7-21-89
Vol. 54 No. 139
Pages 30535-30710

federal register

Friday
July 21, 1989

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 54 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-783-3238
Magnetic tapes	275-3328
Problems with public subscriptions	275-3054

Single copies/back copies:

Paper or fiche	783-3238
Magnetic tapes	275-3328
Problems with public single copies	275-3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523-5240
Magnetic tapes	275-3328
Problems with Federal agency subscriptions	523-5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register
Vol. 54, No. 139
Friday, July 21, 1989

Agricultural Marketing Service
See also Packers and Stockyards Administration
RULES
Lemons grown in California and Arizona, 30535
PROPOSED RULES
Pistachio nuts, shelled; grade standards
Correction, 30632

Agriculture Department
See Agricultural Marketing Service; Forest Service; Human Nutrition Information Service; Packers and Stockyards Administration; Rural Telephone Bank

Army Department
See also Engineers Corps
NOTICES
Meetings:
Science Board, 30588
Senior Executive Service:
Performance Review Boards; membership, 30588

Blind and Other Severely Handicapped, Committee for Purchase From
See Committee for Purchase From the Blind and Other Severely Handicapped

Centers for Disease Control
NOTICES
Grants and cooperative agreements; availability, etc.:
Acquired Immunodeficiency Syndrome (AIDS)—
Non-AIDS retroviruses (human T lymphotropic virus types I and II— HTLV-I/II) in endemic areas; epidemiologic research studies, 30608
State pregnancy nutrition surveillance system, 30609

Civil Rights Commission
NOTICES
Meetings; Sunshine Act, 30630

Coast Guard
RULES
Ports and waterways safety:
Chesapeake Bay, Hampton Roads, VA; safety zone, 30544
NOTICES
Meetings:
Vessels, tonnage use in U.S. laws and regulations; study, 30625

Commerce Department
See National Oceanic and Atmospheric Administration

Committee for Purchase From the Blind and Other Severely Handicapped
NOTICES
Procurement list, 1989:
Additions and deletions, 30585, 30586 (2 documents)
Additions and deletions; correction, 30586

Commodity Futures Trading Commission
RULES
Hybrid and related instruments, 30684
NOTICES
Contract market proposals:
Chicago Mercantile Exchange—
Live cattle, 30586
Minneapolis Grain Exchange—
White wheat, 30587
Meetings; Sunshine Act, 30630 (4 documents)
Swap transactions; policy statement, 30694

Defense Department
See also Army Department; Engineers Corps; Navy Department
RULES
Federal Acquisition Regulation (FAR):
Prime contractors; liquidated damages, 30708

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Leonard, Russell J., M.D., 30617
Sewanee Pharmacy, 30618
Yi, Mtong S., M.D., 30618

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Handicapped education research, etc., 30640
Meetings:
National Assessment Governing Board, 30593

Employment and Training Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Job Corps Advisory Committee, 30619

Energy Department
See also Federal Energy Regulatory Commission
PROPOSED RULES
Acquisition regulations:
Contracting activities; unique simplified offeror representations and certifications procedures, 30569
NOTICES
Grant and cooperative agreement awards:
Symagery Productions, Inc., 30594
Meetings:
National energy strategy development, 30593

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Wilmington Harbor turns and bends project, NC, 30591

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4,-triazole, etc.; correction, 30632
Toxic substances:
Comprehensive assessment information rule; list additions
Correction, 30632

PROPOSED RULES
Superfund program:
Extremely hazardous substances, delisting; community right-to-know, 30700
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 30601
Weekly receipts, 30600
Monticello B-2 Area Surface Lignite Mine, TX, 30600
Water pollution control:
Disposal site determinations—
Santa Ysabel Creek, San Diego County, CA, 30599

Executive Office of the President
See Management and Budget Office; Presidential Documents

Federal Aviation Administration
PROPOSED RULES
Terminal control areas and radar service areas; correction, 30633

