., West Palm Beach, FL

Copies will be available from the Jackson District, 411 Briarwood Drive, Suite 404, Jackson, MS 39206, phone (601) 977–5400. Public reading copies will be available for review at the following BLM locations:

Office of External Affairs, Main Interior Building, 18th and C Streets, NW., Washington DC 20240
Office of External Affairs, Eastern States, 7450 Boston Blvd., Springfield, VA 22153

DATE: A protest period on the PRMP will end 30 days following notification of availability of the PRMP/FEIS by the Environmental Protection Agency in the **Federal Register**.

ADDRESS: Protests should be sent to: Director (760), Bureau of Land Management, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Duane Winters, RMP Team Leader, Jackson District, (601) 977–5400.

SUPPLEMENTARY INFORMATION: The PRMP/FEIS presents and analyzes alternatives for managing BLM-administered public lands throughout the State of Florida. These lands include approximately 395,000 acres of split-estate federal mineral ownership (where federal ownership is limited to mineral interests and the surface estate is owned by either the State of Florida or private interests) and several hundred acres of public land, comprised of small tracts, located in seven counties throughout the State.

Under the PRMP, federally-owned minerals underlying state-owned lands would be available to the State of Florida in exchange for lands identified for acquisition by the U.S. Department of the Interior and/or the U.S. Forest Service.

A portion (approximately 60 acres) of the Jupiter Inlet tract, located in Palm Beach County, is proposed to be designated an Area of Critical Environmental Concern (ACEC). The ACEC would be managed to maintain a viable scrub vegetation community and improve habitat conditions for Florida scrub jay, gopher tortoise, and other endemic scrub species, and to interpret natural and cultural resources to provide recreation opportunities. Motorized vehicle use would be limited to designated routes. The ACEC would be withdrawn from entry under the 1872 mining law, closed to mineral material sales and mineral lease, and would be an avoidance area for rights-of-way. The ACEC would be available for cooperative management with other government agencies and/or private organizations, or for conveyance under the Recreation and Public Purposes Act, provided that the proposed use would follow the stated management objectives and land-use allocations.

The Cape San Blas tract, located in Gulf County, is also proposed for ACEC designation. The tract would be managed to protect the coastal dune habitat. The tract would be closed to motorized vehicle use, would be classified as an avoidance area for rights-of-way, would be withdrawn from entry under the 1872 mining law, and closed to mineral material sales and lease of solid minerals. Oil and gas leasing would be subject to a no surface occupancy stipulation. The tract would be available for cooperative management with other government agencies and/or private organizations, or for conveyance under the Recreation and Public Purposes Act, provided that the proposed use would follow the stated management objectives and land-use allocations.

A tract of public land adjacent to the Peace River was evaluated to determine if it was eligible to be studied for possible inclusion in the National Wild and Scenic River System. It was determined that it was ineligible for further study because it would be unmanageable due to the lack of other public lands adjacent to the river. The 37-acre tract of BLM-administered land adjacent to the river comprises only one percent of the land area within a corridor of one-quarter mile on either side of the River for the nine-mile segment evaluated. The remaining acres in the corridor are predominantly under private ownership and are used for agricultural and ranchland purposes.

Dated: October 19, 1994.

Robert V. Abbey,

District Manager.

[FR Doc. 94–26375 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–GJ–M

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for Spectacled Eiders for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for spectacled eiders (*Somateria fischeri*). The species occurs in arctic and sub-arctic regions of western and northern Alaska and along the arctic coast of Russia. The Service is proposing emphasis on recovery actions in these geographic areas. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before February 23, 1995 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Teresa Woods at 1011 E. Tudor Rd., Anchorage, Alaska, 99503–6199 and 907/786–3505. Written comments and materials regarding the plan should be addressed to Teresa Woods at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Teresa Woods at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in

1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The spectacled eider is a large-bodied sea duck and one of three species in the genus *Somateria*. Spectacled eiders historically nested discontinuously along the west coast of Alaska from Nushagak Peninsula north to Barrow and east nearly to the Yukon Territory border (Bailey 1948; Dau and Kistchinski 1977; Derksen et al. 1981; Johnson and Herter 1989; Warnock and Troy 1993). They also have nested on St. Lawrence Island, Alaska, in the Bering Sea (Fay 1961). Along the arctic coast of Russia, spectacled eiders nest from the north side of the Chukotsk Peninsula west to the Lena River Delta and Novosibirski Islands (Buturlin 1910; Dementev and Gladkov 1952; Portenko 1972). Today, primary nesting grounds are the Yukon-Kuskokwim Delta and north central arctic coast (Cape Simpson to the Sagavanirktok River, hereafter referred to as the North Slope) of Alaska and the Chaun Gulf and Kolyma, Indigirka and Yana river deltas in Russia.

The Service estimates that the number of nesting spectacled eiders on the Yukon-Kuskokwim Delta has rapidly and continuously declined by over 96 percent in the past 20 years (Stehn et al. 1993; Warnock and Troy 1993; Ely et al., in press). Information from researchers in the Prudhoe Bay, Alaska, oilfields (Warnock and Troy 1993) and Native elders at Wainwright (R. Suydam, pers. comm.) suggest local population declines on the North Slope. No data are available for examining overall trends on the North Slope or in Arctic Russia.

The Service responded to a December 1990 petition to list the spectacled eider as endangered. After review of the best available commercial and scientific data the species was designated as threatened on May 10, 1993 (FR 58(88):24474–27480). The primary reason for listing spectacled eiders was their rapid and continuing decline on the Yukon-Kuskokwim Delta breeding grounds, and indications that they may have declined on Alaska's North Slope, as well. Other factors that contributed to the Service's concern for the species' status were varying impacts due to human activities and population growth.

Causes of this species' dramatic decline, as well as the identification and determination of relative importance of current obstacles to recovery, have yet to be determined. Several current and historical causes of mortality have been identified; they are predation by fox and gulls, subsistence and sport harvest, egg and scientific collecting, and environmental contamination. Other causes of mortality are suspected, such as collisions with commercial fishing vessels, changes in the food web, global climatic changes, competition from other marine species, and diseases and parasites.

Basic natural history information to elucidate the causes for decline and obstacles for recovery is lacking. Information about the distribution and abundance of spectacled eiders throughout the year is fragmentary, as is our understanding of the demography and population dynamics of this species. Whether the nesting populations of spectacled eiders in the three primary geographic areas are genetically or demographically distinct is unknown, yet specific recovery actions and priorities may hinge on such a determination.

In light of these significant data gaps, an exhaustive list of tasks required to achieve recovery cannot yet be presented. Instead, interim recovery efforts that proceed simultaneously along three fronts—preliminary management actions to eliminate known sources of mortality; exploratory data collection and analysis; and hypothesis-testing regarding the causes of the species' decline and obstacles to its recovery—are recommended. Over the next several years, recovery efforts should focus on the following topics:

(1) Through meaningful participation, involve Native Alaskans living within the historical range of the species in recovery and management efforts;

(2) Increase efforts to reduce mortality;

(3) Quantify and monitor existing breeding populations;

(4) Determine molting, migration, and wintering areas and habitats;

(5) Conduct research on the demography and biology of the species and develop demographic models; and

(6) Attempt to determine causes for the species' decline and obstacles to its recovery.

The geographic areas of emphasis for these recovery efforts are the Yukon-Kuskokwim Delta, the North Slope, and to a lesser degree St. Lawrence Island, and Seward Peninsula, Alaska, and Arctic Russia.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

References Cited

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Johnson, S.R. and D.R. Herter. 1989. The birds of the Beaufort Sea. BP Exploration (Alaska) Inc., Anchorage, AK. 372 p.

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Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 14, 1994.

David B. Allen,

Acting Regional Director, Region 7, Fish and Wildlife Service.

[FR Doc. 94–26413 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–55–P

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 15, 1994. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 9, 1994.

Antoinette J. Lee,

Acting, Chief of Registration, National Register.

CALIFORNIA

Los Angeles County

Bonnie Court (Bungalow Courts in Pasadena TR), 140 S. Bonnie Ave., Pasadena, 94001325

Court at 1274—1282 North Raymond Avenue (Bungalow Courts in Pasadena TR), 1274—1282 N. Raymond Ave., Pasadena, 94001315

Court at 275 North Chester Avenue (Bungalow Courts in Pasadena TR), 275 N. Chester Ave., Pasadena, 94001324

Court at 533—549 North Lincoln Avenue (Bungalow Courts in Pasadena TR), 533—549 N. Lincoln Ave., Pasadena, 94001320

Court at 638—650 North Mar Vista Avenue (Bungalow Courts in Pasadena TR), 638—650 N. Mar Vista Ave., Pasadena, 94001319

Court at 940—948 North Raymond Avenue (Bungalow Courts in Pasadena TR), 940—948 N. Raymond Ave., Pasadena, 94001317

Harnetiaux Court (Bungalow Courts in Pasadena TR), 48 N. Catalina Ave., Pasadena, 94001321

Kosy Knook Court (Bungalow Courts in Pasadena TR), 830 Brooks Ave., Pasadena, 94001322

Mary Louise Court (Bungalow Courts in Pasadena TR), 583—599 N. Mentor Ave., Pasadena, 94001318

Mentor Court (Bungalow Courts in Pasadena TR), 937 E. California Blvd., Pasadena, 94001323

Washington Court (Bungalow Courts in Pasadena TR), 475 E. Washington Blvd., Pasadena, 94001316

FLORIDA

Sarasota County

Valencia Hotel and Arcade (Venice MPS), 229 W. Venice Ave., Venice, 94001303

GUAM

Guam County

Cruz Water Catchment (Water Catchments MPS), .01 mi. S of Guam 9, SE of Pott's Junction, (Agafa Gumas) Yigo, 94001310

Guzman Water Catchman (Water Catchments MPS), 0.25 mi. S of GU 8 and 0.25 E of GU 10, (Nalao) Barrigada, 94001312

Torre Water Catchment (Water Catchments MPS), Hatsuho Golf Course, Yigo (Piga), 94001311

MAINE

Aroostook County

Sunset Lodge, .5 mi. S of ME 161, on Madawaska Lake, eastern shore, Stockholm vicinity, 94001304

MISSISSIPPI

Coahoma County

Prairie Plantation House, 1545 Old River Rd., Clarksdale vicinity, 94001305

Copiah County

Huber, Charles Morris, House, 199 N. Jackson St., Crystal Springs, 94001306

Holmes County

Holmes County Courthouse Complex, Court Sq., Lexington, 94001301

Jefferson Davis County

Jefferson Davis County Courthouse, Jct. of N. Columbia Ave. and Third St., Prentiss, 94001308

Jones County

Jones County Courthouse and Confederate Monument at Ellisville, Bounded by Court, Holly, Calhoun and Ivy Sts., Ellisville, 94001307

Walthall County

Walthall County Courthouse and Jail, 200 Ball Ave., Tylertown, 94001302

TEXAS

Donley County

Clarendon Motor Company Building, 221 S. Sully St., Clarendon, 94001309

[FR Doc. 94–26423 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Clark County Wetlands Park Master Plan, East Las Vegas, NV

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement and notice of scoping meeting for Clark County Wetlands Park Master Plan.

SUMMARY: Clark County Departments of Comprehensive Planning and Parks and Recreation propose to develop a desert wetlands park in Las Vegas Wash, between the Sam Boyd Stadium and Lake Las Vegas, east of the City of Las Vegas, Nevada. A portion of the park would be on Bureau of Reclamation (Reclamation) land. Reclamation proposes to prepare a draft environmental impact statement (EIS) to address the impacts associated with construction and operation of the park. A scoping meeting is planned to provide information and receive oral comments from interested parties.

DATE AND ADDRESS: Scoping meeting, November 9, 1994, 7 p.m., Las Vegas Natural History Museum, 900 Las Vegas Boulevard North, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be addressed to Del Kidd, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470, Boulder City, NV 89006–1470, telephone: (702) 293–8698.

SUPPLEMENTARY INFORMATION: Since 1970, 470 acres of wetlands in Las Vegas Wash have been lost to erosion, and hundreds of thousands of tons of eroded material deposited downstream in Lake Mead. Las Vegas Wash is a unique desert wetland with important recreation and conservation potential. Four alternative plans have been developed in a Wetlands Park Master Plan being prepared by the Clark County Departments of Comprehensive Planning and Parks and Recreation. These alternatives, plus a no action alternative, will be evaluated in the EIS. All action alternatives include approximately 15 erosion control structures in Las Vegas Wash, as well as extensive wetlands enhancement. Each alternative focuses on a concept of intensity and type of park use: conservation, recreation, full development, and a balance of the three. The draft EIS is expected to be available for public review and comment by the middle of 1995.

Public workshops with agency representatives and interested parties have been held on the Master Plan to ensure that the park components are appropriate to the community and the environment. Future public meetings will include an EIS scoping meeting and a public hearing to ensure that a full range of all issues related to the proposed action are identified and addressed.

Dated: October 19, 1994.

Lawrence F. Hancock,

Regional Director, Lower Colorado Region.

[FR Doc. 94–26367 Filed 10–24–94; 8:45 am]

BILLING CODE 4310–94–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–52 (Sub-No. 79X)]

The Atchison, Topeka & Santa Fe Railway Co.— Abandonment Exemption—in Atchison County, KS

The Atchison, Topeka & Santa Fe Railway Company (Santa Fe) has filed a notice of exemption under 49 CFR 1152

Subpart F—*Exempt Abandonments* to abandon a 4.6-mile segment of its Atchison Subdivision between milepost 2.00 at or near Parnell and milepost 6.60 at or near Atchison, in Atchison County, KS.

Santa Fe 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 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of 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 November 24, 1994,[1] 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 statements under 49 CFR 1152.29 must be filed by November 4, 1994.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 14, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Dennis W. Wilson, The Atchison, Topeka & Santa Fe Railway Company, 1700 East Golf Road, Schaumburg, IL 60173.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 28, 1994. 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 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: October 18, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26398 Filed 10–24–94; 8:45 am]

BILLING CODE 7035–01–P

[1] While applicent filed its verified notice on September 30, 1994 and therefore seeks to consummate this abandonment on November 19, 1994, newspaper publication did not occur until October 5, 1994. Accordingly, consummation cannot occur until November 24, 1994, at the eerliest.

[2] A stey will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by e party or by the Commission's Section of Environmentel Anelysis in its independent investigation) cennot be made prior to 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 encoureged to file its request es soon es possible in order to permit the Commission to review and ect 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 e late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB–290 (Sub-No. 147X)]

Norfolk Southern Railway Company—Abandonment Exemption—at Hilltop (Martinsville), VA

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 5.5 miles of rail line between milepost 36.1–DW and milepost 41.6–DW at Hilltop (Martinsville), VA.

NS 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 use of 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 November 24, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by November 4, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 14, 1994, 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: James R. Paschall, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA)

[1] A stey 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 Energy end Environment in its independent investigation) cannot be made prior to 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 this Commission to review and act on the request before the effective dete of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept e late-filed trail use request es long as it retains jurisdiction to do so.

by October 28, 1994. 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: September 14, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–25996 Filed 10–24–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Meetings and Agenda

The Fall meetings of committees of the Labor Research Advisory Council will be held on November 15 and 16. All of the meetings will be held in the Conference Center of the Postal Square Building (PSB), 2 Massachusetts Avenue, NE., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, November 15, 1994

9:30 a.m.—Committee on Wages and Industrial Relations Meeting Room 1

1. Report on current activities
2. Report on the Academic Conference on Employee Benefits Survey/ Employment Cost Index (EBS/ECI) Integration
3. New union/nonunion data from the Employee Benefits Survey
4. New Cost Level data from the Employment Cost Index

1:00 p.m.—Committee on Productivity, Technology and Growth—Meeting Room 1

1. Brief report on recent developments in productivity office
2. Report on Federal Productivity Measurement Program
3. Update on good jobs/bad jobs analysis
4. Other business

Committee on Foreign Labor Statistics Meeting Room 1

1. BLS efforts to develop statistical comparisons between the U.S. and newly industrializing countries.

Wednesday, November 16, 1994

9:30 a.m.—Committee on Employment and Unemployment Statistics—Meeting Room 1

1. Status of FY 1995 Budget
2. Reports:
   a. National Longitudinal Survey: Plans for expansion
   b. Mass layoff statistics: A new beginning
   c. Wage records: A promising future data source
   d. Occupational classification revision
3. Discussion:
   a. Components of a comprehensive labor market information system

1:00 p.m.—Committee on Prices and Living Conditions Meeting Room 1

1. The Consumer Price Index (CPI) and the CPI Revision
2. The Producer Price Indexes Program
3. Other business

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on (Area Code 202) 606–5970.

Signed at Washington, DC., this 17th day of October 1994.

Katharine G. Abraham,

Commissioner.

[FR Doc. 94–26411 Filed 10–24–94; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the purpose of employing nonimmigrant alien nurses. A decision has been made on these organizations' attestations and they are on file with DOL.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process: Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–219–5263 (this is not a toll-free number).

Regarding the Complaint Process: Questions regarding the complaint process for the H–1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Parts 655, Subpart D, and 29 CFR Part 504, (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have

requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, D.C., this 13th day of October, 1994.

John M. Robinson,

Deputy Assistant Secretary, Employment and Training Administration.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS

[Form ETA–9029]

CEO—Name/Facility Name/Address	State	Action date
ETA Region 1 08/29/94 to 09/04/94		
Joan P. Lyke, Atrium Plaza Health Care Ctr, Inc., 240 Winthrop Ave, New Haven, CT 06511, 203–789–0500 ETA Control Number—1/214266 Action—Accepted	CT	08/29/94
Eleanor B. Baird, Candlewood Valley Care Center, 30 Park Lane East, New Milford, CT 06776–9998, 203–355–0971. ETA Control Number—1/214262 Action—Accepted	CT	08/29/94
Kenneth Kallen, New London Convalescent Home, 88 Clark Lane, Waterford, CT 06385, 203–442–0471 ETA Control Number—1/214300 Action—Accepted	CT	08/29/94
Joseph Barrick, Riverdale Gardens Inc., 42 Prospect Avenue, West Springfield, MA 01089, 413–733–3151 ETA Control Number—1/214264 Action—Accepted	MA	08/29/94
Richard P. Blinn, Greenbriar Terrace Healthcare, 55 Harris, Rd., Nashua, NH 03062, 608–888–1573 ETA Control Number—1/214326 Action—Accepted	NH	08/30/94
Karen E. Marsh, New Community Extended Care, 266 South Orange Avenue, Newark, NJ 07103, 201–624–2020 ... ETA Control Number—1/214325 Action—Accepted	NJ	08/30/94
ETA Region 1 09/19/94 to 09/25/94		
Kim Czepiga, Saint Regis Health Center, 1354 Chapel Street, New Haven, CT 06511, 203–867–8300 ETA Control Number—1/214564 Action—Accepted	CT	09/22/94
Richard P. Blinn, Brittany Convalescent Home, 168 West Central St., Natick, MA 01760, 508–655–1000 ETA Control Number—1/214749 Action—Accepted	MA	09/22/94
Richard P. Blinn, Presentation Manor Nursing Home, 10 Bellamy St., Brighton, MA 02135, 861–7000 ETA Control Number—1/214695 Action—Accepted	MA	09/22/94
Nadine Sibilia, Eastern Shore Nursing & Rehab. Ctr., 1419 Route 9, North Cape May Court House, NJ 08210, 609–465–2260. ETA Control Number—1/214748 Action—Accepted	NJ	09/22/94
Dolores Turco, Lincoln Park Nursing Center, 499–521 Pine Brook Road, Lincoln Park, NJ 07035–1804, 201–696–3300. ETA Control Number—1/214532 Action—Accepted	NJ	09/22/94
Leticia Matias, Caton Park Nursing Home, 1312 Caton Ave., Brooklyn NY 11226, 718–693–7000 ETA Control Number—1/214806 Action—Accepted	NY	09/23/94
Eugene G. Battenfeld, Fieldston Lodge Nursing Home, 666 Kappock Street, Bronx, NY 10463, 718–549–1203 ETA Control Number—1/214805 Action—Accepted	NY	09/23/94
Sheila Blutstein, Kings Highway Hosp. Center, 3201 Kings Highway, Brooklyn, NY 11234 718–252–3000 ETA Control Number—1/214527 Action—Accepted	NY	09/22/94
James Bitonti, Nursing Personnel Homecare, 97–M Main Street, Stony Brook, NY 11790, 516–689–9700 ETA Control Number—1/214533 Action—Accepted	NY	09/22/94
Filomena Acevedo, Nydns, Inc., 6 East 45 Street, Ste 1506, New York, NY 10017, 212–883–6877 ETA Control Number—1/214582 Action—Accepted	NY	09/22/94
Benjamin Santos, United Staffing Agency, Inc., 82–72 Broadway, Elmhurst, NY 11373, 718–205–1131 ETA Control Number—1/214528 Action—Accepted	NY	09/22/94
Lawrence J. Centella, REN Centers of Massachusetts, Inc., 660 Harrison Ave., Boston, MA 02118, 617–859–7000 .. ETA Control Number—1/215113 Action—Accepted	MA	09/30/94
Lawrence J. Centella, REN Centers of Massachusetts, Inc., 88 E. Newton Street, Boston, MA 02118, 617–638–7571 ETA Control Number—1/215135 Action—Accepted	MA	09/30/94
Blanquita Bonifacio, Beverwyck Nursing Home, 420 S. Beverwyck Road, Parsippany, NJ 07054, 201–887–0156 ETA Control Number—1/214987 Action—Accepted	NJ	09/27/94
Eleanor Rivera, Eastern Nursing Services, Inc., 571 Bloomfield Ave., Verona, NJ 07044, 201–857–5662 ETA Control Number—1/215115 Action—Accepted	NJ	09/30/94
Robert Kovacs, Regent Care Center, 50 Polifly Road, Hackensack, NJ 07601, 201–646–1166 ETA Control Number—1/215120 Action—Accepted	NJ	09/30/94
Havva S. Idriss, United Hospital Medical Center, 406 Boston Post Road, Port Chester, NY 10573, 914–939–7000	NY	09/30/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