Federal Communications Commission
RULES
Practice and procedure:
FM booster stations; radiofrequency radiation compliance Correction, 30548
Radio stations; table of assignments:
Florida et al., 30549
Nevada, 30549
New Jersey, 30549
PROPOSED RULES
Radio stations; table of assignments:
California, 30567
Iowa, 30567
New Mexico, 30566
New York, 30566
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 30601
Applications, hearings, determinations, etc.:
Cabrini College et al., 30602
Pleasant Hope Broadcasting et al., 30602

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
Missouri et al., 30547
New York et al., 30545
PROPOSED RULES
Preparedness:
Emergency health and medical occupations, 30565
NOTICES
Disaster and emergency areas:
Kentucky, 30603
(2 documents)
Louisiana, 30603

Federal Energy Regulatory Commission
NOTICES
Hydroelectric applications, 30594
Applications, hearings, determinations, etc.:
Florida Gas Transmission Co., 30598
Mid Louisiana Gas Co.; correction, 30632
Ringwood Gathering Co., 30598
Sandstone Resources, Inc., et al., 30598
Tennessee Gas Pipeline Co., 30599
Texas Eastern Transmission Corp.; correction, 30632
Texas Gas Transmission Corp.; correction, 30632
TransAmerican National Gas Corp., 30599

Federal Home Loan Bank Board
RULES
Federal Home Loan Bank System:
Nondiscrimination requirements; miscellaneous amendments, 30535
PROPOSED RULES
Federal home loan bank system:
Members terminating their status as FSLIC-insured institutions; readmission; board action, extension of time, 30555
Federal savings and loan system:
Agency offices, 30555

Federal Maritime Commission
NOTICES
Agreements filed, etc., 30604
Investigations, hearings, petitions, etc.:
U.S./Taiwan trade; shipping conditions, 30604
Tariffs, inactive; cancellation; correction, 30632

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 30630
(2 documents)

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Bonds and notes, U.S. savings:
Investment yields and maturity periods tables Correction, 30633

Fish and Wildlife Service
RULES
Endangered and threatened species:
Autumn buttercup, 30550
PROPOSED RULES
Endangered and threatened species:
Spreading avens and Roan Mountain bluet, 30572
Virginia spiraea, 30577
NOTICES
Endangered and threatened species permit applications, 30615
Endangered and threatened species:
Colorado squawfish, humpback chub, and bonytail chub; recovery plans availability, 30616

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Nitrofurazone soluble powder, 30542
NOTICES
Animal drugs, feeds, and related products:
Export applications—
Tilmicosin, 30611
Food for human consumption:
Identity standard deviation; market testing permits—
Liquid whole eggs, ultrapasteurized, 30612
Health Omnibus Extension Act:
Human Immunodeficiency Virus (HIV); clinical trial data bank, establishment, 30612

Forest Service
NOTICES
Environmental statements; availability, etc.:
Tie Creek drainage, Absaroka Mountains, MT; regeneration harvest and road construction, 30582
Wasatch-Cache National Forest, UT, 30583

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
Prime contractors; liquidated damages, 30708
NOTICES
Meetings:
Federal, Academic and Industry Logistics Experts Consortium, 30608

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; National Institutes of Health; Public Health Service

Health Care Financing Administration
PROPOSED RULES
Medicare:
Physician services; bills or requests for payment; appropriate diagnostic coding requirements, 30558

Health Resources and Services Administration
See Public Health Service

Human Development Services Office
NOTICES
Agency information collection activities under OMB review, 30614

Human Nutrition Information Service
NOTICES
Meetings:
Dietary Guidelines Advisory Committee, 30584

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office
NOTICES
Senior Executive Service:
Performance Review Board; membership; correction, 30632

Interstate Commerce Commission
NOTICES
Railraod services abandonment:
Chicago & North Western Transportation Co., 30617

Justice Department
See Drug Enforcement Administration

Labor Department
See also Employment and Training Administration; Occupational Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 30618

Land Management Bureau
NOTICES
Meetings:
Carson City District Grazing Advisory Board, 30615
Realty actions; sales, leases, etc.:
Arizona; correction, 30633
California; correction, 30633
Oregon; correction, 30633

Management and Budget Office
NOTICES
Budget recissions and deferrals:
Cumulative reports, 30678

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
Prime contractors; liquidated damages, 30708

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Air brake systems—
Towing vehicles and trailers; pneumatic timing requirements, 30571

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 30614
(2 documents)

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico and South Atlantic coastal migratory pelagic resources, 30554
NOTICES
Coastal zone management programs and estuarine sanctuaries:
Consistency appeals—
Thompson, Cynthia B., 30585
Permits:
Marine mammals, 30585

National Science Foundation
NOTICES
Meetings:
DOE/NSF Nuclear Science Advisory Committee, 30619

Navy Department
NOTICES
Environmental statements; availability, etc.:
Electronic installations in western Pacific, 30592

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Vermont Yankee Nuclear Power Corp., 30619
Meetings:
Reactor Safeguards Advisory Committee, 30620

Occupational Safety and Health Administration
RULES
Construction safety and health regulations, etc.:
Asbestos, tremolite, anthophyllite, and actinolite; occupational exposure, 30704
PROPOSED RULES
Safety and health standards:
Confined spaces, permit required, 30557

Office of Management and Budget
See Management and Budget Office

Packers and Stockyards Administration
NOTICES
Central filing system; State certifications:
Wyoming, 30584

Postal Rate Commission
PROPOSED RULES
Practice and procedure rules:
Contract rates; rulemaking petition, 30557
NOTICES
Complaints filed:
Advo-System, Inc., 30621
(2 documents)

Presidential Documents
PROCLAMATIONS
Generalized System of Preferences, and imports and exports:
Tobacco imports from Canada (Proc. 5997)
Correction, 30633

Public Health Service
See also Centers for Disease Control; Food and Drug Administration; National Institutes of Health
NOTICES
Agency information collection activities under OMB review, 30614
Meetings:
Dietary Guidelines Advisory Committee, 30584

Rural Telephone Bank
NOTICES
Patronage refunds and Class C stock dividends calculation; bylaws amendments, 30584

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 30631
Self-regulatory organizations; proposed rule changes:
Philadelphia Stock Exchange, Inc., 30622
(2 documents)

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Initial and permanent regulatory programs:
Underground coal mining surface impacts; prohibitions applicability; withdrawn, 30557

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 30625

Treasury Department
See also Fiscal Service
RULES
Currency and foreign transactions; financial reporting and recordkeeping:
Bank Secrecy Act; implementation—
Administrative ruling system; amendment, 30542
NOTICES
Agency information collection activities under OMB review, 30628, 30629
(3 documents)
Boycotts, international:
Countries requiring cooperation; list, 30629

Separate Parts In This Issue

Part II
Department of Education, 30640

Part III
Office of Management and Budget, 30678

Part IV
Commodity Futures Trading Commission, 30684

Part V
Environmental Protection Agency, 30700

Part VI
Department of Labor, Occupational Safety and Health Administration, 30704

Part VII
Department of Defense; General Services Administration; National Aeronautics Administration, 30708

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
5997 (Correction)..... 30633