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CEO—Name/Facility Name/Address	State	Action date
ETA Control Number—1/215566 Action—Accepted		
ETA Region 10 08/22/94 to 08/28/94		
Debbie Grantham, Delano Regional Medical Center, 1401 Garces Highway, P.O. Box 460, Delano, CA 93216, 805–725–4800. ETA Control Number—10/205182 Action—Accepted	CA	08/25/94
Michael L. Skaggs, Pacific Hills Manor, 370 Noble Court, Morgan Hill, CA 95037, 408–779–7346 ETA Control Number—10/205100 Action—Accepted	CA	08/26/94
Barbara Garner, Park Tustin Healthcare & Rehab Ctr., 2210 East First Street, Santa Ana, CA 92705, 714–547–7091 ETA Control Number—10/205099 Action—Accepted	CA	08/26/94
Fred Friedman, Royal Convalescent Hospital, Inc., 320 Cattle Call Drive, Brawley, CA 92227, 619–344–5431 ETA Control Number—10/205076 Action—Accepted	CA	08/22/94
Barbara Blanchard, Salick Health Care, Inc., 8201 Beverly Boulevard, Los Angeles, CA 90048, 310–966–3500 ETA Control Number—10/205077 Action—Accepted	CA	08/24/94
Toni Evans, Kauai Care Center, P.O. Box 507, Waimea, HI 96796, 808–338–1681 ETA Control Number—10/205078 Action—Accepted	CA	08/23/94
ETA Region 10 08/29/94 to 09/04/94		
John McCollum, Casa Grande Regional Medical Cente, 1800 East Florence Boulevard, Casa Grande, AZ 85222, 602–426–6300. ETA Control Number—10/205317 Action—Accepted	AZ	08/31/94
John McCollum, Central Arizona Medical Center, 450 West Adamsville Road, P.O. Box 2080, Florence, AZ 85232, 602–426–6300. ETA Control Number—10/205316 Action—Accepted	AZ	08/31/94
John McCollum, Desert Valley Care Center, 950 N. Arizola Road, Casa Grande, AZ 85222, 602–426–6300 ETA Control Number—10/205315 Action—Accepted	AZ	08/31/94
Gerry Garcia, Beaumont Convalescent Hospital, 1441 North Michigan Avenue, Beaumont, CA 92223, 909–845–1166. ETA Control Number—10/205199 Action—Accepted	CA	08/31/94
Nancy Mulroney, Wood River Medical Center, Sun Valley Road, Sun Valley, ID 83353, 208–622–3333 ETA Control Number—10/205441 Action—Accepted	ID	08/31/94
M.D. Felipe L Chu, D and C Care Center, 1640 North Fairoaks Avenue, Pasadena, CA 91103, 818–798–1175 ETA Control Number—10/205241 Action—Accepted	CA	09/10/94
Solomon Goldner, Georgian Court Nursing & Rehab, 2828 Meadow Lark Drive, San Diego, CA 92123, 818–986–1550. ETA Control Number—10/205309 Action—Accepted	CA	09/10/94
June Hernandez, Good Shepherd Convalescent Center, 11505 Kagel Canyon Street, Lk. View Terrace, CA 91342, 310–328–0812. ETA Control Number—10/205209 Action—Accepted	CA	09/10/94
Geraldine Carino, Hacienda Convalescent Hospital, 301 W. Putnam Avenue, Porterville, CA 93257, 209–784–7375 ETA Control Number—10/205237 Action—Accepted	CA	09/10/94
Robert J Myers, Pleasanton Convalescent Hospital, 300 Neal Street, Pleasanton, CA 94506, 510–462–2400 ETA Control Number—10/205310 Action—Accepted	CA	09/10/94
Rose Calhoun, Victoria Care Center, 5445 Everglades Street, Ventura, CA 93003, 805–642–1736 ETA Control Number—10/205240 Action—Accepted	CA	09/10/94
Clarice Wilson, Bay Harbor Hospital/Harbor Health, 1437 West Lomita Blvd., Harbor City, CA 90710, 310–784–5830 ETA Control Number—10/205223 Action—Accepted	CA	09/12/94
Roger Policar, Nurses of Wellbest, 1602 Summitridge Drive, Diamond Bar, CA 91765, 909–860–0886 ETA Control Number—10/205313 Action—Accepted	CA	09/16/94
Janie Ames, Vencor Hospital—Los Angeles, 5525 Slauson Avenue, Los Angeles, CA 90056, 310–642–0325 ETA Control Number—10/205212 Action—Accepted	CA	09/13/94
June Hernandez, Vermont Care Center, 22035 South Vermont Avenue, Torrance, CA 90502, 310–328–0812 ETA Control Number—10/205211 Action—Accepted	CA	09/12/94
Solomon Guerrero, Victor Valley Community Hospital, 15248 11th Street, Victorville, CA 92392, 619–245–8691 ETA Control Number—10/205371 Action—Accepted	CA	09/13/94
Larry J. Mays, Villa Convalescent Hospital, Inc., 8965 Magnolia Avenue, Riverside, CA 92503, 909–689–5788 ETA Control Number—10/205314 Action—Accepted	CA	09/16/94
John Lopez, Visalia Convalescent Hospital, 1925 Houston Avenue, Visalia, CA 93291, 209–732–6661 ETA Control Number—10/205312 Action—Accepted	CA	09/15/94
June Hernandez, Washington Convalescent Hospital, 2300 West Washington Boulevard, Los Angeles, CA 90018, 310–328–0812. ETA Control Number—10/205222 Action—Accepted	CA	09/13/94
Robert O. Kent, Oneida County Hospital, 150 North 200 West, Malad, ID 83252, 208–766–2232	ID	09/12/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility Name/Address	State	Action date
ETA Control Number—10/205509 Action—Accepted		
ETA Region 10 09/19/94 to 09/25/94		
William A. Mathies, Beverly Manor Convalescent Hospital, 3002 Rowena, Los Angeles, CA 90039, 213–666–1544 ...	CA	09/21/94
ETA Control Number—10/205380 Action—Accepted		
William A. Mathies, Beverly Manor Convalescent Hospital, 615 West Duarte Road, Monrovia, CA 91016, 818–358–4547.	CA	09/22/94
ETA Control Number—10/205381 Action—Accepted		
William A. Mathies, Beverly Manor Convalescent Hospital, 850 South Sunkist Avenue, West Covina, CA 91790, 818–962–3368.	CA	09/21/94
ETA Control Number—10/205382 Action—Accepted		
William A. Mathies, Clovis Convalescent Hospital, 111 Barstow Avenue, Clovis, CA 93612, 209–299–2591	CA	09/21/94
ETA Control Number—10/205384 Action—Accepted		
ETA Region 10 09/19/94 to 09/25/94		
William A. Mathies, Beverly Manor Convalescent Hospital, 3002 Rowena, Los Angeles, CA 90039, 213–666–1544 ...	CA	09/21/94
ETA Control Number—10/205380 Action—Accepted		
William A. Mathies, Beverly Manor Convalescent Hospital, 615 West Duarte Road, Monrovia, CA 91016, 818–358–4547.	CA	09/22/94
ETA Control Number—10/205381 Action—Accepted		
William A. Mathies, Beverly Manor Convalescent Hospital, 850 South Sunkist Avenue, West Covina, CA 91790, 818–962–3368.	CA	09/21/94
ETA Control Number—10/205382 Action—Accepted		
William A. Mathies, Clovis Convalescent Hospital, 111 Barstow Avenue, Clovis, CA 93612, 209–299–2591	CA	09/21/94
ETA Control Number—10/205384 Action—Accepted		
ETA Region 10 09/26/94 to 10/02/94		
William A. Mathies, Beverly Manor Convalescent Hospital, 3601 San Dimas, Bakersfield, CA 93301, 805–323–2694	CA	09/26/94
ETA Control Number—10/205394 Action—Accepted		
William A. Mathies, Beverly Manor Convalescent Hospital, 2715 Fresno Street, Fresno, CA 93721, 209–486–4433 ...	CA	09/26/94
ETA Control Number—10/205395 Action—Accepted		
Ralph M. Agnello, Brighton Convalescent Center, 1836 North Fair Oaks Avenue, Pasadena, CA 91103, 818–798–9124.	CA	09/27/94
ETA Control Number—10/205440 Action—Accepted		
William A. Mathies, Chateau Convalescent Hospital, 1221 Rose Marie Lane, Stockton, CA 95207, 209–477–2664	CA	09/26/94
ETA Control Number—10/205403 Action—Accepted		
William A. Mathies, Country View Convalescent Hospital, 925 North Cornelia, Fresno, CA 93706, 209–275–4758	CA	09/26/94
ETA Control Number—10/205386 Action—Accepted		
William A. Mathies, Fowler Convalescent Hospital, 306 East Summer, Fowler, CA 93625, 209–834–2542	CA	09/26/94
ETA Control Number—10/205385 Action—Accepted		
William A Mathies, Franciscan Convalescent Hospital, 3169 M Street, Merced, CA 95340, 209–722–6231	CA	09/26/94
ETA Control Number—10/205398 Action—Accepted		
William A Mathies, Hillcrest Convalescent Hospital, 3672 North First Street, Fresno, CA 93726, 209–227–5383	CA	09/26/94
ETA Control Number—10/205387 Action—Accepted		
William A Mathies, Huntington Drive Convalescent Hosp., 400 West Huntington Drive, Arcadia, CA 91106, 818–445–2421.	CA	09/26/94
ETA Control Number—10/205376 Action—Accepted		
William A Mathies, Hy-Lond Convalescent Hospital, 3170 M Street, Merced, CA 95340, 209–723–1056	CA	09/26/94
ETA Control Number—10/205399 Action—Accepted		
William A Mathies, Hy-Lond Convalescent Hospital, 3408 East Shields Avenue, Fresno, CA 93726, 209–227–4063 ..	CA	09/26/94
ETA Control Number—10/205388 Action—Accepted		
William A Mathies, Hy-Lond Convalescent Hospital, 1900 Coffee Road, Modesto, CA 95350, 209–526–1776	CA	09/26/94
ETA Control Number—10/205400 Action—Accepted		
William A Mathies, Hy-Pana House Convalescent Hospital, 3510 East Shields Avenue, Fresno, CA 93726, 209–222–4807.	CA	09/26/94
ETA Control Number—10/205389 Action—Accepted		
William A Mathies, Hy-Pana House Convalescent Hospital, 4520 North El Dorado Avenue, Stockton, CA 95207, 209–477–0271.	CA	09/26/94
ETA Control Number—10/205404 Action—Accepted		
Jeffrey H. Braga, Merced Community Medical Center, 301 E. 13th Street, Merced, CA 95340, 209–385–7114	CA	09/26/94
ETA Control Number—10/205238 Action—Accepted		
William A Mathies, Modesto Convalescent Hospital, 515 East Orangeburg Avenue, Modesto, CA 95350, 209–529–0516.	CA	09/26/94
ETA Control Number—10/205401 Action—Accepted		
William A Mathies, Raintree Convalescent Hospital, 5265 East Huntington, Fresno, CA 93727, 209–251–8244	CA	09/26/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO—Name/Facility Name/Address	State	Action date
ETA Control Number—10/205390 Action—Accepted		
William A Mathies, Royal Oaks Convalescent Hospital, 144 F Street, Galt, CA 95632, 209–745–1537	CA	09/26/94
ETA Control Number—10/205396 Action—Accepted		
William A Mathies, San Luis Convalescent Hospital, 709 N Street, Newman, CA 95360, 209–862–2862	CA	09/26/94
ETA Control Number—10/205402 Action—Accepted		
William A Mathies, Sanger Convalescent Hospital, 2550 Ninth Street, Sanger, CA 93657, 209–875–6501	CA	09/26/94
ETA Control Number—10/205391 Action—Accepted		
William A Mathies, Selma Convalescent Hospital, 2108 Stillman Street, Selma, CA 93662, 209–896–4990	CA	09/26/94
ETA Control Number—10/205392 Action—Accepted		
William A Mathies, Shafter Convalescent Hospital, 140 East Tulare Avenue, Shafter, CA 93263, 805–746–3912	CA	09/26/94
ETA Control Number—10/205393 Action—Accepted		
William A Mathies, Stockton Convalescent Hospital, 2740 North California Street, Stockton, CA 95204, 209–466–3522.	CA	09/26/94
ETA Control Number—10/205405 Action—Accepted		
William A Mathies, Westgate Manor Convalescent Hosp., 1700 Howard Road, Madera, CA 93637, 209–673–9278	CA	09/26/94
ETA Control Number—10/205397 Action—Accepted		
ETA Region 5 08/29/94 to 09/04/94		
Cora Benedicto, CDC of Cleveland Park, 3520 Connecticut Avenue, N.W., Washington, DC 20008, 202–364–0070	DC	08/31/94
ETA Control Number—5/229991 Action—Accepted		
Susan Kim, Caring Professionals, Inc., 7144 N. Keeler Avenue, Lincolnwood, IL 60646, 708–677–6022	IL	08/31/94
ETA Control Number—5/229997 Action—Accepted		
Marvin Mermelstein, Central Nursing Home, Inc., 2450 N. Central Avenue, Chicago, IL 60639, 312–889–1333	IL	08/31/94
ETA Control Number—5/229990 Action—Accepted		
Charlotte Kohn, Dobson Plaza, Inc., 120 Dodge, Evanston, IL 60202, 708–869–7744	IL	08/31/94
ETA Control Number—5/229982 Action—Accepted		
Felice Cordero, Glencrest Nursing & Rehab Center, 2451 W. Touhy, Chicago, IL 60646, 312–338–6800	IL	08/31/94
ETA Control Number—5/229995 Action—Accepted		
James Samatas, Lexington Health Care Bloomingdale, 165 S. Bloomingdale Rd., Bloomingdale, IL 60108, 708–495–1700.	IL	09/01/94
ETA Control Number—5/230014 Action—Accepted		
James Samatas, Lexington Health Care Lombard, 1300 S. Main Street, Lombard, IL 60148, 703–495–1700	IL	09/01/94
ETA Control Number—5/230016 Action—Accepted		
James Samatas, Lexington Health Care Schaumburg, 653 S. Roselle Rd., Schaumburg, IL 60193, 708–495–1700	IL	09/01/94
ETA Control Number—5/230013 Action—Accepted		
Lucille Devaux, Maple Hill Nursing Center, Ltd., P.O. Box 2308 R.F.D., Long Grove, IL 60047, 703–438–8275	IL	08/31/94
ETA Control Number—5/230004 Action—Accepted		
Sherry Ambrose, Medbridge Medical & Physical Rehab, 9401 S. Kostner Avenue, Oak Lawn, IL 60453, 708–423–5779.	IL	08/31/94
ETA Control Number—5/229996 Action—Accepted		
Marla Becker, Sheridan Health Care Center, 2534 Elim, Zion, IL 60099, 708–746–8435	IL	08/31/94
ETA Control Number—5/229992 Action—Accepted		
ETA Region 5 09/05/94 to 09/11/94		
Gail Jernigan, Washington Nursing Facility, 2425 25th Street, SE, Washington, DC 20020–3483, 202–889–3600	DC	09/09/94
ETA Control Number—5/230391 Action—Accepted		
Michael Ilagan, Active Home Healthcare, Inc., 1701 S. First Ave. Suite #507, Maywood, IL 60153, 708–786–6700	IL	09/09/94
ETA Control Number—5/230383 Action—Accepted		
Jeanne E. Campbell, Palmwood Health Care Center, 600 Maple Street, Piper City, IL 60959, 815–686–2277	IL	09/09/94
ETA Control Number—5/230387 Action—Accepted		
Michael O'Rourke, Saint Anthony Hospital, 2875 West 19th Street, Chicago, IL 60623, 312–521–1710	IL	09/09/94
ETA Control Number—5/230384 Action—Accepted		
R. Kevin McFeely, Urbandale Health Care Center, 4614 N.W. 84th Street, Urbandale, IO 50322, 515–270–6838	IO	09/09/94
ETA Control Number—5/230449 Action—Accepted		
Diane Carlin or Bea E. Harford, Comm. Care of Am. at Central City, 163 S. Stratford Court, Ste. 205, Winston-Salem, NC 27103, 308–946–3088.	NC	09/09/94
ETA Control Number—5/230445 Action—Accepted		
Clara F. San Soucie, Westminster-Canerbury Corporation, 1600 Westbrook Avenue, Richmond, VA 23227–3326, 804–264–6000.	VA	09/09/94
ETA Control Number—5/230450 Action—Accepted		
ETA Region 5 09/12/94 to 09/18/94		
Russell Hemness, Comm. Care of Amer. at Winterset, 1015 West Summit, Winterset, IA 50273, 512–462–1711	IA	09/15/94
ETA Control Number—5/230607 Action—Accepted		
Morris Esformes, Bourbonnais Terrace, 133 Mohawk Drive, Bourbonnais, IL 60914, 815–937–4790	IL	09/12/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

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CEO—Name/Facility Name/Address	State	Action date
ETA Control Number—5/230460 Action—Accepted		
Bradley Alter, Danville Care Center, Ltd., 1701 N. Bowman, Danville, IL 61832, 217–443–2955	IL	09/14/94
ETA Control Number—5/230601 Action—Accepted		
Bradley Alter, Glenwood Terrace, Ltd., 19330 S. Cottage Grove, Glenwood, IL 60425, 708–758–6200	IL	09/14/94
ETA Control Number—5/230602 Action—Accepted		
Robert T. Bale, KEIRO Extended Care Center, 3919 West Foster Avenue, Chicago, IL 60625, 312–588–9500	IL	09/15/94
ETA Control Number—5/230603 Action—Accepted		
Maria Colet, Ostomed Healthcare Pharmacy, 3116 S. Oak Park Avenue, Berwyn, IL 60402, 708–795–7979	IL	09/15/94
ETA Control Number—5/230608 Action—Accepted		
Lester Edelson, Pershing Convalescent Home, 3900 S. Oak Park Avenue, Stickney, IL 60402, 708–484–7543	IL	09/14/94
ETA Control Number—5/230599 Action—Accepted		
Morris Esformes/Patricia Sheridan, Terrace Nursing Home, 1615 Sunset Ave, Waukegan, IL 60087, 708–244–6700	IL	09/12/94
ETA Control Number—5/230462 Action—Accepted		
Jess Cole, Villa Scalabrini, 480 N. Wolf Road, Northlake, IL 60164, 708–562–0040	IL	09/12/94
ETA Control Number—5/230461 Action—Accepted		
Flora Sampang, Winston Manor Convalescent & Nrsg., 2155 West Pierce Street, Chicago, IL 60622, 312–AL2–2066	IL	09/14/94
ETA Control Number—5/230598 Action—Accepted		
Emma S. Resumadero, Total Healthcare Resource, Inc., 9300 Livingston Road, Fort Washington, MD 20744, 301–248–9619.	MD	09/15/94
ETA Control Number—5/230605 Action—Accepted		
Elizabeth Davis, Grace Hospital, 6071 West Outer Drive, Detroit, MI 48235, 313–966–3202	MI	09/14/94
ETA Control Number—5/230600 Action—Accepted		
Morris Esformes, Creve Coeur Healthcare Center, 12705 Olive Street Road, Creve Coeur, MO 63141, 314–434–8361.	MO	09/12/94
ETA Control Number—5/230463 Action—Accepted		
Morris Esformes, North Shore Health Care Center, 610 Prigge Road, St. Louis, MO 63138, 314–741–9393	MO	09/12/94
ETA Control Number—5/230459 Action—Accepted		
Diann Schmidt, Community Care at Blue Hill, 414 North Wilson, Blue Hill, NE 68930, 402–756–2080	NE	09/14/94
ETA Control Number—5/230596 Action—Accepted		
Eileen Hayes, D.O.N., Lutheran Home for the Aging, 7500 W. North Avenue, Wauwatosa, WI 53213, 414–258–6170	WI	09/15/94
ETA Control Number—5/230707 Action—Accepted		
ETA Region 5 09/19/94 to 09/25/94		
Abraham Schiffman, Birchwood Plaza Nursing & Rehab, 1426 West Birchwood, Chicago, IL 60626, 312–274–4405	IL	09/20/94
ETA Control Number—5/230817 Action—Accepted		
Jay Lewkowitz, Oakton Pavillion Health Care Fac., 1660 Oakton Place, Des Plaines, IL 60018, 708–299–5588	IL	09/20/94
ETA Control Number—5/230827 Action—Accepted		
Sandra Freeman, Michigan Health Care Corporation, 2700 Martin Luther King Jr. Blvd., Detroit, MI 48208, 313–361–8000.	MI	09/20/94
ETA Control Number—5/230825 Action—Accepted		
ETA Region 6 08/29/94 to 09/04/94		
Mr. Robert Scharmann, Abbey Delray South, 1717 Homewood Boulevard, Delray Beach, FL 33445, 407–272–9600	FL	08/30/94
ETA Control Number—6/220524 Action—Accepted		
Mr. Les S. Alt, Delray Community Hospital, 5352 Linton Boulevard, Delray Beach, FL 33484, 800–926–8282	FL	08/30/94
ETA Control Number—6/219909 Action—Accepted		
Ms. Joyce Steier, Sunshine Village Nursing Home, 8600 U.S. Highway 19 North, Pinellas Park, FL 34666, 813–541–7515.	FL	08/30/94
ETA Control Number—6/220006 Action—Accepted		
Mr. Winston A. Porter, Timber Ridge Nursing/Rehab. Ctr., 9848 S.W. 110th St., Ocala, FL 34481, 904–854–8200	FL	08/30/94
ETA Control Number—6/219911 Action—Accepted		
Mr. Anthony Liuzzo, Univ. Nursing Care Center, Inc., 1311 S.W. 16th Street, Gainesville, FL 32608, 904–376–8812	FL	08/30/94
ETA Control Number—6/219840 Action—Accepted		
Mr. Nolan G. Brown, Louisburg Nursing Center, Inc., 202 Smoketree Way, P.O. Box 629, Louisburg, NC 27549, 910–496–2188.	NC	08/30/94
ETA Control Number—6/219907 Action—Accepted		
Mr. Dale Collins, Baptist Hospital of E. Tennessee, 137 Blount Avenue, Knoxville, TN 37920, 615–632–5011	TN	8/30/94
ETA Control Number—6/219841 Action—Accepted		
Mr. Lawrence J. Centella, REN Corporation—USA, 28 White Bridge Road, Nashville, TN 37205, 615–356–8028	TN	8/31/94
ETA Control Number—6/220036 Action—Accepted		
Mr. Lawrence J. Centella, REN Corporation—USA, 103 White Bridge Road, Nashville, TN 37209, 615–352–5535	TN	8/31/94
ETA Control Number—6/220023 Action—Accepted		
Mr. Lawrence J. Centella, REN Corporation—USA, 1705 Grove Street, Columbia, TN 38401, 615–381–4445	TN	8/31/94
ETA Control Number—6/220020 Action—Accepted		
Mr. Lawrence J. Centella, REN Corporation—USA, Centre Stage Shopping Center, 2104 D Memorial Blvd., Ste. B–1, Springfield, TN 37172, 615–382–1324.	TN	8/31/94
ETA Control Number—6/220027 Action—Accepted		
Mr. Lawrence J. Centella, REN Corporation—USA, 844 Union Street, Shelbyville, TN 37160, 615–684–1828	TN	8/31/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility Name/Address	State	Action date
ETA Control Number—6/220028 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 250 25th Ave. N. Atrium #207, Nashville, TN 37203, 615–327–0683.	TN	8/31/94
ETA Control Number—6/220030 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 603 Lakeway Place, Tullahoma, TN 37388, 615–454–1077	TN	8/31/94
ETA Control Number—6/220025 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 889 Linden Avenue, Memphis, TN 38126, 901–525–1719	TN	8/31/94
ETA Control Number—6/220034 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 835 New Smithville Hwy., #15, McMinnville, TN 37110, 615–473–9553.	TN	8/31/94
ETA Control Number—6/220035 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 231 Hillcrest Drive, Clarksville, TN 37043, 615–645–9694	TN	8/31/94
ETA Control Number—6/220039 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 645 E. Main Street, Hendersonville, TN 37075, 615–264–0380	TN	8/31/94
ETA Control Number—6/220038 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 140 West 7th Street #2, Cookeville, TN 38501, 615–528–7483	TN	8/31/94
ETA Control Number—6/220040 Action—Accepted Mr. Lawrence J. Centella, REN Corporation—USA, 50 Humprey's Drive, Ste. 42, Memphis, TN 38120, 901–747–3901.	TN	8/31/94
ETA Control Number—6/220031 Action—Accepted Mr. Steve Powell, Brookhaven Nursing Center, 1855 Cheyenne Drive, Carrollton, TX 75008, 214–394–7141	TX	8/30/94
ETA Control Number—6/219839 Action—Accepted Ms. Bernadette Fuentes, Medical Center Hospital of Odessa, 601 West 4th Street, Odessa, TX 79761, 915–335–1152.	TX	8/30/94
ETA Control Number—6/220313 Action—Accepted		
ETA Region 6 09/05/94 to 09/11/94		
Mr. Harold L. Stewart, Apalachicola Health Care Center, 150 10th Street, Apalachicola, FL 32320, 904-653-8844 ETA Control Number—6/220554 Action—Accepted	FL	09/06/94
Mr. Harold L. Stewart, Bay St. George Care Center, Highway 98 & Begonia, Eastpoint, FL 32328, 904-670-8571 ETA Control Number—6/220553 Action—Accepted	FL	09/06/94
Mr. Harold L. Stewart, Bay St. Joseph Care Center, 220 9th Street, Port St. Joe, FL 32456, 904-229-8244 ETA Control Number—6/220552 Action—Accepted	FL	09/06/94
Ms. Frances D. Watts, Starcrest of Conyers, P.O. Box 438, Conyers, GA 30207 404-483-3902 ETA Control Number—6/220555 Action—Accepted	GA	09/06/94
Mr. Donald L. Ray, Grenada Lake Medical Center, 960 Avent Drive, Grenada, MS 38901-5094, 601-226-8111 ETA Control Number—6/220654 Action—Accepted	MS	09/06/94
Ms. Michele B. Anderson, Aro Community Services, Inc., 1834 Banking Street Suite #4, Greensboro, NC 27408, 919-378-9862. ETA Control Number—6/220701 Action—Accepted	NC	09/06/94
Ms. Frances Messer, Northwood Manor, 303 E. Carver Street, Durham, NC 27704, 919-471-4558 ETA Control Number—6/220656 Action—Accepted	NC	09/06/94
Mr. H.W. Handy, Mountain Shadows Nursing/Rehab Ctr., 1005 Hill Rd., Las Cruces, NM 88005, 505-523-4573 ETA Control Number—6/220549 Action—Accepted	NM	09/06/94
Ms. Karla DeBrunner, Donelson Healthcare Center, 2733 McCampbell Avenue, Nashville, TN 37214, 615-885-0483 ETA Control Number—6/220551 Action—Accepted	TN	09/06/94
Mr. H. Thomas Nichols, Vintage Health Resources, Inc., 2032 Exeter Road Suite 2, Germantown, TN 38138, 901-757-8899. ETA Control Number—6/220703 Action—Accepted	TN	09/06/94
Mr. Henry Ross, Healthsouth Rehab Hosp. of Texarka, 515 West 12th Street, Texarkana, TX 75501, 903-793-0088 ETA Control Number—6/220702 Action—Accepted	TX	09/06/94
Mr. Duane K. Rossman, Medical Center Hospital, 504 Medical Center Blvd., Conroe, TX 77304, 409-539-1111 ETA Control Number—6/220655 Action—Accepted	TX	09/06/94
ETA Region 5 09/12/94 to 09/18/94		
Russell Hemness, Comm. Care of Amer. at Winterset, 1015 West Summit, Winterset, IA 50273, 515-462-1711 ETA Control Number—5/230607 Action—Accepted	IA	09/15/94
Morris Esformes, Bourbonnais Terrace, 133 Mohawk Drive, Bourbonnais, IL 60914, 815-937-4790 ETA Control Number—5/230460 Action—Accepted	IL	09/12/94
Bradley Alter, Danville Care Center, LTD., 1701 N. Bowman, Danville, IL 61832, 217-443-2955 ETA Control Number—5/230601 Action—Accepted	IL	09/14/94
Bradley Alter, Glenwood Terrace, LTD, 19330 S. Cottage Grove, Glenwood, IL 60425, 708-758-6200 ETA Control Number—5/230602 Action—Accepted	IL	09/14/94
Robert T. Bale, KEIRO Extended Care Center, 3919 West Foster Avenue, Chicago, IL 60625, 312-588-9500 ETA Control Number—5/230603 Action—Accepted	IL	09/15/94
Maria Colet, Ostomed Healthcare Pharmacy, 3116 S. Oak Park Avenue, Berwyn, IL 60402, 708-795-7979 ETA Control Number—5/230608 Action—Accepted	IL	09/15/94
Lester Edelson, Pershing Convalescent Home, 3900 S. Oak Park Avenue, Stickney, IL 60402, 708–484–7543	IL	9/14/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued

[Form ETA–9029]

CEO—Name/Facility Name/Address	State	Action date
ETA Control Number—5/230599 Action—Accepted		
Morris Esformes/Patricia Sheridan, Terrace Nursing Home, 1615 Sunset Ave, Waukegan, IL 60087, 708–244–6700 .	IL	9/12/94
ETA Control Number—5/230462 Action—Accepted		
Jess Cole, Villa Scalabrini, 480 N. Wolf Road, Northlake, IL 60164, 708–562–0040	IL	9/12/94
ETA Control Number—5/230461 Action—Accepted		
Flora Sampang, Winston Manor Convalescent & Nrsg., 2155 West Pierce Street, Chicago, IL 60622, 312–AL2–2066	IL	9/14/94
ETA Control Number—5/230598 Action—Accepted		
Emma S. Resumadero, Total Healthcare Resource, Inc., 9300 Livingston Road, Fort Washington, MD 20744, 301–248–9619.	MD	9/15/94
ETA Control Number—5/230605 Action—Accepted		
Elizabeth Davis, Grace Hospital, 6071 West Outer Drive, Detroit, MI 48235, 313–966–3202	MI	9/14/94
ETA Control Number—5/230600 Action—Accepted		
Morris Esformes, Creve Coeur Healthcare Center, 12705 Olive Street Road, Creve Coeur, MO 63141, 314–434–8361.	MO	9/12/94
ETA Control Number—5/230463 Action—Accepted		
Morris Esformes, North Shore Health Care Center, 610 Prigge Road, St. Louis, MO 63138, 314–741–9393	MO	9/12/94
ETA Control Number—5/230459 Action—Accepted		
Diann Schmidt, Community Care at Blue Hill, 414 North Wilson, Blue Hill, NE 68930, 402–756–2080	NE	9/14/94
ETA Control Number—5/230596 Action—Accepted		
Eileen Hayes, D.O.N., Lutheran Home for the Aging, 7500 W. North Avenue, Wauwatosa, WI 53213, 414–258–6170	WI	9/15/94
ETA Control Number—5/230707 Action—Accepted		
ETA Region 5 09/19/94 to 09/25/94		
Abraham Schiffman, Birchwood Plaza Nursing & Rehab, 1426 West Birchwood, Chicago, IL 60626, 312–274–4405 .	IL	9/20/94
ETA Control Number—5/230817 Action—Accepted		
Jay Lewkowitz, Oakton Pavillion Health Care Fac., 1660 Oakton Place, Des Plaines, IL 60018, 708–299–5588	IL	9/20/94
ETA Control Number—5/230827 Action—Accepted		
Sandra Freeman, Michigan Health Care Corporation, 2700 Martin Luther King Jr. Blvd., Detroit, MI 48208, 313–361–8000.	MI	9/20/94
ETA Control Number—5/230825 Action—Accepted		
ETA Region 6 09/26/94 to 10/02/94		
Mr. Mario Espino, Jr., Total Care Home Health, 3900 NW 79th Avenue, Suite 520, Miami, FL 33166, 305–591–7771	FL	09/28/94
ETA Control Number—6/221381 Action—Accepted		
Mr. John E. Ives, Memorial Medical Center, Inc., 4700 Waters Avenue, Savannah, GA 31403–3089, 912–350–8225	GA	09/28/94
ETA Control Number—6/221390 Action—Accepted		
Mr. Eddie Gardner, Baton Rouge Heritage House II, 1335 Woodale Blvd., Baton Rouge, LA 70806, 504–924–2950 ..	LA	09/26/94
ETA Control Number—6/221036 Action—Accepted		
Mr. Robert Hawley, Bolivar County Hospital, Highway 8 East, Cleveland, MS 38732, 601–846–0061	MS	09/28/94
ETA Control Number—6/221389 Action—Accepted		
Mr. Terrell M. Cobb, Greenwood-Leflore Hospital, 1401 River Road, Greenwood, MS 38930, 601–459–9751	MS	09/26/94
ETA Control Number—6/221037 Action—Accepted		
Ms. Carol Prater, Brian Center, 78 Weaver Blvd., Weaverville, NC 28787, 704–645–4297	NC	09/26/94
ETA Control Number—6/221183 Action—Accepted		
Mr. Dennis Redmond, Brian Center-Clayton, 2300 Dairy Road, Clayton, NC 27520, 919–553–8232	NC	09/28/94
ETA Control Number—6/221379 Action—Accepted		
Mr. Richard Bennett, Graybrier Nursing/Retirement Ctr., 163 S. Stratford Court, Suite 205, Winston-Salem, NC 27103, 919–431–8888.	NC	09/26/94
ETA Control Number—6/221124 Action—Accepted		
Ms. Miriam Duncan, Scenic View Health Care Center, 163 S. Stratford Court, Suite 205, Winston-Salem, NC 27103, 706–778–8377.	NC	09/28/94
ETA Control Number—6/221380 Action—Accepted		
Mr. Grant Nelson, Plains Regional Medical Center, 2100 No. Thomas Street, Clovis, NM 88101, 505–769–2141	NM	09/28/94
ETA Control Number—6/221496 Action—Accepted		
Ms. Barbara Bown, Healthsouth Rehab. Hospital, 900 East Cheves Street, Florence, SC 29506, 803–679–9000	SC	09/26/94
ETA Control Number—6/221125 Action—Accepted		
Mr. Ron Frizzell, Healthcare Resources, Inc., 5050 Thoroughbred Lane, Suite C, Brentwood, TN 37027, 615–377–9140.	TN	09/26/94
ETA Control Number—6/221095 Action—Accepted		
Ms. Susan Compton, Rivermont Convalescent Center, 201 East Tenth Street, South Pittsburg, TN 37380, 615–837–7981.	TN	09/26/94
ETA Control Number—6/221184 Action—Accepted		
Dr. Mylinh Ju-Tran, Ju-Tran, 7100 Oakmont #108, Fort Worth, TX 76132, 817–370–2657	TX	09/26/94
ETA Control Number—6/221096 Action—Accepted		
Mr. Randall M. Everts, Rio Grande Regional Hospital, 101 East Ridge Road, McAllen, TX 78503, 210–632–6000	TX	09/26/94
ETA Control Number—6/221038 Action—Accepted		

[FR Doc. 94–26412 Filed 10–24–94; 8:45 am]
BILLING CODE 4510–30–P

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than November 4, 1994.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1994.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of October, 1994.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ACE Radio Control (Wkrs)	Higginsville, MO	10/11/94	10/03/94	30,381	Airplane Kits & Battery Cyclers.
Steuben Foods, Inc. (Wkrs)	Elma, NY	10/11/94	09/18/94	30,382	Pudding.
Aramco Services Co. (Wkrs)	Houston, TX	10/11/94	09/29/94	30,383	Administrative Services.
Toyoda Manufacturing (Wkrs)	Arlington Heights, IL	10/11/94	09/27/94	30,384	Milling Machines.
R.C.K. Welding, Inc. (Co)	Gilbert, PA	10/11/94	09/27/94	30,385	Pipe Fittings.
Patti Jo Fashions, Inc. (Wkrs)	Mayfield, PA	10/11/94	09/27/94	30,386	Ladies' Dresses.
Merit Energy (Wkrs)	Dallas, TX	10/11/94	09/15/94	30,387	Crude Oil.
Lanier Clothes Div of Oxford (Co)	Unadilla, GA	10/11/94	09/26/94	30,388	Men's Suit Coats & Sport Coats.
J.I. Case Co. (Wkrs)	Burr Ridge, IL	10/11/94	09/20/94	30,389	R&D Services.
Houbigant, Inc. (Wkrs)	Ridgefield, NJ	10/11/94	09/26/94	30,390	Perfumes, Colognes, Powders & Lotions.
Exxon Corp., Shute Creek Facility (Wkrs).	Green River, WY	10/11/94	08/31/94	30,391	Petroleum Products.
Lomax Exploration Co. (Wkrs)	Roosevelt, UT	10/11/94	09/20/94	30,392	Crude Oil.
Lomax Exporation Co. (Wkrs)	Salt Lake City, UT	10/11/94	09/20/94	30,393	Crude Oil.
Champion International Corp. (Co)	Klickitat, WA	10/11/94	09/27/94	30,394	Ponderosa Pine Industrial Products.
Charter Production Co. (Co)	Wichita, KS	10/11/94	09/27/94	30,395	Oil and Gas.
Axem Resources, Inc. (Wkrs)	Denver, CO	10/11/94	09/28/94	30,396	Oil and Gas.
IBM Corp, Micro Electronics Div. (Wkrs)	Endicott, NY	10/11/94	09/30/94	30,397	Electronic Packaging.
Handy Button Machine Co. (Wkrs)	Woodside, NY	10/11/94	09/30/94	30,398	Buckles & Buttons for Garments.
Continental EMSCO Co. (Wkrs)	Houston, TX	10/11/94	09/21/94	30,399	Oilfield Equipment.

[FR Doc. 94–26406 Filed 10–24–94; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–29,959 Spartan Undies/Imerman, Inc., Spartanburg, South Carolina and TA–W–29,959A Imerman, Inc., New York, NY]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 3, 1994, applicable to all workers of the subject firm of the manufacturing plan in Spartanburg, South Carolina. The notice was published in the **Federal Register** on August 15, 1994 (59 FR 41793).

At the request of the company, the Department again reviewed its certification for the workers of Spartan Undies/Innerman, Inc., in Spartanburg, South Carolina.

New findings show the New York office supported the Spartanburg, South Carolina plan and the several designers, pattern makers, sample hands, purchasing, office and sales personnel were laid off in the relevant period.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports. Accordingly, the Department is amending its certification to include worker separations at the New York, New York location of Imerman, Inc.

The amended notice applicable to TA–W–29,959 is hereby issued as follows:

All workers of Spartan Undies/Imerman, Inc. in Spartanburg, South Carolina and all workers of Imerman Inc., in New York, New York who became totally or partially separated from employment on or after June 1, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C., this 17th day of October, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–26408 Filed 10–24–94; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–30,165 Weldmer Bros. Well Service, Tioga ND; TA–W–30,165A Weldmer Bros. Well Service, In MT]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 16, 1994, applicable to all workers of the subject firm. The certification notice will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations from Weidmer Brothers Well Service occurred in the State of Montana.

The intent of the Department's certification is to include all workers of Weidmer Bros. Well Service who were affected by increased imports.

The amended notice applicable to TA–W–30,165 is hereby issued as follows:

All workers of Weidmer Bros. Well Service, Tioga, North Dakota and in the State of Montana engaged in employment related to the exploration and drilling of crude oil and natural gas who became totally or partially separated from employment on or after July 13, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of October, 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–26407 Filed 10–24–94; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,522, etc.]

Bull HN Information Systems, Inc.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

Bull HN Information Systems, Inc.; Billerica, Massachusetts and various field offices in the following states: TA–W–29,522A ALA, TA–W–29,522B ARK, TA–W–29,522C ARIZ, TA–W–29,522D CAL, TA–W–29,522E COLO, TA–W–29,522F CONN, TA–W–29,522G FLA, TA–W–29,522H GA, TA–W–29,522I IA, TA–W–29,522J ILL, TA–W–29,522K IND, TA–W–29,522L KS, TA–W–29,522M KY, TA–W–29,522N LA, TA–W–29,522O MASS, TA–W–29,522P MD, TA–W–29,522Q ME, TA–W–29,522R MI, TA–W–29,522S MN, TA–W–29,522T MO, TA–W–29,522U MS, TA–W–29,522V N.C., TA–W–29,522W N.D., TA–W–29,522X NE, TA–W–29,522Y N.H., TA–W–29,522Z N.J., TA–W–29,522AA N.M., TA–W–29,522AB NEV, TA–W–29,522AC NEW YORK, TA–W–29,522AD OHIO, TA–W–29,522AE OKLA, TA–W–29,522AF OREGON, TA–W–29,522AG PENNA, TA–W–29,522AH P. RICO, TA–W–29,522AI R.I., TA–W–29,522AJ S.C., TA–W–29,522AK TN, TA–W–29,522AL TEXAS, TA–W–29,522AM UTAH, TA–W–29,522AN VA, TA–W–29,522AO VT, TA–W–29,522AP WA, TA–W–29,522AQ WI, Bull HN Information Systems, Inc., TA–W–29,522ZA Lawrence, Massachusetts, TA–W–29,522ZB Brighton, Massachusetts, Amended certification regarding eligibility to apply for worker adjustment assistance.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 19, 1994, applicable to all workers of Bull HN Information Systems, Inc., engaged in employment related to the production of computers in Billerica, Brighton and Billerica, Massachusetts. The Notice was published in the **Federal Register** on September 2, 1994 (59 FR 45712).

The Company requested that the Department review its certification for workers of the subject firm. New information from the company shows worker separations at various field offices in several states.

The findings show that workers at Billerica, Brighton and Lawrence produced the same adversely affected product—computers. Other findings show that some of the workers at Billerica transferred to Brighton or Lawrence, Massachusetts. The findings show nearly a 3-month coverage gap that prevents workers who transferred from Billerica to Brighton or Lawrence from collecting TAA if they were separated during the coverage gap.

The intent of the certification is to include all the workers at Bull HN Information Systems who were adversely affected by increased imports of computers, including workers in the various field offices.

Accordingly, the Department is terminating TAA coverage for workers filing under TA–W–29,860 and TA–W–29,860A and including them under TA–W–29,522ZA and TA–W–29,522ZB, respectively.

The amended notice applicable to TA–W–29,522 is hereby issued as follows:

All workers of Bull HN Information Systems, Inc., Billerica, Massachusetts; Lawrence, Massachusetts and Brighton, Massachusetts and at various field offices in Alabama, Arkansas, Arizona, California, Connecticut, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Vermont, Washington and Wisconsin engaged in employment related to the production of computers who became totally or partially separated from employment on or after February 4, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that certifications TA–W–29,860 and TA–W–29,860A are terminated effective October 11, 1994, because the workers are covered under TA–W–29,522ZA and TA–W–29,522ZB effective October 11, 1994.

Signed at Washington, DC, this 17th day of October 1994.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–26410 Filed 10–24–94; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00160]

Philips Lighting Company, Philips Electronics North American, Washington, PA; Notice of Negative Determination on Reconsideration

On September 6, 1994, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. This notice was published in the **Federal Register** on September 23, 1994 (59 FR 48914).

Counsel for the workers claim that the worker group eligibility test is met for the Washington workers because the workers had a reduced demand for their warehousing services from Philips's Fairmont plant which was certified for TAA.

Workers providing a service are certifiable only in very limited circumstances which were explained in the Department's initial negative determination. The certification circumstances are that the worker separations must be caused by a reduced demand for their services from a parent or controlling firm whose workers produce an article and who are currently under a certification for TAA.

Findings on reconsideration show that Washington is not a *source*

distribution center that warehouses finished products from a certain plant but is a *field service distribution center* (emphasis supplied) which warehouses inventory based on forecasted customer orders.

Accordingly, the Fairmont certification (TA–W–29,343) which was based on company imports would not have adversely affected workers at the Washington facility since the products warehoused at Washington were based on forecasted customer orders.

The reconsideration findings also show that only a very small amount of Washington's inventory originated from Fairmont.

Other findings show that the product previously warehoused in Washington is being stocked at Mountaintop, Pennsylvania; Roselle, Illinois and Atlanta, Georgia.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for transitional adjustment assistance to workers and former workers of Philips Lighting Company, Philips, Electronics North American in Washington, Pennsylvania.

Signed at Washington, D.C. this 17th day of October, 1994.