7 CFR
910..... 30535
Proposed Rules:
51..... 30632

12 CFR
528..... 30535
531..... 30535
Proposed Rules:
523..... 30555
545..... 30555

14 CFR
Proposed Rules:
71..... 30633

17 CFR
34..... 30684

21 CFR
524..... 30542

29 CFR
1910..... 30704
1926..... 30704
Proposed Rules:
1910..... 30557

30 CFR
Proposed Rules:
761..... 30557

31 CFR
103..... 30542
316..... 30633
342..... 30633
351..... 30633

33 CFR
165..... 30544

39 CFR
Proposed Rules:
3001..... 30557

40 CFR
180..... 30632
704..... 30632
Proposed Rules:
355..... 30700

42 CFR
Proposed Rules:
424..... 30558

44 CFR
64 (2 documents)..... 30545, 30547
Proposed Rules:
325..... 30565

47 CFR
1..... 30548
73 (3 documents)..... 30549
Proposed Rules:
73 (4 documents)..... 30567, 30568

48 CFR
19..... 30708
52..... 30708
Proposed Rules:
914..... 30569
915..... 30569
952..... 30569

49 CFR
Proposed Rules:
571..... 30571

50 CFR
17..... 30550
642..... 30554
Proposed Rules:
17 (2 documents)..... 30572, 30577

Rules and Regulations

Federal Register
Vol. 54, No. 139
Friday, July 21, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 675]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 675 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 400,000 cartons during the period July 23 through July 29, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 675 (§ 910.975) is effective for the period July 23 through July 29, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action 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 Agricultural Marketing Agreement 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 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended [7 CFR Part 910], regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administration Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1988-89. The Committee met publicly on July 18, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.975 is revised to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.975 Lemon Regulation 675.

The quantity of lemons grown in California and Arizona which may be handled during the period July 23, 1989, through July 29, 1989, is established at 400,000 cartons.

Dated: July 19, 1989.

Charles H. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-17270 Filed 7-20-89; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 528 and 531

[No. 89-1746]

Nondiscrimination Requirements

Date: June 29, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; miscellaneous conforming and technical amendments.

SUMMARY: The Federal Home Loan Bank Board ("Bank Board") is amending its regulations governing nondiscrimination by members of the Federal Home Loan

Bank System to implement changes made in Title VIII of the Civil Rights Act of 1968 by the Fair Housing Amendments Act of 1988. The amendments by the Bank Board are necessary to conform Bank Board regulations to the requirements of the statute and implementing regulations promulgated by the Department of Housing and Urban Development ("HUD"); they include adding two new protected classes, adopting a new Equal Housing Lender poster, and conforming complaint processing procedures. Technical amendments are also being made to up-date and conform the regulations to current Bank Board structure and current law. Finally, the appendices containing report preparation instructions are being revised to specify treatment of home equity loans and to clarify other instructions.

The Bank Board amendments do not address all significant aspects of the amended Fair Housing Act and new HUD regulations, because most of the broad nondiscrimination policies set forth in the existing regulations do not need to be rewritten. However, all Bank System members and their counsel should carefully review the extensive amendments to HUD regulations (24 CFR Parts 100 *et seq.*) distributed to members with FHLBB Thrift Bulletin No. 19, dated March 10, 1989.

EFFECTIVE DATE: June 29, 1989.

FOR FURTHER INFORMATION CONTACT: Gilda Morse, Senior Civil Rights Specialist, (202) 906-6324 or Stephen D. Johnson, Attorney Advisor, (202) 906-6318, Office of Community Investment, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-3619; "Title VIII") made it unlawful to discriminate in any aspect of the sale, rental, or financing of dwellings or in the provision of brokerage services or facilities in connection with the sale or rental of a dwelling because of race, color, religion, sex, or national origin. The Fair Housing Amendments Act of 1988 (Pub. L. 100-430; 102 Stat. 1619) amended Title VIII by (1) strengthening administrative enforcement procedures and private civil rights of action, (2) adding prohibitions against discrimination in housing on the basis of handicap and familial status (having one or more children under the age of 18), and (3) increasing monetary damages that can be awarded where discriminatory housing practices are found. The amended law, referred to as the Fair Housing Act, became effective March 12, 1989. Implementing regulations were published by HUD on January 23, 1989, in the **Federal Register** (52 FR 3232; Jan. 23, 1989) as amendments to 24 CFR Parts 14, 100, 103-106, 109, 110, 115 and 121, effective March 12, 1989.