Victor J. Trunzo,

Program Manager, Policy, and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 94–26409 Filed 10–24–94; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

[Application No. D–9801, et al.]

Proposed Exemptions; Alex. Brown & Sons, Inc. (ABS) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Alex. Brown & Sons, Incorporated (ABS)

Located in Baltimore, Maryland

[Application No. D–9801]

Proposed Exemption

I. Transactions

A. Effective August 12, 1994, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective August 12, 1994, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1) (i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B. (1) or (2).

C. Effective August 12, 1994, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective August 12, 1994, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2) (F). (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. "Certificate" means:

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

(1) A certificate—

(a) that represents a beneficial ownership interest in the assets of a trust; and

(b) that entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) that represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) that is issued by and is an obligation of a trust;

with respect to certificates defined in (1) and (2) above for which ABS or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) the investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) ABS;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with ABS; or

(3) Any member of an underwriting syndicate or selling group of which ABS or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would be have if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(1) The trust holds a security interest in the lease;

(2) The trust holds a security interest in the leased motor vehicle; and

(3) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

Effective Date: This exemption, if granted, will be effective for transactions occurring on or after August 12, 1994.

Summary of Facts and Representations

1. ABS, an investment banking firm, provides financial advice to, and raises capital for, a broad range of domestic and international clients. ABS conducts business from its headquarters in Baltimore and in various cities across the United States, as well as London and Geneva. ABS is the oldest banking firm in the United States, having been in business since 1800. Since its inception, ABS has been very active in the government bond, corporate equity and municipal finance and housing finance areas. As of December 31, 1993, ABS had total assets of over $1.2 billion and total shareholder's equity of over $345 million. For the year ended December 31, 1993, ABS had gross revenues of over $628 million and net earnings, after income taxes, of over $89 million.

Trust Assets

2. ABS seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts;[4] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[5]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.[6]

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. ABS, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. The majority of the public offerings of certificates made to date have been underwritten on a firm commitment basis. However, some may be undertaken on a best efforts basis. In addition, ABS has privately placed certificates on both a firm commitment

[4] The Department notes that PTE 83–1 [48 FR 895, January 7, 1983], a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83–1 are met. ABS requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, ABS has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

[5] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[6] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990 at 23150).

and an agency basis. ABS may also act as the lead underwriter for a syndicate of securities underwriters. ABS may also act as the servicer or seller to the trust of the receivables or the trust sponsor.

Certificate holders are entitled to receive monthly, quarterly or semi-annually installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

When installments or payments are made on a semi-annual basis, funds are not permitted to be commingled with the servicer's assets for longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificate holders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. Usually, the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account does not exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time this report is delivered to the trustee, it will be made available to certificate holders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. ABS requests exemptive relief for two types of multi-class certificates: "strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[7]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. In certain transactions of this type, interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal, and/or earlier payment schedule, and only when that class of certificates have been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing a certificate be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders then entitled to receive distributions will share in the amount distributed on a pro rata basis.[8]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates. Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* will be one of three entities: (i) A special-purpose corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to ABS, the trust sponsor or the servicer. ABS represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, sponsor or the trust as specified in the pooling and servicing agreement. The method of compensating the trustee which is specified in the pooling and servicing agreement will be disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts

[7] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[8] If a trust issues subordinated certificates, holders of such subordinated certificates may not share in the amount distributed on a pro rata basis with the senior certificateholders. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

In some cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to ABS. In other cases, however, affiliates of ABS may originate or service receivables included in a trust, or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

11. Where the sponsor of a trust is not the originator of receivables included in a trust, the sponsor generally purchases the receivables in the secondary market, either directly from the originator or from another secondary market participant. The price the sponsor pays for a receivable is determined by competitive market forces, taking into account payment terms, interest rate, quality, and forecasts as to future interest rates.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters. In some transactions, the sponsor or an affiliate may retain a portion of the certificates for its own account. In addition, in some transactions the originator may sell receivables to a trust for cash. At the time of the sale, the trustee would sell certificates to the public or to underwriters and use the cash proceeds of the sale to pay the originator for receivables sold to the trust. The transfer of the receivables to the trust by the sponsor, the sale of certificates to investors, and the receipt of the cash proceeds by the sponsor generally take place simultaneously.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces, including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.[9] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon, rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer will be required to pay the administrative expenses of servicing the trust, including, in some cases, the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in excess of the pass-through rate or paid in a lump sum at the time the trust is established.

[9] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) Prepayment fees; (b) Late payment and payment extension fees; and (c) Fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. ABS and any other participating underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would normally consist of the difference between what ABS receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee may also take the form of an agency commission paid by the sponsor. Such fees are negotiated at arm's-length with the sponsor, originator or unrelated lender and are affected by fees in comparable offerings.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payments, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some

point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables remaining in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 to 10 percent) of the initial aggregate unpaid balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to: (1) The unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) The greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the certificates in the case of a trust that is not a REMIC.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit, guarantees, or the creation of a class of certificates with subordinated cash flow) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) out of liquidation proceeds, (c) from the credit support provider (which may be itself) or, (d) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism. In some cases, however, the master servicer may not be obligated to advance funds but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. However, a master servicer typically can recover advances either from the provider of credit support or from future payments on the affected assets.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover delinquent payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the servicer, paying agent or trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Secondary Market Transactions

24. It is ABS's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter, and it is ABS's intention to attempt to make a market for any certificates for which ABS is lead or co-managing underwriter. In general, it is also ABS's policy to facilitate sales by investors who purchase certificates if ABS has acted as agent or principal in the original private placement of the certificates and if such investors request ABS's assistance.

Retroactive Relief

25. ABS represents that it has engaged in transactions related to mortgage-backed and asset-backed securities based on the assumption that retroactive relief would not be granted. However, it is possible that some transactions may have occurred that would be prohibited. For example, because many certificates are held in street or nominee name, it is not always possible to identify whether the percentage interest of plans in a trust is or is not "significant" for purposes of the Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(f)). These problems are compounded as transactions occur in the secondary market. In addition, with respect to the "publicly-offered security" exception contained in that regulation (29 CFR 2510.3–101(b)), it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers.

Therefore, ABS requests relief retroactive for transactions which have occurred on or after August 12, 1994, the date ABS originally filed its exemption application with the Department.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which ABS seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) ABS has made, and anticipates that it will continue to make, a secondary market in certificates.

Discussion of Proposed Exemption

I. Differences between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 [46 FR 7520, January 23, 1981], Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 [48 FR 895, January 7, 1983].

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or

transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[10]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

ABS represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[11] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[12] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, ABS represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. ABS represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, ABS represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

Notice to Interested Persons

The applicant represents that because those potentially interested participants and beneficiaries cannot all be identified, the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the **Federal Register**. Comments and requests for a hearing must be received by the Department not later than 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

The Masters, Mates and Pilots Pension Plan (the Pension Plan) and Individual Retirement Account Plan (the IRAP; Together, the Plans) Located in Linthicum Heights, Maryland

[Application Nos. D–9618 and D–9619]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set

[10] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[11] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which ABS or any of its affiliates is either (a) the sole underwriter or managar or co-manager of the underwriting syndicate, or (b) a selling or placement agent.

[12] The applicant represents that where a trust sponsor is an affiliate of ABS, sales to plans by the sponsor may be exempt under PTE 75–1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if ABS is not a fiduciary with respect to plan assets to be invested in certificates.

forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the continued holding by the Plans of their shares of stock (the Stock) in American Heavy Lift Shipping Company (AHL), provided that (a) the Plans' independent fiduciary has determined that the Plans' holding of the Stock is appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; and (b) the Plans' independent fiduciary continues to monitor the Plans' holding of the Stock and determines at all times that such transaction remains in the best interests of the Plans.

Temporary Nature of Exemption

If the proposed exemption is granted, the exemption will be effective until the later of: (1) December 31, 1995, or (2) December 31, 1996 provided another application for exemption is filed with the Department prior to December 31, 1995.

Summary of Facts and Representations

1. The Pension Plan is a defined benefit plan that currently has approximately 5,800 participants. As of December 31, 1992, the Pension Plan had approximately $673 million in assets. The IRAP is a defined contribution plan that currently has approximately 5,200 participants. As of December 31, 1992, the IRAP had approximately $87 million in assets. The Plans principally cover members of the International Organization of Masters, Mates and Pilots.

2. Bear Stearns Fiduciary Services, Inc. (BSFS) is a registered investment advisor which serves as the Named Fiduciary for the Special Assets Portfolio of the Plans. The Special Assets Portfolio consists of various venture capital and other non-liquid investments which were made by a former investment manager of the Plans, Tower Asset Management, Inc. (Tower), and which were the subject of protracted litigation (the Litigation) between the Department, Tower, the Plans and certain of their trustees, and certain plan participants.[13] The Litigation ultimately was settled pursuant to Court Order entered by the United States District Court for the Southern District of New York (the Court).

3. In the course of the Litigation, BSFS was appointed Named Fiduciary for the Plans' Special Assets Portfolio by Court Order dated September 18, 1990 (the Court Order). BSFS assumed its responsibilities on November 8, 1990. The Court Order provided that the Named Fiduciary, rather than the Plans' trustees, has the "sole, exclusive, full and complete authority and discretion concerning the control, management and disposition of the Special Assets Portfolio".

4. Since February, 1987, the Plans have each owned 45 shares of the Stock, which Stock represents all of the outstanding shares of AHL. AHL is a Delaware corporation, headquartered in Houston, Texas, that is engaged in the shipping industry. Its principal assets consist of four single-hulled tankers, built in the 1950's, that are used primarily for the transportation of petroleum products in the Jones Act trade (i.e., American-flagged tankers in the domestic intra-coastal trade). The Plans' Stock can be traced back to certain prior investments made by Tower and is held in the Plans' Special Assets Portfolio, along with the Plans' other remaining Tower-initiated investments.

5. Since AHL is an employer of employees covered under the Plans, the Stock constitutes employer securities under section 407(d)(1) of the Act. The applicants represent that the Stock constituted qualifying employer securities within the meaning of section 407(d)(5) of the Act at the time of its acquisition, but as of January 1, 1993, the Stock ceased to be a qualifying employer security because the Stock is wholly-owned by the Plans and thus cannot meet the requirements of section 407(f) of the Act. However, the Plans' continued holding of the Stock is currently exempt from the prohibited transaction restrictions of the Act pursuant to Prohibited Transaction Class Exemption No. 79–15 as a result of a court order, dated November 2, 1992, entered in the Litigation (the PTE 79–15 Order). Under the terms of the PTE 79–15 Order, this exemption is effective until the later of: a) December 31, 1993; or b) December 31, 1994, provided the Plans make application to the Department for an exemption to permit the continued holding of the Stock. By filing the request which is the subject of the exemption proposed herein, the exemption provided under the PTE 79–15 Order has been automatically extended to December 31, 1994.

6. While BSFS, in its capacity as Named Fiduciary, has ultimate investment management responsibility for the Special Assets Portfolio, it does not exercise investment management discretion over the portfolio's assets on a day-to-day basis. Rather, as contemplated by the Court Order, responsibility for the day-to-day management and supervision of the portfolio's assets has been delegated at all times to independent investment managers selected by BSFS. With respect to the Plans' investment in the Stock, such responsibility was first delegated to Sunwestern Advisors, L.P. (Sunwestern), which served as the investment manager for this investment until July 14, 1992. Effective that date, Sunwestern's responsibilities were assumed by a new investment manager, Potomac Asset Management, Inc. (Potomac), which continues to serve in that capacity.

7. Potomac, a registered investment adviser founded in 1978, is owned by three principals, all of whom are analysts as well as portfolio managers. In addition to the principals, Potomac has an experienced fixed-income manager, equity manager, and corporate finance consultant. In addition to its traditional investment management of $165 million in bond and stock portfolios, Potomac maintains a corporate finance business consisting of private placement consulting and monitoring for pension funds, fair market value analysis for various clients, restructuring and financing of private companies and related activities. Potomac has had experience in managing investments by multi-employer plans in privately-held companies, similar to the situation involving the Plans' investment in the Stock.

8. Potomac represents that aggressive efforts were made by Sunwestern to sell the Plans' Stock in 1991 and 1992. These efforts were unsuccessful largely due to the age of AHL's ships and market uncertainties created by the Oil Pollution Act of 1990 (OPA 1990). By the time these sales efforts were discontinued in mid-1992, no bona fide offers for any price above essentially scrap value had materialized. Under OPA 1990, every single-hull tanker engaged in the domestic petroleum trade must be converted to a double-hulled tanker or it will be phased out of service beginning in 1995, depending upon its year of construction. AHL's four tankers were constructed between 1957 and 1960. Therefore, AHL must either double-hull two of the tankers before the end of 1995 and the other two by the end of 1996, or those ships will

[13] In re Masters, Mates and Pilots Pension Plan and IRAP Litigation, Lead File No. 85 Civ. 9545 (VLB) (S.D.N.Y.)

be prohibited from engaging in the domestic petroleum trade. If AHL chooses not to double-hull the ships, it will have to depend on the less consistent grain, vegetable oil, etc. trade for business.

9. Potomac represents that, in its judgment, there has been no change in market conditions that would permit a sale of the Plans' interest in the near term, and, more importantly by year end when the exemption pursuant to the PTE 79–15 Order expires. While AHL has returned to profitability (see reps. 10 and 11, below), the twin problems that plagued prior sales efforts (see rep. 8, above) still remain and make the sale of AHL on a going concern basis, in Potomac's opinion, a virtual impossibility. The only expressions of interest that Potomac has received since becoming investment manager in 1992 have consisted of casual inquiries concerning whether AHL would sell one of its vessels at slightly below scrap value. In addition, the scrapping of AHL's ships is not feasible at the present time due to existing contractual commitments. Currently, several of AHL's ships are on extended term charter and thus, with the possible exception of a single ship, AHL could not now scrap its fleet without abrogating its contractual obligations.

10. Potomac represents that while no sale of AHL is currently feasible on favorable terms, AHL has returned to profitability following the difficulties it experienced over the last half of 1991 and during 1992. Potomac states that these profitable operations will result in a very significant return to the Plans on their investment over the near term, particularly when compared to the only viable alternative, a sale of AHL's ships at a price approximating their scrap value. Since a scrap value sale of the ships remains available after the relatively short period of profitable operations permitted under OPA 1990, Potomac believes that the Plans' retention of their investment is the preferable investment course of action over the near term, even if OPA 1990's requirements ultimately end the useful life of AHL's ships.

11. Potomac represents that AHL's Board, subject to Potomac's review as investment manager, has instituted a number of measures designed to return AHL to profitability. These measures included a change in AHL's key management, the ability of new management to secure term, as opposed to spot charters, and the installation of more refined and sophisticated cash management and management information systems. In addition, AHL had significant necessary maintenance performed, including the successful completion of total drydock on three of AHL's four ships. During the first quarter of 1994, AHL earned a net profit of $787,284 from operations, and shareholders' equity rose to the highest level in AHL's history. Potomac represents that it believes that in 1994, AHL will earn between $1.2 million and $1.6 million from operations. Potomac further represents that the scrap value of the ships will not decline significantly from today's values, if at all, over the near term. Thus, even if AHL found that OPA 1990's requirements left it with no option other than scrapping its vessels after 1996, the continued operation of the company, so long as it is profitable, will leave the Plans with the added value generated by such profitability, plus roughly the same scrap value that they could now realize. In addition, this investment option allows AHL to continue to study other options and await market developments that may significantly enhance the value of its assets to a potential buyer and thus significantly enhance the value of the Plans' investment.

12. One such potential market development involves the reconstruction of existing single-hulled vessels to meet the requirements of OPA 1990, which may present a cost-effective alternative to the building of new ships. This alternative entails attaching new, double-hulled cargo bodies to the engine and crew sections of existing ships. Potomac represents that discussions it has had with Avondale Industries, Inc. (Avondale), one of the nation's leading shipbuilding companies, suggest that the cost of rebuilding an existing vessel in this fashion would be approximately 50% of the cost of a new vessel. This potential cost savings represents an important value potential for AHL's existing ships that Potomac represents would exceed the ship's scrap value and may be attractive to a possible buyer should a demand for rebuilt ships, in fact, develop. Potomac has been exploring this option in discussions with Avondale and representatives of the United States Coast Guard. In addition, preliminary discussions have been held with the Federal Maritime Administration concerning the potential financing of such a project, by whomever is the owner, with federal loan guarantees. Potomac emphasizes in exploring this option that it does not intend the Plans either to make any additional investment in AHL for this purpose, or to guarantee any financing for AHL. In fact, BSFS, in its capacity of named fiduciary for the Plans with oversight responsibility over Potomac (see rep. 13., below), has made it clear to Potomac that any such investment by the Plans, either directly or in the form of guarantees, is out of the question. Rather, it is Potomac's goal to advance this conversion project so as to make AHL and its ships attractive to a potential buyer/investor in the event a market for reconfigured vessels develops as a cost-effective alternative to new construction.

13. BSFS represents that its obligations under the Court Order to monitor and report on the activities of the investment managers for the Special Assets Portfolio sharply restrict Potomac's opportunity to perpetuate unduly the Plans' continued ownership of AHL. Pursuant to the investment management agreement with Potomac that BSFS negotiated on behalf of the Plans, Potomac is obligated to supply detailed quarterly reports on each of the Special Assets it manages and to comply with written investment guidelines. Those guidelines state that Potomac "shall seek, among other prudent objectives, to: (A) Maximize the Plans' net, long-term investment return [and] (B) Liquidate each such investment when and insofar as prudent * * *" Furthermore, the guidelines require Potomac to prepare and update on a quarterly basis an "action plan" for each asset, including AHL. The action plan requires the investment manager to state the timetable for achieving a sale (if sale is intended) or for achieving any other stated objective. In short, BSFS represents that significant mechanisms are in place to prevent Potomac from improperly seeking to continue indefinitely to manage the Plans' Stock in AHL. BSFS represents that in its capacity as Named Fiduciary, it has reviewed in depth Potomac's analysis of the various options available and has accepted Potomac's conclusion that the continued ownership of the Stock is in the best interests of the Plans.

14. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (a) the proposed exemption would continue for a limited period of time a transaction permitted by the PTE 79–15 Order; (b) the Plans' independent investment manager, Potomac, has reviewed the Plans' holding of the Stock and has determined that it is in the best interest of both Plans to continue holding the Stock; (c) Potomac will continue to monitor the transaction to determine whether it remains in the Plans' best interests to retain the Stock; d) BSFS, which has the overall responsibility as Named Fiduciary over the Plans'

investment in the Stock, has reviewed Potomac's findings and agrees with Potomac's determination that the Plans' continued holding of the Stock is in the best interests of both Plans; and e) the Plans will make no additional investment in AHL, nor will they guarantee any financing to AHL, for the purpose of double-hulling of the ships.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 20th day of October, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration.

[FR Doc. 94–26405 Filed 10–24–94; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 94–75; Exemption Application No. D–9722]

Grant of Individual Exemptions; Raytech Corporation Salaried Employees Savings Plan

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Raytech Corporation Salaried Employees Savings Plan (the Salaried Plan) and Raytech Corporation Hourly Employee Savings Plan (the Hourly Plan; together, the Plans); Located in Shelton, Connecticut; [Prohibited Transaction Exemption 94–75; Exemption Application Nos. D–9722 and D–9723]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the extension of credit by Raytech Corporation (Raytech) to the Plans in the form of payments (the Makeup Payments) with respect to group annuity contract CG01274B3A (the GIC) issued by Executive Life Insurance Company (ELIC); and (2) the Plans' potential repayment of the Makeup Payments (the Repayments), provided: (a) all terms of such transactions are no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with an unrelated party; (b) no interest and/or expenses are paid by the Plans; (c) the Makeup Payments are made only in lieu of payments due from ELIC with respect to the accumulated book value of the GIC at the time of the Makeup Payments; (d) the Repayments are restricted to the amounts, if any, paid to the Plans after March 27, 1994, by ELIC or other responsible third parties with respect to the GIC (the GIC Proceeds); (e) the Repayments do not exceed the total amount of the Makeup Payments; and (f) the Repayments are waived to the extent the Makeup Payments exceed the GIC Proceeds.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 27, 1994, at 59 FR 38207.

NOTICE TO INTERESTED PERSONS: The applicant represents that it was unable to comply with the notice to interested persons requirement within the time frame stated in its application. However, the applicant has represented that it notified all interested persons, in the manner agreed upon between the

applicant and the Department, by September 13, 1994. Interested persons were notified that they had until October 16, 1994 to comment or request a hearing with respect to the proposed exemption. No comments or hearing requests were received by the Department.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 20th day of October, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration.

[FR Doc. 94–26404 Filed 10–24–94; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of Records Administration, National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before December 9, 1994. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of Army, (N1–AU–94–13). Index to surveillance case files scheduled for permanent retention.

2. Department of Health and Human Service, (N1–235–93–2). Administrative records relating to operations of Federal Security Agency regional offices, including public assistance for civilian evacuees, 1941–48.

3. Department of Health and Human Service, Office of the Assistant Secretary for Health (N1–514–94–1). PHS Alert records and quality assurance records held by the Office of Research Integrity.

4. Department of the Treasury, Office of Thrift Supervision (N1–483–93–17). National Application Tracking System.

5. Farm Credit Administration (N1–103–94–5). Production Credit Corporation records regarding loan foreclosures pre-dating 1956.

6. Farm Credit Administration (N1–103–94–6). Statistical database containing duplicate Equal Employment Opportunity records.

7. Social Security Administration (N1–47–94–3). Disability determination residual files.

8. Tennessee Valley Authority, (N1–142–94–6). Payroll allotment files.

9. Tennessee Valley Authority, Information Services (N1–142–94–8). Problem and Change Technical Assessment Meeting Files.

10. Tennessee Valley Authority (N1–142–94–10). Paper records of the Power Manager's File converted to microfilm. The microfilm copy of these files will be transferred to the National Archives.

Dated: October 14, 1994.

Ralph C. Bledsoe,

Acting Archivist of the United States.

[FR Doc. 94–26342 Filed 10–24–94; 8:45 am]

BILLING CODE 7515–01–M

Nixon Presidential Historical Materials: Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional files from the Nixon Presidential historical materials. Notice is hereby given that, in accordance with section 104 of title I of the Presidential Recordings and Materials Preservation Act ("PRMPA", 44 U.S.C. 2111 note) and § 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR Part 1275), the agency has identified, inventoried, and prepared for public access integral file segments of materials among the Nixon Presidential materials.

DATES: The National Archives intends to make the integral file segments described in this notice available to the public beginning December 13, 1994. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal or constitutional right or privilege which would prevent or limit access to these materials should notify the Arhivist of the United States in writing of the claimed right or privilege before November 29, 1994.

ADDRESSES: The materials will be made available to the public at the National Archives' facility located at 8601 Adelphi Road, College Park, Maryland.

Petitions asserting a legal or constitutional right or privilege which would prevent or limit access must be sent to the Archivist of the United States, National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: William H. Cunliffe, Director, Nixon Presidential Materials Staff, 301–713–6950.

SUPPLEMENTARY INFORMATION: The integral file segments of textual materials to be opened consist of 112 cubic feet.

The White House Central Files Unit is a permanent organization within the White House complex that maintains a central filing and retrieval system for the records of the President and his staff. This is the eleventh of a series of openings of Central Files: the previous openings were on December 1, 1986; March 22, 1988; December 9, 1988; July 17, 1989; December 15, 1989; August 22, 1991; February 19, 1992; July 24, 1992; May 17, 1993; and July 15, 1993.

Some of the materials designated for opening on December 13, 1994, are from the White House Central Files, Subject Files. The Subject Files are based on an alphanumeric file scheme of 61 primary categories. Listed below are the integral file segments from the White House Central Files, Subject Files that will be made available to the public on December 13, 1994.

Subject category	Volume (cubic feet)
Federal Government (FG):	3.0
FG 217 Small Business Administration	
FG 234 Washington Metropolitan Area Transit Authority	
FG 235 Washington Metropolitan Area Transit Commission	
FG 236 Water Resources Council	
FG 237 Woodrow Wilson Memorial Commission	
FG 327 Cost of Living Council	

Two integral file segments from the Staff Member and Office Files will also be made available to the public. Listed below are the Staff Member and Office Files that will be made available to the public on December 13, 1994.

File group	Volume (cubic feet)
Leonard Garment	88.3
Rose Mary Woods	17.6

Seven files designated for opening on December 13, 1994, are from the White House Central Files, Name Files. The Name Files was used for routine materials filed alphabetically by the name of the correspondent; copies of documents in the Name Files are usually filed by subject in the Subject Files. Name files relating to seven individuals will be opened on December 13, 1994:

	Volume (cubic feet)
White House Central Files: Name Files	.3
Philip Habib	
Edward Heath	
Ira C. Keller	
Edward Kennedy	
Earl Langrebe	
Thurgood Marshall	
John Schmitz	

On November 10, 1993, the National Archives released documents relating to POW/MIA matters located in the National Security Council files among the Nixon Presidential materials. Additional documents from these files have now been declassified and will be make available to the public on December 13, 1994.

	Volume (cubic feet)
POW/MIA documents	.3

A number of documents which were previously withheld from public access have been re-reviewed for release and/or declassified under the Mandatory Review provisions of Executive Order 12356 and will be made available to the public on December 13, 1994.

	Volume (cubic feet)
Previously restricted materials	2.5

Public access to some of the items in the file segments will be restricted as outlined in 36 CFR 1275.50 or 1275.52 (Public Access Regulations).

Dated: October 14, 1994.

Ralph C. Bledsoe,

Acting Archivist of the United States.

[FR Doc. 94–26343 Filed 10–24–94; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the

National Foundation on the Arts the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. Date: October 31–November 1, 1994
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications submitted to Public Humanities Projects program during the September 1994 deadline, submitted to the Division of Public Programs, for projects beginning after January, 1995.
2. Date: November 2, 1994
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review Editions Programs applications in Literature, submitted to the Division of Research Programs, for projects beginning after April 1, 1995.
3. Date: November 3–4, 1994
   Time: 9:00 a.m. to 5:30 p.m.
   Room: 430
   Program: This meeting will review applications submitted to Public Humanities Projects program during the September 1994 deadline, submitted to the Division of Public Programs, for projects beginning after April, 1995.
4. Date: November 3–4, 1995
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review applications to Humanities Projects in Media program during the September 16, 1994 deadline, submitted to the Division of Public Programs, for projects beginning after April, 1995.
5. Date: November 4, 1994
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Editions Program applications in History, submitted to the Division of Research Programs, for projects beginning after April 1, 1995.
6. Date: November 7, 1994
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review applications submitted to Humanities Projects in Media program during the September 16, 1994 deadline, submitted to the Division of Public Programs, for projects beginning after April, 1995.
7. Date: November 10, 1994
   Time: 9:00 a.m to 5:30 p.m.
   Room: 315
   Program: This meeting will review proposals submitted to the October 1, 1994 deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after October, 1995.
8. Date: November 14, 1994
   Time: 9:00 a.m to 5:30 p.m.
   Room: 315
   Program: This meeting will review proposals submitted to the October 1, 1994 deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after October, 1995.
9. Date: November 14–15, 1994
   Time: 8:30 a.m to 5:00 p.m.
   Room: 415
   Program: This meeting will review applications submitted to Humanities Projects in Media program during the September 16, 1994 deadline, submitted to the Division of Public Programs, for projects beginning after April, 1995.
10. Date: November 21, 1994
    Time: 9:00 a.m to 5:30 p.m.
    Room: 315
    Program: This meeting will review proposals submitted to the October 1, 1994 deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after October, 1995.
11. Date: November 28–29, 1994
    Time: 8:30 a.m to 5:00 p.m.
    Room: 415
    Program: This meeting will review State and Regional Exemplary applications submitted by State humanities council to the Division of State Programs, for projects beginning after April, 1995.

David Fisher,

Advisory Committee Management Officer.

[FR Doc. 94–26344 Filed 10–24–94; 8:45 am]

BILLING CODE 7536–01–M

Visual Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Artists Organizations Section) to the National Council on the Arts will be held on November 14–18, 1994. The panel will meet from 9:00 a.m. to 9:00 p.m. on November 14–17 and from 9:30 a.m. to 5:00 p.m. on November 18 in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public from 3:30 p.m. to 5:00 p.m. on November 18, for a policy and guidelines discussion.

Remaining portions of this meeting from 9:00 a.m. to 9:00 p.m. on November 14–17 and from 9:30 a.m. to 3:30 p.m. on November 18 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, this session will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of full-time Federal employee in attendance.

If you need special accomodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5439.

Dated: October 18, 1994.

Yvonne M. Sabine,

Director, Office of Panel Operations, National Endowment for the Arts.

[FR Doc. 94–26332 Filed 10–24–94; 8:45 am]

BILLING CODE 7537–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34850; International Series No. 730 File No. S7–8–90]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Fee Schedule Establishing a One Year Pilot Program Providing an Alternative Means of Charging for Dial-Up Market Data.

October 18, 1994.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on September 6, 1994, the Options Price Reporting Authority ("OPRA")[1] submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"), establishing a pilot program providing an alternative means of charging for dial-up market data. OPRA has designated this proposal as concerned solely with the administration of the plan permitting it to become effective upon filing pursuant to Rule 11Aa3–2(c)(3)(ii) under the Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to respond to requests from OPRA vendors, who make options information available to their customers via a PC dial-up service, to establish a usage-based fee as an alternative to the existing port charge. Currently, vendors interested in offering this service must pay a Dial-Up Data Service Utilization Fee based on the peak number of ports of a vendor's computer that are simultaneously used to provide the service during the month for which the charge is assessed. Under the proposed pilot program, a vendor would have the alternative of paying a fee determined by the total number of inquiries for options quotations and last sale reports received by the service during the month. The usage-based fee is proposed to be established at the rate of $0.02 for each "quote packet" which would consist of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index. All inquiries, except those for historical information (*i.e.*, prior to the current trading day), would be counted for purposes of calculating the fee.

During the pilot period, vendors who have entered into a Dial-Up Market Data Service Rider and Vendor Agreement with OPRA may elect to pay the usage-based fee by submitting a written election to that effect to OPRA. The form for electing this option will require vendors to provide OPRA with a description of its systems and procedures used to count the number of inquiries for options quotations and last sale reports received by the service, and will permit OPRA to inspect its records and systems pertaining to such count.

OPRA is proposing to introduce the fee initially for a one year pilot period in order to evaluate the usefulness of a usage-based fee and to measure its impact on OPRA's revenue. The pilot program will continue for one year from the time that the first dial-up vendor elects to be subject to the usage-based fee proposed herein, unless the pilot program is extended or made permanent at the end of this period.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, and 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 withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to File No. S7–8–90 and should be submitted by November 5, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26340 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2. Securities Exchange Act Release No. 17638 (Mar. 18, 1981). The plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the Philadelphia Stock Exchange ("PHLX"), the Chicago Board Options Exchange ("CBOE"), the American Stock Exchange ("AMEX"), the Pacific Stock Exchange ("PSE"), and the New York Stock Exchange ("NYSE").

[Release No. 34–34851; International Series No. 731 File No. S7–8–90]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to the National Market System Plan of the Options Price Reporting Authority

October 18, 1994.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on September 26, 1994, the Options Price Reporting Authority ("OPRA") submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"), extending until January 1, 1996, the pilot program providing for the dissemination of certain implied volatility quotations on selected foreign currency options ("FCO's") to vendors outside of the OPRA system.

OPRA has designated this proposal as concerned solely with the administration of the plan permitting it to become effective upon filing pursuant to Rule 11Aa3–2(c)(3)(ii) under the Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

OPRA requests an extension of the pilot program that was the subject of an amendment previously filed on May 14, 1992,[1] providing for the dissemination of certain implied volatility quotations in FCO's directly by the Philadelphia Stock Exchange ("PHLX") through selected vendors, rather than through

[1] Securities Exchange Act Release No. 30906 (July 16, 1992), 57 FR 31546.

the OPRA network. This pilot has been extended twice, first until September 1, 1993 pursuant to a letter amendment dated March 26, 1993,[2] and then until November 1, 1994, pursuant to a letter amendment dated August 12, 1993.[3]

The purpose of the pilot program is to permit PHLX to accommodate those institutional investors in foreign currency options who desire to receive indications of the current state of the FCO market expressed in implied volatility quotations. These quotations serve only as indications of the state of the market; actual trading in FCO's continues to be conducted through bids and offers expressed in terms of the prices at which options may be bought or sold which continue to be disseminated over the OPRA system. Because the existing specifications of the OPRA system were not designed to accommodate implied volatility quotations, OPRA has consented to PHLX's arranging for the transmission of this information through selected vendors.

OPRA plans to extend the pilot once more until January 1, 1996, the date proposed for the unbundling within OPRA of market information services pertaining to FCO's. Prior to that date, a decision will be made concerning the continued availability of implied volatility quotations in FCO's.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act.

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 extension between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to File No. S7–8–90 and should be submitted by November 25, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26431 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34852; File No. SR–PSE–94–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to a Waiver of Certain Fees for Floor Members

October 18, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 23, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to waive certain fees for Floor Members set forth in the Schedule of Rates for Exchange Services. The waiver would be in effect for a three month period.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange is proposing to waive the following monthly fees that are applicable to its Equity and Option Floor Members: (1) Equity Floor Broker Booth Fees of $125, $250, and $375 for small, large, and area booths, respectively; (2) Equity Floor Privilege Fees of $165 per registered floor member and registered clerk; (3) approximately 50% of the Systems Fee of $1,700 per post on the Equity Floor; (4) approximately 61% of the Options Floor Booth Fees of $275, $350, and $450 for retail booths, clearing booths, and stock execution booths, respectively, and approximately 61% of the $300 surcharge for prime location booths; (5) approximately 61% of the Options Market Maker Fees of $660 per month; and (6) a waiver of 100% of the $0.02 per contract options independent broker fee up to a maximum of $100 per broker per month. The Exchange proposes that the waiver be in effect for three months.

The purpose of the proposed waivers is to provide the Exchange's Floor Members, who have borne the most significant burden of fee increases in recent years, with a discount in floor fees in response to increased revenues. The discount will apply to three months of 1994.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4), in particular, in that it provides for the equitable allocation of reasonable charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

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[2] Securities Exchange Act Release No. 32154 (April 21, 1993), 58 FR 21481.

[3] Securities Exchange Act Release No. 32771 (August 19, 1993), 58 FR 44865.

[1] 15 U.S.C. 78s(b)(1) (1988).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the PSE, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW.; Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PSE–94–26 and should be submitted by November 15, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26350 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 200.30–3(a)(12) (1992).

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Application for Unlisted Trading Privileges in Seven Over-the-Counter Issues and to Withdraw Unlisted Privileges in Seven Over-the-Counter Issues

October 19, 1994.

On October 6, 1994, the Chicago Stock Exchange, Inc. ("CHX"), submitted an application for unlisted trading privileges ("UTP") pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under Section 12(b) of the Act.

File No.	Symbol	Issuer
7–13074	CPWR	Compuware Corporation, Common Stock, $.01 par value.
7–13075	EXBT	Exabyte Corporation, Common Stock, $.001 par value.
7–13076	GYMB	Gymbores Corporation, Common Stock, $.001 par value.
7–13077	LRCX	Lam Researce Corporation, Common Stock, $.001 par value.
7–13078	NVLS	Novellus Systems Incorporated, Common Stock, No par value.
7–13079	PAGE	Paging Network Incorporated, Common Stock, $.01 par value.
7–13080	PETM	Pet Mart Incorporated, Common Stock, $.0001 par value.

The above-referenced issues are being applied for as replacements for the following securities, which form a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The CHX also applied to withdraw UTP pursuant to Section 12(f)(4) of the Act for the following issues:

File No.	Symbol	Issuer
7–13801	CGNE	Calgene Incorporated, Common Stock, $.001 par value.
7–13082	NNCXF	Newbridge Network Corporation, Common Stock, No par value.
7–13083	PRGO	Perrigo Company, Common Stock, No par value.
7–13084	QVCN	Q.V.C. Incorporated, Common Stock, $.01 par value.
7–13085	STRY	Stryker Corporation, Common Stock, $.10 par value.
7–13086	SNPX	Synoptics Communications, Common Stock, $.01 par value.
7–13087	SYGN	Synergen, Common Stock, $.01 par value.

Replacement issues are being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before November 9, 1994, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549.

Commentators are asked to address whether they believe the requested grant of UTP as well as the withdrawal of UTP would be consistent with Section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26432 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34854; International Series Release No. 732; File No. SR–CBOE–94–32]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Inc. Relating to Warrants on the Nikkei Stock Index 300

October 18, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78S(b)(1), notice is hereby given that on September 2, 1994,

the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to list and trade warrants on the Nikkei Stock Index 300 ("Nikkei 300" or "Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose or and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is permitted to list and trade index warrants under CBOE Rule 31.5(E). The Exchange is now proposing to list and trade index warrants based on the Nikkei 300. The listing and trading of index warrants on the Nikkei 300 would comply in all respects with CBOE Rule 31.5(E). CBOE has received the Commission's approval to list and trade options on the Nikkei 300.[1]

Index design. The Nikkei 300 is a broad-based, capitalization-weighted index designed to be representative of stocks on the Tokyo Stock Exchange. It was designed by and is maintained by Nihon Keizai Shimbun, Inc. The Index is fully described in SR–CBOE–94–14, the Exchange's rule filing relating to the listing and trading of options on the Nikkei 300.[2]

Index warrant trading. The warrants on the Index would be direct obligations of their issuers and would be cash-settled in U.S. dollars. The warrants would have either American or European style exercise. Upon exercise, or at the warrant expiration date in the case of warrants with European style exercise, the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the index value has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the index value has increased above the pre-stated cash settlement value. Warrants that are out-of-the-money at the time of expiration would expire worthless.

Warrant listing standards and customer safeguards. In SR–CBOE–90–08,[3] the Exchange established generic listing standards for index warrants, which are contained in CBOE Rule 31.5(E). The filing also established certain sales practice rules for the trading of index warrants, which are contained in Chapter IX of the Exchange's Rules. The listing and trading of index warrants on the Nikkei 300 would be subject to those guidelines and rules.

Under Rule 31.5(E), (i) issuers shall meet the CBOE's size and earnings criteria for equity issues and have assets in excess of $100,000,000; (ii) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (iii) the minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000.

Because index warrants are derivative in nature and closely resemble index options, CBOE would also require safeguards designed to meet the investor protection concerns raised by the trading of index options. The Exchange would require that index warrants on the Nikkei 300 be sold only to customers whose accounts have been approved for options trading under CBOE Rule 9.7.[4] CBOE Rule 30.50, Interpretation .02 also applies the suitability standards of CBOE Rule 9.9 to recommendations in index warrants.

In addition, CBOE Rule 30.50, Interpretation .04 requires that the standards of Rule 9.10(a) regarding discretionary orders be applied to index warrants. It requires a branch office manager or registered options principal to approve and initial a discretionary order in index warrants on the day entered. Also, prior to commencement of trading, the Exchange would distribute a circular to its members calling attention to specific risks associated with warrants calling attention to specific risks associated with warrants on the Index if the Exchange is required to do so by Commission policy.

2. Statutory Basis

The listing and trading of warrants on the Nikkei 300 is consistent with Section 6(b) of the ACt in general and furthers the objectives of Section 6(b)(5) of the Act in particular because it will help remove impediments to a free and open securities market and facilitate transactions in securities because the Index warrants will provide investors a means by which to hedge investments in the Japanese equity market and provide a surrogate instrument for trading in the Japanese securities market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule amendments will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

[1] *See* Securities Exchange Act Release No. 34388 (July 15, 1994), 59 FR 37789 (July 25, 1994) (approving File No. SR–CBOE–94–14).

[2] *See supra*, note 1.

[3] *See* Securities Exchange Act Release No. 28556 (October 19, 1990), 55 FR 43233 (October 26, 1990).

[4] Telephone conversation between James R. McDaniel, Schiff Hardin & Waite, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on October 17, 1994.

Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect at the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–94–32 and should be submitted by November 15, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26351 Filed 10–19–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34861; File No. SR–CSE–94–08]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Exchange Membership Fees

October 19, 1994.

On August 16, 1994, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the membership application fees imposed by the Exchange.

The proposed rule change was published for comment in Securities Exchange Act Release No. 34654 (September 12, 1994), 59 FR 47964 (September 19, 1994). No comments were received on the proposal.

The CSE is increasing its membership application fees as follows:

Item	Current fee	New fee
Yearly membership dues.	$2,500	$2,500.
(Quarterly Charge $625).		(No change).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

Item	Current fee	New fee
New Member Application Fee.	100	1,000.
Transfers:		
Responsible Party Change.	75	350.
Firm Registration/ Name Change.	75	350.
CBOE Exercise Application.	75	350.

The increases apply to the initial application fee, as well as the fee to exercise a Chicago Board Options Exchange ("CBOE") membership.[3] Additionally, intra-firm transfers of individuals assigned to a membership are being raised to reflect the cost of processing the transfers. The Exchange states that the increase in fees will more accurately reflect the costs associated with the processing of applications and will make the fees comparable to those charged by other markets.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[4] In particular, the Commission believes the proposal is consistent with the Section 6(b)(4) requirements that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using the Exchange's facilities.[5] The Commission believes that the increases in membership application fees are equitable because the Exchange has proposed the increases to offset rising costs, and the fees do not have a discriminatory or anti-competitive effect. Accordingly, the Commission believes that it is appropriate to approve the proposed rule change.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CSE–94–08) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

[3] Pursuant to an agreement signed in November 1986, a CBOE member may be eligible to become a proprietary member of the CSE without having to purchase and own a certificate of proprietary membership (*i.e.*, a seat on the Exchange), provided that the CBOE member meets all of the other requirements for eligibility set forth in the CSE's By-Laws. *See* Article II, Section 5.2 of the CSE's Code of Regulations (By-Laws).

[4] 15 U.S.C. 78f(b) (1988).

[5] 15 U.S.C. 78f(b)(4) (1988).

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1993).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26435 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34862; File No. SR–NYSE–94–36

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Elimination of Monthly Fee Charged for Obtaining Certain Statistical Reports on Extensions of Time

October 19, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 5, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to eliminate the monthly fifteen dollar fee charged margin extension system users for obtaining certain statistical reports on extensions of time. The fee elimination is effective upon filing with the SEC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In March 1984, four statistical reports were created as part of the redesign of the Exchange's computerized margin

extension system. The purpose of these reports is to provide member organizations with information to assist them in controlling and monitoring "extension of time" requests. Further, these reports act as a surveillance tool for member organizations and the Exchange, to ensure compliance with the rules and regulations that govern extension requests and procedures.

The reports currently are distributed at no charge on a quarterly basis to all member organizations submitting their "extensions of time" to the Exchange. Member organizations may request one or more of the reports on a monthly basis, for a fee of fifteen dollars ($15) for each report requested. This charge was instituted to cover the Exchange's cost for producing and processing the reports.

The Exchange is eliminating the fifteen dollar fee for these additional statistical reports and will furnish statistical reports produced through the computerized extension system to member organizations monthly at no charge beginning with the October 1994 reports.[1]

2. Statutory Basis

The proposed rule change is consistent with the requirement under Section 6(b)(4) of the Act that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[1] The proposed rule change states that the elimination of the monthly fee would commence as of September 1, 1994. Because the reports produced for September are quarterly reports, which already are distributed without charge, the proposal should have referenced the October 1994 reports as the first monthly reports that would be distributed at no charge. Telephone conversation between Donald van Weezel, Managing Director, Regulatory Affairs, NYSE, and Beth Stekler, Attorney, SEC, on October 18, 1994.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–36 and should be submitted by November 15, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26433 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34853; File Nos. SR–NYSE–94–26; SR–NYSE–94–27]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Examination Specifications for the General Securities Registered Representative (Series 7) Examination, and the Corresponding Content Outline

October 18, 1994.

I. Introduction

On June 30, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] proposed rule changes (File Nos. SR–NYSE–94–26 and SR–NYSE–94–27) to revise the General Securities Registered Representative (Series 7) Examination Specifications and the corresponding Content Outline.

The proposed rule changes were published for comment in Securities Exchange Act Release Nos. 34340 (July 8, 1994), 59 FR 35959 (July 14, 1994); and 34341 (July 8, 1994), 59 FR 35960 (July 14, 1994). No comments were received on the proposals. This order approves the proposed rule changes contingent upon the filing of the revised Examination Specifications and Content Outline by other appropriate self-regulatory organizations ("SROs"), and approval of those filings by the Commission.

II. Description of the Proposal

The NYSE is revising, updating and seeking approval for the Series 7 Examination, Specifications and Content Outline. The Series 7 Examination was created in 1974 as an industry-wide qualification examination for persons seeking registration as general securities representatives. The Series 7 Examination is generally required under SRO rules for persons who are engaged in the solicitation, purchase, or sale of securities for the accounts of customers. The purpose of the Series 7 Examination is to ensure that registered representatives have the basic knowledge necessary to perform their functions and responsibilities. The Series 7 Specifications detail the areas covered by the examination and break down the number of examination questions culled from each area, while the Content Outline details the subject coverage and question allocation of the examination.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

Revision of the Series 7 Examination, Specifications and Content Outline was initiated in April 1993 by an industry committee of SROs and representatives from broker-dealers in order to update the examination in view of changes in the securities industry, including changes in relevant rules and regulations, the development of new securities products, and changes in the job of registered representatives as firms offer an increasingly wide range of financial services.[3] The Examination Specifications and Content Outline for the Series 7 have not been revised since 1986.

The industry committee updated the existing statements of the critical functions of registered representatives to ensure current relevance and appropriateness and drafted statements of tasks expected to be performed by entry-level registered representatives and conformed the existing Content Outline to the task statements. The Content Outline reflects the revised content of the examination. Under the proposed rule change, the total number of questions in the Series 7 Examination will remain at 250, and the revised examination will cover all financial product areas covered on the present Series 7 Examination as well as several new products, including collateralized mortgage obligations ("CMOs"), long term equity anticipation securities ("LEAPS") and CAPS,[4] with reduced emphasis on direct participation programs.

Under the proposed rule change, the NYSE will appoint a committee to review the Series 7 Content Outline and Specifications periodically to determine any adjustments that may be required. The committee will represent a broad range of expertise, such as practicing registered representatives, branch managers, compliance officers, training personnel, and SRO representatives. The review will address any new information that registered representatives need to know, information currently specified in the examination that should be deleted and any adjustments that need to be made in the emphasis on various topics.

[3] SROs on the committee include the New York, American and Philadelphia Stock Exchanges, Chicago Board Options Exchange, the Municipal Securities Rulemaking Board, and the National Association of Securities Dealers. Broker-dealer representatives include branch office managers, compliance officers, training personnel and registered representatives.

[4] OEX CAPS and SPX CAPS are new securities based on the S&P 100 (OEX) and the S&P 500 (SPX) that give investors the right to participate to a predetermined level in upward or downward movements in either index.

The Commission anticipates that the other appropriate SRO participants also will file the revised specifications for approval by the Commission. The NYSE, and these other SROs, may use the revised Examination, Specifications and Content Outline after the Commission has approved the proposed rule changes of the other appropriate SRO participants.

III. Discussion

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5) and 6(c)(3)(B) of the Act.[5] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(c)(3)(B) provides that a national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange, and may require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.

The Commission also believes that the proposed rule change is consistent with Section 15(b)(7) of the Act[6] which stipulates that prior to effecting any transaction in, or inducing the purchase or sale of any security, a registered broker or dealer must meet certain standards of operational capability, and that such broker or dealer must meet certain standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors.

The Commission believes that revising the Series 7 Examination, Specifications and Content Outline should help to ensure that only those securities representatives with a comprehensive knowledge of current Exchange rules, as well as an understanding of the Act, will be able to solicit, purchase or sell securities for the accounts of customers. The Commission believes that the revised areas covered by the Examination, Specifications and Content Outline are appropriate subject matters and include a sufficiently broad range of topics to ensure an appropriate level of expertise by representatives.

Additionally, the revised examination tests relevant subject matters in view of changes in applicable laws, rules, regulations, products, and industry practices. By ensuring this requisite level of knowledge, the NYSE can remain confident that securities representatives have demonstrated an acceptable level of securities knowledge to carry out their responsibilities.

The Commission has determined that the Content Outline for the revised Series 7 Examination is sufficiently detailed and covers appropriate information so as to provide an adequate basis for studying the new topics covered on the revised examination. The revised Content Outline should help ensure that those persons taking the revised examination understand the full range of subject matters included in the examination.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

IV. Conclusion

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File Nos. SR–NYSE–94–26 and SR–NYSE–94–27) are approved contingent upon the filing of the Examination Specifications and Content Outline by the order appropriate SROs and the approval of those filings by the Commission.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Security.

[FR Doc. 94–26434 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78f(b)(5) and (c)(3)(B) (1988).

[6] 15 U.S.C. 78o(b)(7) (1988).

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–34849; File No. SR–PSE–94–22]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Stock Exchange, Inc., Relating to the Execution of Cross Transactions on the PSE Equities Floors

October 18, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 18, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities

and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On October 13, 1994, the Exchange submitted Amendment No. 1.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to add a new commentary to its Rule 5.14(b), relating to the execution of cross transactions on the Equities Floors. The text of the proposed rule change is as follows: *italicizing* indicates new language:

Rule 5.14(a)—No change.

Rule 5.14(b)—No change.

Commentary .01—.04—No change.

.05 Agency orders to cross 25,000 shares or more at or within the prevailing quotation will be permitted to establish precedence without regard to priority of existing bids or offers at that price. Members will be allowed to better the proposed cross price, but in doing so shall be required to satisfy all other existing bids or offers at that price. For purposes of this Commentary .05, proprietary orders of members, member organizations, and non-member broker dealers shall not be considered "agency."

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] See letter from Michael Pierson, Senior Attorney, PSE, to Sandra Sciole, Commission, dated October 10, 1994. In Amendment No. 1 the PSE (1) Divided the original proposed rule change into two filings by removing proposed commentary .06 from this filing and making it a separate filing; and (2) changed the minimum number of shares for eligibility under the commentary from 10,000 to 25,000 to mirror the comparable Amex and NYSE Rules (NYSE Rule 72(b) and Amex Rule 126(g)).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The PSE is proposing to amend its rules regarding the execution of stock cross transactions (*i.e.*, Rules 5.14(a) and 5.14(b)) by adding a new commentary to Rule 5.14(b). Proposed Commentary .05 will govern large agency crosses.

Proposed Commentary .05. Proposed Commentary .05 is designed to permit the execution of "clean" agency crosses of 25,000 shares or more at or within the prevailing quotation without regard to the priority of existing bids or offers.

As with the Rule 72(b) of the New York Stock Exchange ("NYSE") and the Rule 126(g), Commentary .02, of the American Stock Exchange ("Amex"), this proposal to allow "clean" crosses is designed to facilitate the execution of agency cross transaction at the PSE. Although the proposal would allow such cross transactions to be executed without regard to priority of existing bids or offers, it will still specifically allow members an opportunity to better the price of the cross transaction.

The PSE has also written this new rule with a specific limitation that it be allowed only for "agency" order, *i.e.* non-proprietary orders of members, member organizations and non-member broker/dealers. This approach to agency orders is consistent with that taken by the Amex and NYSE. It is designed to provide an environment for the facilitation of true agency crosses without giving an unfair advantage to the proprietary orders of members, member organizations or non-member broker/dealers over other orders being held in the specialist books.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–94–22 and should be submitted by November 15, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26436 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20640; 812–9218]

Norwest Bank Minnesota, N.A., et al.; Notice of Application

October 19, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Norwest Bank Minnesota, N.A. ("Bank"); Norwest Funds; Forum Financial Services, Inc. ("Forum"); Core Trust (Delaware) ("Core Trust"); and Schroder Capital Management International, Inc. ("Schroder").

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act that would grant an exemption from sections 12(d)(1), 17(a)(1), and 17(a)(2) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder to permit certain transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of the Norwest Funds to invest portions of their assets in certain portfolios of Core Trust.

FILING DATE: The application was filed on September 8, 1994. Applicants have agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 9, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Forum Financial Group, Two Portland Square, Portland, Maine 04101, Attention: Max Berueffy.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563 or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Bank is the sponsor of a number of collective investment funds ("CIFs") that serve as investment vehicles for qualified and non-qualified employee benefit plans for which the Bank serves as trustee, investment manager, or custodian. The Bank intends to convert fourteen of the CIFs into corresponding new series of the Norwest Funds, an open-end series investment company.[1] The new series, together with the new Advantage Class of an existing money market fund, will be known as the Advantage Funds. The Bank will serve as investment adviser to the Advantage Funds, and Schroder will serve as subadviser to those portions of the Advantage Funds that invest in international securities. The Advantage Funds will be offered without a sales load or redemption fee and will not bear distribution expenses pursuant to a plan adopted under rule 12b–1 under the Act, although applicants may revise these arrangements in the future.

2. Core Trust is an open-end series investment company. Although Core Trust will register under the Act, it does not intend to make a public offering of its securities and does not intend to register its shares under the Securities Act of 1933. Core Trust includes a portfolio that intends to invest in securities issued by small companies ("Small Company Portfolio"), a portfolio that intends to invest in securities of foreign issuers ("International Portfolio"), and a portfolio that will be designed to replicate the performance of the Standard & Poor's 500 Composite Index ("Index Portfolio") (such three series are the "Portfolios"). The Bank is the investment adviser to the Small Company and S&P 500 Index Portfolios of Core Trust, and Schroder is the investment adviser to the International Portfolio. The Portfolios will be offered only to certain Advantage Funds and eligible Future Funds (as hereinafter defined) relying on an order issued pursuant to the application. Shares of these Portfolios will be offered without a sales load or redemption fee, and Core Trust will not bear distribution expenses pursuant to a plan adopted under rule 12b–1 under the Act.

3. Forum provides management, administrative, and distribution related services to Norwest Funds and will provide similar services to the Advantage Funds and Core Trust.

4. The fifteen Advantage Funds will consist of seven equity funds (Diversified Equity Fund, Growth Equity Fund, Large Company Growth Fund, Small Company Growth Fund, Income Equity Fund, Index Fund, and International Fund); three balanced funds (Conservative Balanced Fund, Moderate Balanced Fund, and Growth Balanced Fund), and five fixed income funds (Intermediate U.S. Government Fund, Managed Fixed Income Fund, Stable Income Fund, Short Maturity Investment Fund, and Ready Cash Investment Fund).

5. Five of the Advantage Funds—Diversified Equity Fund, Growth Equity Fund, Conservative Balanced Fund, Moderate Balanced Fund, and Growth Balanced Fund (the "Blended Funds")—will continue their predecessor CIFs' practice of allocating specified percentages of their assets among several different investment styles. The Diversified Equity Fund and the Growth Equity Fund (the "Blended Equity Funds") seek to achieve long term capital appreciation by investing in equity securities. Consistent with their investment objectives, the Blended Equity Funds allocate a fixed percentage of their assets to several investment styles. Each Blended Equity Fund allocates a significant portion of its assets to investments in large, high quality domestic companies that, in the view of its adviser, have superior growth potential as well as, in the case of the Diversified Equity fund, equities that may provide above average dividend income. In addition, each Blended Equity Fund allocates a portion of its assets to investment in equity securities of small companies and a portion to investment in non-U.S. issuers. The Diversified Equity Fund also invests in a group of securities representing 96% or more of the capitalization-weighted market value of the stocks in the S&P 500 Index. The Conservative Balanced Fund, the Moderate Balanced Fund, and the Growth Balanced Fund (collectively, "Blended Balanced Funds") invest in a balanced portfolio of fixed income and equity securities. Like the Blended Equity Funds, the Blended Balanced Funds allocate portions of their assets among different investment styles.

6. To an extent consistent with its investment objectives, each Blended Fund will invest directly in equity

[1] On June 8, 1994, the Division of Investment Management, pursuant to delegated authority, issued an order pursuant to section 17(b) of the Act and rule 17d–1 thereunder, permitting certain transactions necessary to complete the proposed conversion. See *Norwest Corporation*, Investment Company Act Release Nos. 20294 (May 13, 1994) (notice) and 20342 (June 8, 1994) (order).

securities and, in the case of the Blended Balanced Funds, fixed income securities. Applicants believe that investors in the Blended Funds can obtain substantial benefits, however, if the Blended Funds pool the assets they allocate for investment in the securities of small companies, non-U.S. issuers, and companies listed in the S&P 500 Index. Accordingly, applicants propose that the Blended Funds invest those portions of their portfolios in the Small Company, International, and Index Portfolios of Core Trust. Although at present only the Blended Funds intend to rely on the order, applicants also propose that any other series of Norwest Funds for which the Bank or any company controlling, controlled by, or under common control with the Bank acts as adviser, or any open-end investment company for which the Bank or any company controlling, controlled by, or under common control with the Bank acts as adviser in the future (collectively the "Future Funds"), be permitted to invest in the Small Company, International, and Index Portfolios of Core Trust in the same manner as the Blended Funds.

7. Each existing CIF will convert into a corresponding series of the Advantage Funds by transferring the securities and cash in its portfolio to the corresponding Advantage Fund in exchange for shares of the Advantage Fund. Each CIF will then distribute shares of the Advantage Funds to each employee benefit plan *pro rata* according to its interest in the terminating CIF. When the Portfolios commence operations, each Blended Fund will contribute the small company, international, and S&P 500 Index securities in its portfolio to the corresponding Portfolio in exchange for shares of that Portfolio.

8. All portfolio securities contributed in-kind will be appropriate investments for the Portfolios. Such in-kind transactions will comply with the provisions of paragraphs (a) through (f) of rule 17a–7, except that the consideration for the securities contributed to Core Trust will be Core Trust shares rather than cash. After the initial contribution of securities, the Portfolios will buy and sell portfolio securities at the discretion of their respective portfolio managers.

9. Each Blended Fund will treat its investment in each Portfolio of Core Trust as subject to the requirements of Guide 3 of the Guidelines for the Preparation and Filing of Form N–1A so that the level of disclosure in the prospectus will be governed by the level of its investment in the portfolio of Core Trust. Thus, a Blended Fund that maintains an investment in a Portfolio in an amount of less than 5% of its net assets will include a brief description of the Portfolio, whereas a Blended Fund that invests 5% or more of its net assets in a Portfolio will include a more detailed description of the Portfolio and its objectives, risks, and manner of operation. In addition, each Blended Fund will list the securities held by the Portfolios in which it invests and the amount and value of its *pro rata* interest in each such security in its reports to shareholders under section 30(d) of the Act and rule 30d–1 thereunder to the same extent as if the Blended Fund held the securities directly.

10. The Blended Funds may invest directly in some securities also held by the three Portfolios. Applicants believe that it is unlikely that any Blended Fund will incur unnecessary brokerage costs because it sells a security at the same time a Portfolio buys the same security, or vice versa. First, the actual overlap between the various portfolios is very small. Moreover, all portfolios of the Blended Funds and the Portfolios are expected to have very low turnover ratios, making the possibility of opposing buy/sell orders even less likely. In addition, the Blended Funds and the Index and Small Company Portfolios will all be managed by the Bank, which will monitor for offsetting buy/sell orders. Although the Bank and Schroder do not share portfolio information in advance, applicants believe that because Norwest and Schroder employ substantially different criteria for their investment decisions, they would rarely engage in transactions in the same security on the same day. Indeed, the historical experience of the CIFs indicates the possibility is remote that two portfolios managers might enter buy and sell orders for the same security at the same time. A review of the portfolios of the component CIFs from January 1, 1994 to May 31, 1994 reveals only one occasion on which one portfolio sold a security on the same day another purchased the same security. The brokerage costs associated with this transaction were $142.00.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies. Section 6(c) provides that the SEC may exempt persons or transactions from any or all sections of the Act when necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants request an exemption under section 6(c) of the Act from section 12(d)(1) to the extent necessary to permit the Blended Funds' proposed investments in the Portfolios. Applicants believe that the proposed investment structure will not be subject to any of the abuses that section 12(d)(1) was intended to prevent. There is no risk that management of the Blended Funds will exercise inappropriate control over the management of Core Trust because (a) the Bank will be the investment adviser for all Blended Funds, as well as any Blended Funds, that may invest in the Small Company, International, or Index Portfolios of Core Trust; and (b) the Blended Funds and Future Funds will be the only investors in the Portfolios.

3. If large-scale redemptions by public shareholders require a major change in the level of investment by a Blended Fund in the Portfolios such that the Portfolios might be required to liquidate securities in their portfolios in such a manner that the shareholders in other non-redeeming Blended Funds would be prejudiced, the Portfolios may make the redemptions in-kind by distributing securities in its portfolios, rather than cash, to the redeeming Blended Fund. Such in-kind transactions would comply with the provisions of paragraphs (a) through (f) of rule 17a–7, except that the consideration for the portfolio securities would be shares in the Portfolio rather than cash.

4. Applicants believe that the Blended Funds' investment in Core Trust will not result in significant duplication of the costs of distribution, portfolio management, fund administration, or operations. Core Trust shares will not be subject to any sales load or rule 12b–1 fees. The Bank will waive its advisory fee for serving as investment adviser to the Small Company and Index Portfolios of Core Trust and will reimburse the International Portfolio of Core Trust an amount equal to the advisory fees the Portfolio pays to Schroder, and Forum

will not receive any fees for administering that portion of any Blended Fund that invests in Core Trust. Although there will be some duplication of custodial, transfer agency, and other expenses, applicants believe that the layering of these expenses will be minimal, and that the efficiencies that the Blended Funds should achieve in portfolio management and fund operations will result in net cost savings.

5. To a limited extent, the Blended Funds may invest directly in some securities also held by the Portfolios. Applicants believe it is unlikely that any Blended Fund will incur unnecessary brokerage costs because it sells a security at the same time a Portfolio buys the same security, or vice versa. The actual overlay between the various portfolios is very small. Moreover, all portfolios of the Blended Funds and Core Trust are expected to have very low turnover ratios, making the possibility of opposing buy/sell orders even less likely. In addition, the Blended Funds and the Index and Small Company Portfolios of Core Trust will all be managed by the Bank, which will monitor for offsetting buy/sell orders.

6. Applicants also request an exemption under sections 6(c) and 17(b) of the Act from section 17(a) of the Act, which prohibits certain purchases and sales of securities between investment companies and their affiliated persons. Because the Blended Funds may individually own more than 5% of individual Portfolios and also may be deemed to be under common control with Core Trust, the Blended Funds and Core Trust may be deemed to be affiliated persons of one another. Purchases by the Blended Funds of shares of Core Trust or sales by Core Trust of their shares to the Blended Funds could be deemed to be principal transactions by affiliated persons under section 17(a). Similarly, the initial in-kind contributions by the Blended Funds of certain of their portfolio securities to the Portfolios in exchange for shares of the Portfolios and any possible subsequent redemptions in-kind by the Portfolios could likewise be deemed to be principal transactions by affiliated persons under section 17(a).

7. Under section 17(b), the SEC shall issue an order exempting a proposed transaction from section 17(a) if (a) the terms of the proposed transaction, including the consideration paid or received, are reasonable and fair and do not involve overreaching on the part of any persons concerned; (b) the proposed transaction is consistent with the policies of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 17(b) applies only to individual proposed transactions. However, the SEC frequently has used its authority under section 6(c) to exempt series of transactions that otherwise met the standards of section 17(b).

8. Applicants believe that the terms of the proposed transactions are fair and reasonable and do not involve overreaching. The consideration paid and received for the sale and redemption of shares of the Portfolios will be based on the net asset value of those Portfolios. Similarly, the consideration paid and received for the Blended Funds' contribution of portfolio securities to Core Trust or for any subsequent in-kind redemptions will be based on the fair market value of those securities. The proposed transactions are also consistent with the policies of each fund. The investment of assets of the Blended Funds in shares of Core Trust and the issuance of shares of Core Trust will be effected in accordance with each Blended Funds' investment restrictions and will be consistent with its policies as set forth in each Blended Funds' registration statement. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

9. Section 17(d) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d–1 promulgated under the Act provides that no joint transaction may be consummated without prior SEC approval. To the extent the proposed arrangement is considered a joint enterprise or joint arrangement, applicants believe that it is consistent with the provisions, policies, and purposes of the Act because the purpose of the proposed arrangement is to provide an efficient vehicle for the Blended Funds to invest in international, small company, and S&P 500 Index securities. In addition, the Blended Funds and Core Trust will not participate in this arrangement on a basis that is different or less advantageous than the participants that are not investment companies.

Applicants' Conditions

Applicants agree that any order granting the exemptions they request may be conditioned on the following:

1. The Bank will waive its advisory fee for serving as investment adviser to the Small Company and Index Portfolios of Core Trust and will reimburse the International Portfolio of Core Trust the amount of the advisory fee the Portfolio pays to Schroder.

2. Forum will waive the amount of any fee that it would otherwise be entitled to receive from each Blended Fund for that portion of the assets of the Blended Fund invested in the Portfolios.

3. Shares of Core Trust will not be subject to a sales load or redemption fee, and Core Trust will not assess any distribution fee under a plan adopted in accordance with rule 12b–1.

4. Investment in shares of Core Trust will be in accordance with each Blended Fund's respective investment restrictions and will be consistent with its policies as recited in its registration statement.

5. The board of trustees of each Blended Fund will review reports at least annually identifying all instances in which one Portfolio enters a buy order for a particular security at approximately the same time another Portfolio enters a sell order for that security. When it reviews the reports, the board will consider whether the duplication of brokerage costs resulting from such transactions has become significant. If the duplication of brokerage costs has become significant, the board will promptly adopt procedures designed to limit such duplication.

6. Each Blended Balanced Fund will limit any redemptions resulting from a reallocation in its equity and fixed income positions to no more than 1 percent of a Portfolio's total outstanding securities during any period of less than thirty days.

7. Each Blended Fund will continue to invest in portfolios of Core Trust only if the board of trustees of each Blended Fund determines, at least annually, that investment in portfolios of Core Trust is in the best interest of the shareholders of such Blended Fund.

8. Each Blended Fund will, as part of its reports to shareholders under section 30(d) of the Act and rule 30d–1 thereunder, list the securities held by the portfolios of Core Trust in which the Blended Fund has invested and the amount and value of such Blended Fund's pro rata interest in each security to the same extent as if such securities or interests therein were held directly by such Blended Fund.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26429 Filed 10–24–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2697/2698; Amdt. 1]

California; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective October 6, 1994, to extend the deadlines for filing applications for physical damages as well as economic injury resulting from the Northridge earthquake and subsequent aftershocks beginning on January 17 and continuing through April 22, 1994. The new deadline for both physical damages and economic injury is November 17, 1994.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 1994.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 94–26330 Filed 10–24–94; 8:45 am]

BILLING CODE 8025–01–M

Santa Ana District Advisory Council; Public Meeting

The U.S. Small Business Administration Santa Ana District Advisory Council will hold a public meeting on Wednesday, November 16, 1994 from 9:30 to 11:30 a.m. at La Habra City Council Chambers, 201 E. La Habra Boulevard, La Habra, California 90621 to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John S. Waddell, District Director, U.S. Small Business Administration, 901 W. Civic Center Drive, Suite 160, Santa Ana, California 92703–2352, (714) 836–2494.

Dated: October 20, 1994.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 94–26424 Filed 10–24–94; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0552]

Eos Partners SBIC, L.P.; Notice of Issuance of a Small Business Investment Company License

On August 18, 1994, a notice was published in the **Federal Register** (59 FR 42633) stating that an application had been filed by Eos Partners SBIC, L.P., 520 Madison Avenue, New York, New York, 10022 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1993)) for a license to operate as a small business investment company.

Interested parties were given until close of business August 30, 1994 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0552 on September 19, 1994, to Eos Partners SBIC, L.P. to operate as a small business investment company.

The Licensee has initial private capital of $14,629,500, and Mr. Steven M. Friedman will manage the fund. B. Young, family & Trust own approximately 29 percent of the stock of the Licensee, Onex Eos Holding Inc., a publicly traded investment fund owns approximately 25 percent of the stock, and S. Friedman, family & Trust own approximately 19 percent of the stock. The remaining stock is owned by individuals, partnerships and corporations.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 18, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–26426 Filed 10–24–94; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–0359]

Maine Capital Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On April 4, 1994, a notice was published in the **Federal Register** (59 FR 15762) stating that an application had been filed by Maine Capital Partners, L.P., 70 Center Street, Portland, Maine 04101 with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1993)) for a license to operate as a small business investment company.

Interested parties were given until close of business May 4, 1994 to submit their comments to SBA. No comments were received. Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01–0359 on September 19, 1994, to Maine Capital Partners, L.P. to operate as a small business investment company.

The Licensee has initial private capital of $5,380,000, and Mr. David M. Coit will manage the fund. Fleet Bank owns approximately 22 percent of the stock of the Licensee. The remaining stock is owned by five banks which operate in the New England region and three individual investors.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 18, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–26425 Filed 10–24–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss emergency evacuation issues.

DATES: The meeting will be held on November 17, 1994 at 9 a.m. Arrange for oral presentations by November 7, 1994.

ADDRESSES: The meeting will be held at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Spirit Room, Crystal City, Virginia.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held on November 17, 1994, at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Spirit Room, Crystal City, Virginia. The agenda for the meeting will include:

- Opening Remarks.
- A review of the activities of the Performance Standards Working Group.
- A discussion of future activities and plans.
- A vote on a draft advisory circular on Evacuation Demonstration Procedures.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by November 7, 1994, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Emergency Evacuation Issues or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 19, 1994.

Daniel Salvano,

Assistant Executive Director for Emergency Evacuation Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–26442 Filed 10–24–94; 8:45 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 205
Tuesday, October 25, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 27, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

FY 1995 Operating Plan

The Commission will consider issues related to the Commission's Operating Plan for Fiscal Year 1995.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: October 20, 1994.

Sadye E. Dunn,

Secretary.

[FR Doc. 94–26567 Filed 10–21–94; 3:17 pm]

BILLING CODE 6355–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on November 5, 1994. The meeting will commence at 9:00 a.m.

PLACE: Hilton Back Bay Hotel, 40 Dalton Street, Washington Room, Boston, MA 02115, (617) 236–1100.

STATUS OF MEETING: *Open,* except that a portion of the meeting may be closed pursuant to a vote of a majority of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board may hear and consider the General Counsel's report on litigation in which the Corporation is or may become a party. In addition, the Board may consider issues related to the compensation of the incumbent Inspector General. Finally, the Board may be briefed by the Inspector General on Office of the Inspector General Activities.[2] The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Section 552b(c)(10) and (e)], and the corresponding regulation of the Legal Services Corporation [45 C.F.R. Section 1622.5 (h) and (6)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of October 1, 1994 Meeting.
3. Approval of Minutes of October 1, 1994 Executive Session.
4. Welcome by Robert Sable, Executive Director, Greater Boston Legal Services, Inc.
5. Presentation by Representatives of Northeast Corporation-Funded Grantees on the Integrated Legal Services Delivery System They Have Developed.
6. Chairman's and Members' Reports.
7. President's Report.
   a. Consider and Act on Proposed Meeting Schedule for 1995.
8. Consider and Act on Joint Report of the Audit and Appropriations, and Provision for the Delivery of Legal Services Committees.
   a. Consider and Act on Resolution Regarding the Distribution of Fiscal Year 1995 Funds.

OPEN SESSION: (Continued)

9. Consider and Act on Operations and Regulations Committee Report.
   a. Consider and Act on Committee Recommendation To Publish Proposed Changes to Part 1607 of the Corporation's Regulations In the **Federal Register** for Public Comment.
10. Discussion of the Role of National and State Support in an Integrated Delivery System.
11. Consider and Act on Proposed Management Response to the Inspector General's Semiannual Report for the Period Ended September 30, 1994.
12. Consider and Act on, From an Institutional Perspective, Issues Related to Establishing a Rate of Compensation for the Corporation's Inspector General.
13. Inspector General's Report.
14. Public Comment.

CLOSED SESSION:

15. Consideration of the General Counsel's Report on Litigation.
16. Consideration of Issues Related to the Compensation of the Incumbent Inspector General.
17 Briefing of Board by the Inspector General on Office of the Inspector General Activities.

OPEN SESSION: (Resumed)

18. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: October 21, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–26571 Filed 10–21–94; 8:45 am]

BILLING CODE 7050–01–M

[2] Briefings do not constitute "meetings" as defined by the Government in the Sunshine Act. Notice of this briefing is being provided solely as a courtesy to the public.

LEGAL SERVICES CORPORATION

Board of Directors

Operations and Regulations Committee Meeting Notice

TIME AND DATE: The Legal Services Corporation Board of Directors Operations and Regulations Committee will meet on November 4, 1994. The meeting will commence at 8:30 a.m.

PLACE: The Hilton Back Bay Hotel, 40 Dalton Street, Washington Room, Boston, MA 02115, (617) 236–1100.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. President's Report.
3. Consider and Act on Proposed Committee Meeting Schedule for Calendar Year 1995.
4. Consider and Act on Proposed Changes to Part 1607 of the Corporation's Regulations.
5. Consider and Act on Proposed Changes to Part 1602 of the Corporation's Regulations.

6. Consider and Act on Proposed Changes to Part 1610 of the Corporation's Regulations.
7. Consider and Act on Proposed Changes to Part 1609 of the Corporation's Regulations.
8. Consider and Act on Proposed Changes to Part 1604 of the Corporation's Regulations.
9. Public Comment.
10. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: October 21, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–26572 Filed 10–21–94; 8:45 am]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Board of Directors

Joint Meeting of the Audit and Appropriations Committee and the Provision for the Delivery of Legal Services Committee of November 4, 1994

TIME AND DATE: The Legal Services Corporation Board of Directors Audit and Appropriations Committee and Provision for the Delivery of Legal Services Committee will meet jointly on November 4, 1994. The meeting will commence at 9:30 a.m.

PLACE: Hilton Back Bay Hotel, 40 Dalton Street, Washington Room, Boston, MA 02115, (617) 236–1100.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of September 30, 1994 Meeting of the Audit and Appropriations Committee.
3. Approval of Minutes of September 30, 1994 Meeting of the Provision for the Delivery of Legal Services Committee.
4. President's Report.
5. Consider and Act on Decisions Related to the Distribution of Fiscal Year 1995 Funds to National Support, State Support Regional Training Center and Migrant Line Items.
6. Status Report on the Corporation's Fiscal Year 1994 Financial Audit and Preliminary Consolidated Operating Budget and Expenses Through September 30, 1994.
7. Presentation by Larry Fox, Representative of the American Bar Association Section of Litigation, Regarding the Section's Interest In Supporting the Corporation's Work.

CONTACT PERSONS FOR INFORMATION: Patricia Batie (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: October 21, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–26573 Filed 10–21–94; 3:18 pm]

BILLING CODE 7050–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 24, 31, November 7, and 14, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockeville, Pike, Rockeville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 24

Wednesday, October 26

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 31—Tentative

Monday, October 31

10:00 a.m.
Briefing on Status of DOE's HLW Program (Public Meeting)
(Contact: Malcolm Knapp, 301–415–7437)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 7—Tentative

Thursday, November 10

2:30 p.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301–415–7306)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 14—Tentative

There are no meetings scheduled for the week of November 14.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: Dr. Andrew Bates (301) 504–1963.

Dated: October 20, 1994.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 94–26485 Filed 10–21–94; 10:40 am]

BILLING CODE 7590–01–M

federal register

Tuesday
October 25, 1994

Part II

Grants and Cooperative Agreements to State and Local Governments; Proposed Rule

Department of Agriculture
Department of Energy
Small Business Administration
Department of Commerce
Office of National Drug Control Policy
Department of State
Department of Housing and Urban Development
Department of Justice
Department of Labor
Federal Mediation and Conciliation Service
Department of Defense
Department of Education
National Archives and Records Administration
Department of Veterans Affairs
Environmental Protection Agency
General Services Administration
Department of the Interior
Federal Emergency Management Agency
Department of Health and Human Services
National Science Foundation
National Foundation on the Arts and Humanities
  National Endowment for the Arts
  National Endowment for the Humanities
  Institute of Museum Services
Corporation for National and Community Service
Department of Transportation

DEPARTMENT OF AGRICULTURE

7 CFR Part 3016

DEPARTMENT OF ENERGY

10 CFR Part 600

SMALL BUSINESS ADMINISTRATION

13 CFR Part 143

DEPARTMENT OF COMMERCE

15 CFR Part 24

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1403

DEPARTMENT OF STATE

22 CFR Part 135

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 85

DEPARTMENT OF JUSTICE

28 CFR Part 66

DEPARTMENT OF LABOR

29 CFR Part 97

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1470

DEPARTMENT OF DEFENSE

32 CFR Part 33

DEPARTMENT OF EDUCATION

34 CFR Part 80

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1207

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 43

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 31

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–71

DEPARTMENT OF THE INTERIOR

43 CFR Part 12

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 13

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 92

NATIONAL SCIENCE FOUNDATION

45 CFR Part 602

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

45 CFR Part 1157

National Endowment for the Humanities

45 CFR Part 1174

Institute of Museum Services

45 CFR Part 1183

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2541

DEPARTMENT OF TRANSPORTATION

49 CFR Part 18

Grants and Cooperative Agreements to State and Local Governments

AGENCIES: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of Veterans Affairs, Corporation for National and Community Service, Environmental Protection Agency, Federal Emergency Management Agency, Federal Mediation and Conciliation Service, General Services Administration, Institute of Museum Services, National Archives and Records Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Office of National Drug Control Policy, Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a recommendation by the National Performance Review, this proposed revision to the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," originally issued in the March 11, 1988, **Federal Register**, is issued to raise the dollar threshold for simplified procedures for small purchases (simplified acquisition threshold) by State and local grantees. The agencies' common rule provides uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to State and local governments.

DATES: Comments must be received on or before December 27, 1994 in order to be assured of consideration.

ADDRESSES: Persons wishing to submit comments on this notice of proposed rulemaking should send them to Charles Gale, Director, Division of Grants Policy and Oversight, Department of Health and Human Services, A–102 Rulemaking Docket, Room 517D, Hubert H. Humphrey Building, Washington, DC 20201. A copy of each communication submitted will be available for public inspection and copying during regular business hours (9:00 a.m.–5:30 p.m. eastern standard time) at the above address.

FOR FURTHER INFORMATION CONTACT: For general issues regarding this proposed rule, contact Charles Gale, Director, Division of Grants Policy and Oversight, Department of Health and Human Services, (202) 690–6377. For agency-specific issues, see contact persons for individual agencies in preambles of the individual agencies below.

SUPPLEMENTARY INFORMATION:

Background

In 1983, a 20-agency task force explored streamlining grants management and reviewed OMB Circular A–102, "Uniform Administrative Requirements for Grants to State and Local Governments." As part of that effort, on June 18, 1984, OMB published a Notice in the **Federal Register** (49 FR 24958–24959) seeking

comments on over 50 issues and possible options for each.

OMB and the agencies then drafted a governmentwide "common rule." The proposed common rule contained fiscal and administrative requirements for grants and cooperative agreements to State and local governments (grantees) and subrecipients which are State and local governments (subgrantees). At the same time, OMB and the agencies prepared a revised OMB Circular A–102—directed solely to Federal agencies—containing guidance to Federal agencies on how they should manage the award and administration of Federal grants.

On March 12, 1987, the President directed all affected agencies to simultaneously propose and subsequently adopt a common rule verbatim, except where inconsistent with specific statutory requirements. Twenty-three agencies proposed a governmentwide grants management common rule in the June 9, 1987 **Federal Register** (52 FR 21820–21862).

On March 11, 1988, OMB published the final revised Circular A–102, dated March 3, 1988, in the **Federal Register** (53 FR 8028–8032). On the same date, 24 Federal agencies published the final governmentwide common rule in the **Federal Register** (53 FR 8034–8103). The Circular became effective immediately while the common rule did not become effective until October 1, 1988. On June 30, 1992, the Commission on the Bicentennial of the United States Constitution closed and thus will not be joining this proposed rulemaking. On November 24, 1992 and August 16, 1993, two more agencies co-signed the governmentwide common rule (at 57 FR 55092 and 58 FR 43270). On April 4, 1994, the functions of ACTION were transferred to the Corporation for National and Community Service.

On November 4, 1988, OMB published a proposal in the **Federal Register** (53 FR 44710–44714) to replace OMB Circulars A–102 and A–110 with a circular that would provide OMB guidance to Federal agencies on how they should manage the award and administration of Federal grants to both governmental and non-governmental organizations. In addition, the Federal agencies simultaneously issued a proposed rule in the **Federal Register** (53 FR 44716–44812) to amend the March 11, 1988, common rule to establish fiscal and administrative requirements on non-governmental grantees as well. However, based on comments received, on October 29, 1990, in the Unified Agenda of Federal Regulations, OMB stated that it "no longer plans to merge these circulars" (55 FR 45289–45290).

In September 1993, in *Creating a Government that Works Better and Costs Less*, the National Performance Review (NPR) made a recommendation to "Simplify administration by modifying the common grant rules on small purchases" (FSL05). Specifically, NPR recommended an increase in the dollar threshold for small purchases (simplified acquisition threshold) by local governments from $25,000 to $100,000. NPR also made a companion recommendation in the area of reinventing Federal procurement to "Establish new simplified acquisition threshold and procedures" (PROC04). This recommendation sought legislation to simplify small purchases by raising the threshold for the use of simplified acquisition procedures from $25,000 to $100,000.

In a February 1994 accompanying report of the NPR entitled *Creating a Government that Works Better & Costs Less—Strengthening the Partnership in Intergovernmental Service Delivery*, NPR elaborated on recommendation FSL05. NPR stated, "Local governments have found the $25,000 limit to be overly restrictive, especially for the purchase of small vehicles that often exceed this amount. For example, to procure one small van with federal funds to satisfy Americans with Disabilities Act requirements, grantees must formally advertise and solicit sealed public bids. This requirement delays the procurement process and prevents grantees from acquiring rolling stock quickly" (page 21).

Therefore, we are proposing to amend the grants management common rule accordingly.

In many cases, State and local governments set a small purchase threshold below the Federal small purchase threshold. State and local governments are encouraged to amend their thresholds in similar fashion so that grantees will be able to more fully benefit from the change in Federal requirements that will result from this rulemaking.

Impact Analysis

Executive Order 12866

Executive Order 12866 requires that a regulatory impact analysis be prepared for "major" rules which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects.

The participating agencies do not believe that this proposed modification to the common rule will have an annual impact of $100 million or more or the other effects listed in the Order. However, the proposed rule would result in some savings to governmental organizations receiving grants or subgrants. For this reason, the participating agencies have determined that this proposed rulemaking would not create a major rule within the meaning of the Order.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis must be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities.

The participating agencies certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule does not affect the amount of funds provided in the covered programs, but rather modifies and updates an administrative and procedural requirement that reduces burden on small entities.

Paperwork Reduction Act

The participating agencies certify that this proposed rule would not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

Text of the Proposed Common Rule

The text of this common rule as proposed for amendment in this document appears below:

PART _____—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. Section _____.36 is amended by revising paragraphs (d)(1), (g)(2)(ii) through (v), and (h) introductory text, and republishing paragraph (g)(2) introductory text to read as follows:

_____.36 Procurement

* * * * *

(d) *Methods of procurement to be followed.* (1) Procurement by *small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the greater of $100,000 or the small purchase threshold (simplified

acquisition threshold) fixed at 41 U.S.C. 403(11) (currently set at $25,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

* * * * *

(g) *Awarding agency review.*

* * * * *

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when:

* * * * *

(ii) The procurement is expected to exceed the greater of $100,000 or the small purchase threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the greater of $100,000 or the small purchase threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the greater of $100,000 or the small purchase threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the greater of $100,000 or the small purchase threshold.

* * * * *

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts more than the greater of $100,000 or the small purchase threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

* * * * *

Proposed Adoption of Common Rule

The text of the common rule, as proposed by the agencies in this document, appears below.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3016

RIN 050–AA08

FOR FURTHER INFORMATION CONTACT: Gerald Miske, Supervisory Management Analyst, Federal Assistance and Fiscal Policy Division, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–1553.

List of Subjects in 7 CFR Part 3016

Grant programs (Agriculture).

Issued at Washington, DC.

It is proposed that Title 7 of the Code of Federal Regulations be amended as follows.

Anthony A. Williams,

Chief Financial Officer.

Approved:

Mike Espy,

Secretary.

PART 3016—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 3016 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 3016.36 [Amended]

2. Section 3016.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 600

FOR FURTHER INFORMATION CONTACT: Cherlyn Seckinger, Business and Financial Policy Division (HR–521.2), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–8192.

List of Subjects in 10 CFR Part 600

Government contracts, Grant programs.

It is proposed that Part 600 of Title 10 of the Code of Federal Regulations be amended as follows.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

PART 600—FINANCIAL ASSISTANCE RULES SUBPART E—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for Part 600 continues to read as follows:

Authority: Secs. 644 and 646, Pub. L. 95–91, 91 Stat. 599, (42 U.S.C. 7254 and 7256); Pub. L. 97–258, 96 Stat. 1003–1005 (31 U.S.C. 6301–6308).

§ 600.436 [Amended]

2. Section 600.436 is amended as set forth at the end of the common preamble.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 143

FOR FURTHER INFORMATION CONTACT: Calvin Jenkins, Acting Assistant Administrator for Administration, (202) 205–6630.

List of Subjects in 13 CFR Part 143

Contract programs; Grant programs.

It is proposed that Title 13 of the Code of Federal Regulations be amended as follows.

Erskine B. Bowles,

Administrator.

PART 143—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority citation for Part 143 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6).

§ 143.36 [Amended]

2. Section 143.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF COMMERCE

15 CFR Part 24

FOR FURTHER INFORMATION CONTACT: George W. White, Chief, Policy Division, Office of Federal Assistance, (202) 482–5817.

List of Subjects in 15 CFR Part 24

Accounting, Grant programs, Grant administration, Insurance, Reporting and recordkeeping requirements.

It is proposed that title 15 of the Code of Federal Regulations be amended as follows.

Dated: August 16, 1994.

John J. Phelan, III,

Acting Director for Federal Assistance and Management Support.

PART 24—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

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

Authority: 5 U.S.C. 301.

§ 24.36 [Amended]

2. Section 24.36 is amended as set forth at the end of the common preamble.

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1403

FOR FURTHER INFORMATION CONTACT: Richard Yamamoto, Director, High Intensity Drug Trafficking Areas Program, (202) 395–6755

List of Subjects in 21 CFR Part 1403

Contact programs, Grant programs.

It is proposed that title 21 of the Code of Federal Regulations be amended as follows:

Lee P. Brown,

Director.

PART 1403—UNIFORM ADMINISTRATION REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The Authority for part 1403 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 1403.36 [Amended]

2. Section 1403.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF STATE

22 CFR Part 135

FOR FURTHER INFORMATION CONTACT: Robert Lloyd, Office of the Procurement Executive, 703–516–1690.

List of Subjects in 22 CFR Part 135

Contract programs, Grant programs.

It is proposed that title 22 of the Code of Federal Regulations be amended as follows:

Dated: July 18, 1994.

Lloyd W. Pratsch,

Procurement Executive.

PART 135—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 135 continues to read as follows:

Authority: 22 U.S.C. 2658.

§ 135.36 [Amended]

2. Section 135.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 85

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, (202) 708–0294.

List of Subjects in 24 CFR Part 85

Accounting, Contract programs, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

It is proposed that title 24 of the Code of Federal Regulations be amended as follows:

Henry G. Cisneros,

Secretary.

PART 85—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 85 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

§ 85.36 [Amended]

2. Section 85.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF JUSTICE

28 CFR Part 66

FOR FURTHER INFORMATION CONTACT: Cynthia J. Schwimer, Acting Director, Financial Management and Grants Administration Division, 202–307–3186.

List of Subjects in 28 CFR Part 66

Accounting, Contract programs, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

It is proposed that title 28, chapter I, of the Code of Federal Regulations be amended as follows:

Janet Reno,

Attorney General.

PART 66—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 66 is revised to read as follows:

Authority: The Omnibus Crime Control and Safe Street Acts of 1968, 42 U.S.C. 3711, et seq. (as amended); Juvenile Justice and Delinquency Act of 1974, 42 U.S.C. 5601, et seq. (as amended); Victims of Crime Act of 1984, 18 U.S.C. 4042; and 42 U.S.C. 4351–4353.

§ 66.36 [Amended]

2. Section 66.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF LABOR

29 CFR Part 97

FOR FURTHER INFORMATION CONTACT: Melvin Goldberg, Chief, Division of Procurement and Grant Policy, (202) 219–9174.

List of Subjects in 29 CFR Part 97

Contract programs, Grant programs.

It is proposed that title 29 of the Code of Federal Regulations be amended as follows:

Cynthia A. Metzler,

Assistant Secretary for Administration and Management.

PART 97—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 97 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 97.36 [Amended]

2. Section 97.36 is amended as set forth at the end of the common preamble.

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1470

FOR FURTHER INFORMATION CONTACT: Lee Buddendeck (202) 653–5320.

List of Subjects in 29 CFR Part 1470

Contract programs, Grant programs.

It is proposed that title 29 of the Code of Federal Regulations be amended as follows:

John Calhoun Wells,

Director.

PART 1470—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1470 continues to read as follows:

Authority: The Labor Management Cooperation Act of 1978 (29 U.S.C. 175a).

§ 1470.36 [Amended]

2. Section 1470.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 33

FOR FURTHER INFORMATION CONTACT: Dr. Mark Herbst, (703) 614–0205.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Department of Defense proposes to adopt this amendment to the Governmentwide common rule on administration of grants and cooperative agreements to State and local governments. In adopting this rule, the Office of the Secretary of Defense, the Military Departments and the Defense Agencies will maintain uniform procedures that are consistent with those of other Executive Departments and Agencies.

The Department of Defense originally codified this Governmentwide rule on March 11, 1988 (53 FR 8034), at 32 CFR Part 278. On February 21, 1992 (57 FR 6199), Part 278 was redesignated as Part 33. This Notice of Proposed Rulemaking proposes to amend the redesignated Part 33.

List of Subjects in 32 CFR Part 33

Accounting, Administrative practice and procedures, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

It is proposed that title 32 of the Code of Federal Regulations be amended as follows:

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

PART 33—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 33 continues to read as follows.

Authority: 5 U.S.C. 301; 10 U.S.C. 113.

§ 33.36 [Amended]

2. Section 33.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF EDUCATION

34 CFR Part 80

FOR FURTHER INFORMATION CONTACT: Greg Vick, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3636 ROB, Washington, D.C. 20202–4700. Telephone: 708–8199.

List of Subjects in 34 CFR Part 80

Accounting, Administrative practice and procedures, Contract programs, Grant programs—education, Grant administration, Insurance, Reporting and Recordkeeping requirements.

It is proposed that title 34 of the Code of Federal Regulations be amended as follows:

Richard W. Riley,

Secretary of Education.

PART 80—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 80 continues to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1) and 3474, OMB Circular A–102, unless otherwise noted.

§ 80.36 [Amended]

2. Section 80.36 is amended as set forth at the end of the common preamble.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1207

RIN 3095–AA23

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Gale Bentley at 301–713–6730.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Archivist of the United States, through the National Historical Publications and Records Commission (NHPRC) program provides grants, when funds are available, to State and local governments, historical societies, archives, libraries and associations for the preservation, arrangement and description of historical records and for a broad range of archival training and development programs. These programs are described in 36 CFR Part 1206. The Catalog of Federal Domestic Assistance number is 89.0003.

List of Subjects in 36 CFR Part 1207

Accounting, Administrative practice and procedure, Contract programs, Grant programs—Archives and records, Grants administration, Insurance, Reporting and recordkeeping requirements.

It is proposed that title 36 of the Code of Federal Regulations be amended as follows:

Trudy Huskamp Peterson,

Acting Archivist of the United States.

PART 1207—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1207 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

§ 1207.36 [Amended]

2. Section 1207.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 43

FOR FURTHER INFORMATION CONTACT: Donald L. Neilson, Director, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue N.W., Washington, D.C. 20420, (202) 523–3412.

List of Subjects in 38 CFR Part 43

Contract programs, Grant programs.

It is proposed that title 38 Code of Federal Regulations be amended as follows:

Jesse Brown,

Secretary of Veterans Affairs.

PART 43—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 43 continues to read as follows:

Authority: 38 U.S.C. 1712, E.O. 11541.

§ 43.36 [Amended]

2. Section 43.36 is amended as set forth at the end of the common preamble.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 31

FOR FURTHER INFORMATION CONTACT: Richard Mitchell, Grants Policy and Procedures Branch, Grants Administration Division (3903F), 401 M Street SW, Washington, D.C., 20460, (202) 260–6077.

List of Subjects in 40 CFR Part 31

Accounting, Administrative practice and procedure, Grant programs, Contract programs, Grants administration, Reporting and recordkeeping requirements.

It is proposed that Title 40 of the Code of Federal Regulations be amended as follows:

Dated: August 8, 1994.

Carol Browner,

Administrator.

PART 31—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for Part 31 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.; 42 U.S.C. 7401 et seq.; 42 U.S.C. 6901 et seq.; 42 U.S.C. 300f et seq.; 7 U.S.C. 136 et seq.; 15 U.S.C. 2601 et seq.; 42 U.S.C. 9601 et seq.; 20 U.S.C. 4011 et seq.; 33 U.S.C. 1401 et seq.

§ 31.36 [Amended]

2. Section 31.36 is amended as set forth at the end of the common preamble.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–71

FOR FURTHER INFORMATION CONTACT: John P. Dyer, General Services Administration, Public Buildings Service, Office of Procurement, 18th and F Streets, NW, Room 7316, Washington, DC 20405. Telephone: (202) 501–0907 Extension 46.

List of Subjects in 41 CFR Part 105–71

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

It is proposed that title 41 of the Code of Federal Regulations be amended as follows:

Dated: August 31, 1994.

David L. Bibb,

Deputy Commissioner, Public Buildings Service.

PART 105–71—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 105–71 continues to read as follows:

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

§ 105–71.136 [Amended]

2. Section 105–71.136 is amended as set forth at the end of the common preamble.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA47

FOR FURTHER INFORMATION CONTACT: Dean A. Titcomb, Chief, Acquisition and Assistance Division, (202) 208–6431

List of Subjects in 43 CFR Part 12

Cooperative agreements, Grants administration, Grant program.

It is proposed that title 43 of the Code of Federal Regulations be amended as follows:

Dated: August 11, 1994.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

PART 12—ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

1. The authority for part 12 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 7501; 41 U.S.C. 701 *et seq.*; E.O. 12539, 3 CFR, 1986 Comp. p. 189; E.O. 12674, 3 CFR, 1989 Comp. p. 215; E.O. 12731, 3 CFR, 1990 Comp. p. 306; OMB Circular A–102; OMB Circular A–110; OMB Circular A–128; and OMB Circular A–133.

§ 12.76 [Amended]

2. Section 12.76 is amended as set forth at the end of the common preamble.

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 13

FOR FURTHER INFORMATION CONTACT: Charles F. McNulty, Office of Financial Management, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2976.

List of Subjects in 44 CFR Part 13

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 13 is proposed to be amended as follows.

Gary D. Johnson,

Acting Chief Financial Officer.

PART 13—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority citation continues to read as follows:

Authority: Reorg. Plan No. 3, 1978; E.O. 12127; E.O. 12148.

§ 13.36 [Amended]

2. Section 13.36 is amended as set forth at the end of the common preamble.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 92

FOR FURTHER INFORMATION CONTACT: Charles Gale, Director, Division of Grants Policy and Oversight, 202–690–6377. For the hearing impaired only: Telecommunications Device for the Deaf 202–690–6415.

ADDITIONAL SUPPLEMENTARY INFORMATION: For clarification, in addition to applying to State and local governments, this amendment also applies to Indian Tribal governments.

List of Subjects in 45 CFR Part 92

Contract programs, Grant programs.

It is proposed that title 45 of the Code of Federal Regulations be amended as follows:

Dated: August 12, 1994.

Donna E. Shalala,

Secretary.

PART 92—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 92 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 92.36 [Amended]

2. Section 92.36 is amended as set forth at the end of the common preamble.

NATIONAL SCIENCE FOUNDATION

45 CFR Part 602

FOR FURTHER INFORMATION CONTACT: Jean Feldman, Deputy Head, Policy Office, Division of Contracts, Policy & Oversight, 703–306–1243.

List of Subjects in 45 CFR Part 602

Contract programs, Grant programs.

It is proposed that title 45 of the Code of Federal Regulations be amended as follows:

Joseph L. Kull,

Chief Financial Officer.

PART 602—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 602 continues to read as follows:

Authority: 42 U.S.C. 1870(a).

§ 602.36 [Amended]

2. Section 602.36 is amended as set forth at the end of the common preamble.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1157

FOR FURTHER INFORMATION CONTACT: Donald Bard, Grants Officer, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506–0001, (202) 682–5403.

List of Subjects in 45 CFR Part 1157

Accounting, Administrative practice and procedures, Grant Programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

It is proposed that title 45 of the Code of Federal Regulations be amended as follows:

Laurence Baden,

Deputy Chairman for Management.

PART 1157—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1157 continues to read as follows:

Authority: 20 U.S.C. 951 et seq., as amended 1990.

§ 1157.36 [Amended]

2. Section 1157.36 is amended as set forth at the end of the common preamble.

National Endowment for the Humanities

45 CFR Part 1174

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wallace, Director, Grants Office, (202) 606–8494.

List of Subjects in 45 CFR Part 1174

Contract programs, Grant programs.

It is proposed that title 45 of the Code of Federal Regulations be amended as follows:

Sheldon Hackney,

Chairman.

PART 1174—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1174 continues to read as follows:

Authority: 20 U.S.C. 959 (a)(1).

§ 1174.36 [Amended]

2. Section 1174.36 is amended as set forth at the end of the common preamble.

Institute of Museum Services

45 CFR Part 1183

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Program Director, 202–606–8539.

List of Subjects in 45 CFR Part 1183

Museums, National boards.

It is proposed that title 45 of the Code of Federal Regulations be amended as follows:

Diane B. Frankel,

Director.

PART 1180—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1183 continues to read as follows:

Authority: 20 U.S.C. 961.

§ 1183.36 [Amended]

2. Section 1183.36 is amended as set forth at the end of the common preamble.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2541

FOR FURTHER INFORMATION CONTACT: Michael Kenefick, Director Grants and Contracts, 202–606–8070 ext. 101.

List of Subjects in 45 CFR Part 2541

Contract programs, Grant programs.

It is proposed that title 45 of this Code of Federal Regulations be amended as follows:

Terry Russell,

General Counsel.

PART 2541—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS.

1. The authority for part 2541 continues to read as follows:

Authority: 42 U.S.C. 12501 et seq.

§ 2541.360 [Amended]

2. Section 2541.360 is amended as set forth at the end of the common preamble.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 18

FOR FURTHER INFORMATION CONTACT: Robert G. Taylor, Department of Transportation, Office of Acquisition and Grant Management, M–62, 400 Seventh Street, S.W., Room 9401, Washington, D.C. 20590, (202) 366–4289.

ADDITIONAL SUPPLEMENTARY INFORMATION:

Background

This rule is being revised to raise the dollar threshold for small purchases by State and local grantees in accordance with the National Performance Review recommendation and to be consistent with the accompanying governmentwide common rule.

Section 18.6, Additions and exceptions. This section has been revised to codify the current DOT policy for the review and concurrence of exceptions by the Assistant Secretary for Administration to ensure conformance with overall Department policies.

Regulatory Analyses and Notices

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

The Department of Transportation has determined that this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866, nor a significant regulation under the Department's Regulatory Policies and Procedures. The regulations should create savings for recipients by reducing the costs of administering grants. The DOT Operating Administrations award approximately $23 billion through forty separate assistance programs annually.

An undetermined portion of these funds are utilized for small purchases.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities. We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they do not affect the amount of funds provided in the covered programs, but rather modify and update administrative and procedural requirements.

Excutive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The rule primarily applies to State or local governments. This action may have some Federalism benefits by removing some procedural restrictions on grantees; however, the Department certifies that this proposal does not have sufficient Federalism implications to warrant a full Federalism assessment under the principles and criteria contained in Executive Order 12612.

Paperwork Reduction Act

We certify that this proposed rule would not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

List of Subjects in 49 CFR Part 18

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 322(a).

Issued this 27th day of September 1994 at Washington, D.C.

Federico Peña,

Secretary of Transportation.

It is proposed that title 49 of the Code of Federal Regulations be amended as follows:

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

Authority: 49 U.S.C. 322 (a).

2. Section 18.6 is amended by adding paragraphs (b)(1) and (c)(1), and reserving paragraphs (b)(2) and (c)(2), to read as follows:

§ 18.6 Additions and exceptions.

* * * * *

(b) * * *

(1) All Departmental requests for exceptions shall be processed through the Assistant Secretary of Administration.

(2) [Reserved]

(c) * * *

(1) All case-by-case exceptions may be authorized by the affected operating administrations or departmental offices, with the concurrence of the Assistant Secretary for Administration.

(2) [Reserved]

§ 18.36 [Amended]

3. Section 18.36 is amended as set forth at the end of the common preamble.

[FR Doc. 94–26238 Filed 10–24–94; 8:45 am]

BILLING CODES 3410–90–P; 8450–01–M; 8025–01–M; 3510–FA–M; 3180–02–M; 4710–24–M; 4210–32–M; 4410–18–M; 4510–23–M; 6372–01–M; 5000–04–M; 4000–01–M; 7515–01–M; 8320–01–M; 6560–50–M; 6820–23–M; 4310–RF–M; 6718–01–M; 4150–04–M; 7555–01–M; 7537–01–M; 7536–01–M; 7036–01–M; 5050–28–M; 4910–62–M

Federal Register

Tuesday
October 25, 1994

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 6, 8, 13, and 38
Federal Acquisition Regulation; Multiple Award Schedule Ordering Procedures; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 6, 8, 13, and 38

[FAC 90–21; FAR Case 93–613]

Federal Acquisition Regulation; Multiple Award Schedule Ordering Procedures

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) concerning Federal Supply Schedules and Federal Supply Schedule contracting. These changes are a result of GSA's efforts to streamline and revise the Multiple Award Schedule Program's ordering procedures to be guiding principles. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: October 25, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–21, FAR case 93–613.

SUPPLEMENTARY INFORMATION:

A. Background

The efforts to streamline and revise Multiple Award Schedule ordering procedures in order to make them more susceptible to guiding principles will save the Government time, money, and improve the accessibility of commercial items to customers. With these changes, GSA will be able to foster a Government that works better and costs less.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–21, FAR case 93–613), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 6, 8, 13, and 38

Government procurement.

Dated: October 20, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–21 are effective October 25, 1994.

Dated: October 19, 1994.

Eleanor R. Spector,

Director, Defense Procurement, DOD.

Ida M. Ustad,

Associate Administrator, Office of Acquisition Policy, GSA.

Dated: October 12, 1994.

Thomas S. Luedtke,

Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.

Therefore, 48 CFR Parts 6, 8, 13, and 38 are amended as set forth below:

1. The authority citation for 48 CFR Parts 6, 8, 13, and 38 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 6—COMPETITION REQUIREMENTS

2. Section 6.102 is amended by revising paragraph (d)(3) to read as follows:

6.102 Use of competitive procedures.

* * * * *

(d) * * *

(3) Use of multiple award schedules issued under the procedures established by the Administrator of General Services consistent with the requirement of 41 U.S.C. 259(b)(3)(A) for the multiple award schedule program of the General Services Administration is a competitive procedure.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

3. Section 8.001 is amended by revising the introductory text of paragraph (a); by revising paragraphs (a)(1)(iv); and (a)(2)(i) to read as follows:

8.001 Priorities for use of Government supply sources.

(a) Except as required by 8.002, or as otherwise provided by law, agencies shall satisfy requirements for supplies and services from or through the sources and publications listed below in descending order of priority—

(1) * * *

(iv) Procurement lists of supplies available from the Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7);

* * * * *

(2) *Services.* (i) Procurement lists of services available from the Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7);

* * * * *

Subpart 8.4—Federal Supply Schedules

4. In Subpart 8.4, the heading is revised as set forth above.

5. Section 8.401 is amended by removing the last two sentences in paragraph (a); and by revising the last sentence in paragraph (b) to read as follows:

8.401 General.

* * * * *

(b) * * * The "Federal Supply Schedule Program Guide," includes a listing of Federal Supply Schedules and information on the use of schedules.

8.402 [Amended]

6. Section 8.402 is amended by removing paragraph (a) and the designation of paragraph (b).

8.403 through 8.403–4 [Removed and reserved]

7. Sections 8.403 through 8.403–4 are removed and 8.403 is reserved.

8. Section 8.404 is revised to read as follows:

8.404 Using schedules.

(a) *General.* When agency requirements are to be satisfied through the use of Federal Supply Schedules as set forth in this subpart 8.4, the policies and procedures of FAR part 13 do not apply. When placing orders under a Federal Supply Schedule, ordering activities need not seek further competition, synopsize the requirement, or make a separate determination of fair and reasonable pricing.

(b) *Optional use.* (1) Ordering activities can place orders of $2,500 or less with any Federal Supply Schedule contractor. GSA has already determined the prices of items under these contracts to be fair and reasonable.

(2) To reasonably ensure that a selection represents the best value and meets the agency's needs at the lowest overall cost, before placing an order of more than $2,500, an ordering activity should—

(i) Consider reasonably available information about products offered under Multiple Award Schedule contracts; this standard is met if the ordering activity does the following:

(A) Considers products and prices contained in any GSA MAS automated information system; or

(B) If automated information is not available, reviews at least three (3) price lists.

(ii) In selecting the best value item at the lowest overall cost (the price of the item plus administrative costs), the ordering activity may consider such factors as—

(A) Special features of one item not provided by comparable items which are required in effective program performance;

(B) Trade-in considerations;

(C) Probable life of the item selected as compared with that of a comparable item;

(D) Warranty conditions; and

(E) Maintenance availability.

(iii) Give preference to the items of small business concerns when two or more items at the same delivered price will meet an ordering activity's needs.

(3) MAS contractors will not be required to pass on to all schedule users a price reduction extended only to an individual agency for a specific order. There may be circumstances where an ordering activity finds it advantageous to request a price reduction, such as where the ordering activity finds that a schedule product is available elsewhere at a lower price, or where the quantity of an individual order clearly indicates the potential for obtaining a reduced price.

(4) Ordering activities should document orders of $2,500 or less by identifying the contractor the item was purchased from, the item purchased, and the amount paid. For orders over $2,500, MAS ordering files should be documented in accordance with internal agency practices. Agencies are encouraged to keep documentation to a minimum.

(c) *Mandatory use.* (1) This paragraph (c) applies only to orders against schedule contracts with mandatory users.

(2) In the case of mandatory schedules, ordering offices shall not:

(i) Solicit bids, proposals, quotations, or otherwise test the market solely for the purpose of seeking alternative sources to Federal Supply Schedules; or

(ii) Request formal or informal quotations from Federal Supply Schedule contractors for the purpose of price comparisons.

(3) Schedules identify executive agencies required to use them as mandatory sources of supply. The single-award schedule shall be used as a primary source and the multiple-award schedule as a secondary source. Mandatory use of schedules is not a requirement if—

(i) The schedule contractor is unable to satisfy the ordering office's urgent delivery requirement;

(ii) The order is below the minimum order thresholds;

(iii) The order is above the maximum order limitation;

(iv) The consignee is located outside the area of geographic coverage stated in the schedule; or

(v) A lower price for an identical item (i.e., same make and model) is available from another source.

(4) *Absence of follow-on award.* Ordering offices, after any consultation required by the schedule, are not required to forego or postpone their legitimate needs pending the award or renewal of any schedule contract.

8.404–1 and 8.404–2 [Removed and reserved]

9. Sections 8.404–1 and 8.404–2 are removed and reserved.

8.405 Ordering office responsibilities.

10. The text of section 8.405 is removed, leaving a heading only.

8.405–1 [Reserved]

11. Section 8.405–1 is removed and reserved.

8.405–4 [Amended]

12. Section 8.405–4 is amended in the beginning of the introductory paragraph by removing "When" and inserting "If".

13. Section 8.405–5 is amended by revising the second sentence in paragraph (a)(3) to read as follows:

8.405–5 Termination for default.

(a) * * *

(3) * * * Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, shall include the notation "Repurchase against the account of _____ [insert contractor's name] under Delivery Order _____ [insert number] under Contract _____ [insert number]".

* * * * *

8.406 through 8.408 [Removed]

14. Sections 8.406 through 8.408 are removed.

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

13.105 [Amended]

15. Section 13.105 is amended in paragraph (c) by removing the words "mandatory multiple-award".

13.203–1 [Amended]

16. Section 13.203–1 is amended in paragraph (f) by removing the parenthetical "(see subpart 8.4)".

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

17. Section 38.000 is revised to read as follows:

38.000 Scope of part.

This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration (see subpart 8.4, Federal Supply Schedules, for additional information). See part 39 for automatic data processing and telecommunications equipment and services coverage. The Department of Defense uses a similar system of schedule contracting for military items that are also not a part of the Federal Supply Schedule program.

18. Section 38.101 is amended by revising the second sentence of paragraph (a); removing the last two sentences in paragraph (b); removing paragraph (d) and redesignating paragraph (e) as (d). The revised text reads as follows:

38.101 General.

(a) * * * Indefinite delivery contracts (including requirements contracts) are awarded, using competitive procedures, to commercial firms to provide supplies and services at stated prices for given periods of time, for delivery within the 48 continguous states, Washington, DC, and possible Alaska, Hawaii, and overseas deliveries. * * *

* * * * *

38.102 through 38.102–4 [Removed]

19. Sections 38.102 through 38.102–4 are removed.

20. Section 38.201 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

38.201 Coordination requirements.

(a) Subject to interagency agreements, contracting officers having responsibility for awarding Federal Supply Schedule contracts shall coordinate and obtain approval of the General Services Administration's Federal Supply Service (FSS) before—

* * * * *

(b) Requests should be forwarded to the General Services Administration, Federal Supply Service, Office of Commodity Management (FC), Washington, DC 20406.

38.202 through 38.205 [Removed]

21. Sections 38.202 through 38.205 are removed.

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