Bank Board regulations governing nondiscrimination by members of the Federal Home Loan Bank System, found at 12 CFR Parts 528 and 531(§ 531.8), are necessary (1) to affirmatively promote fair housing and lending as expressly required by sections 808(d) and (e) of the Fair Housing Act, (2) to enforce the Fair Housing Act, the Equal Employment Opportunity Act, the Housing and Community Development Act of 1977, the Equal Credit Opportunity Act and other statutes prohibiting discrimination, and (3) to monitor fair lending practices. Part 528 includes both prohibitions against discriminatory practices and mandatory data collection requirements. Section 531.8, entitled "Guidelines relating to nondiscrimination in lending," provides supplementary guidelines to aid Bank System member institutions in developing and implementing nondiscriminatory lending policies.

Bank Board Amendments

Section 528.1(c) is being amended in accordance with the Fair Housing Act by adding an explanation of "dwelling-related" in the definition of "dwelling" to clarify that all loans secured by residential real estate are covered by the Fair Housing Act and Part 528 of Bank Board regulations. This change should resolve any past confusion concerning how to classify home equity loans for monitoring and data collection purposes.

A reference to the HUD Fair Housing regulations is being added to § 528.1a.

Section 528.2 is being amended to include specific reference to purchases of loans and securities as covered activities, in accordance with the Fair Housing Act. In addition, protected classes are being expanded to include handicap and familial status from the Fair Housing Amendments Act of 1988 and marital status and age from the Equal Credit Opportunity Act. A reference to the HUD Fair Housing regulations is also being added as an additional source of information and guidance.

Handicap, familial status, marital status, and age are also being added to § 528.3(a) as protected classes.

Sections 528.4 and 528.5 are being amended to adopt a new equal housing lender poster that includes the two new protected classes and reflects changes in complaint handling. The new poster, approved by HUD for use by federal financial regulatory agencies, separates the Fair Housing Act and ECOA provisions and directs Fair Housing Act complainants to contact both HUD and the Bank Board's Office of Community Investment.

The instructions in the appendices to § 528.6, explaining the preparation of loan application registers and data submission reports, have been clarified in response to past questions raised by member institutions. The treatment of home equity loans has been specifically addressed. In addition, a number of minor editorial revisions have been made to eliminate ambiguous instructions and to clarify others. No changes have been made in the data required or the forms for the reports. The appendices are being reprinted in full for the convenience of member institutions.

References in § 528.7 to statutes and regulations requiring nondiscrimination in employment are being updated to include provisions that member institutions have been subject to for some time.

The complaint processing provision of § 528.8 is being up-dated to reflect that the Office of Community Investment is the successor unit to the Office of Housing and Urban Affairs in the Bank Board, and to require that all Fair Housing Act complaints be sent to both HUD and the Bank Board.

Section 531.8 is being amended to add handicap, familial status, marital status, and age as protected classes and loan purchases as a covered activity.

This regulation, effective immediately upon adoption by the Board, is being issued without the notice and comment and delayed effective date requirements of the Administrative Procedure Act, as amended ("APA"). Pursuant to 5 U.S.C. 553(b)(3)(B), 553(d)(3) and in accordance with the Board's regulations published at 12 CFR 508.11 and 508.14, the Board has determined that the regulation is not subject either to the notice and comment or delayed effective date requirements of the APA because the regulations are necessary to conform the Bank Board's regulations to statutory requirements and implementing regulations promulgated by HUD.

Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Bank Board is providing the following regulatory flexibility analysis.

HUD provided a Regulatory Flexibility Act analysis in its adoption

of the final Fair Housing Act regulations at 54 FR 3280 (Jan. 23, 1989).

1. *Need for and objectives of the rules.* As explained in the **SUPPLEMENTARY INFORMATION,** these amendments to Bank Board regulations are mandatory under the Fair Housing Amendments Act of 1988 and HUD's implementing regulations.

2. *Issues raised by commenters and agency assessment and response.* Since the amendments are mandatory and technical, public comment is not required and was not solicited.

3. *Significant alternatives minimizing small-entity impact and response.* No new requirements are being added by the amendments. There are no alternatives that would be less burdensome in meeting the objectives discussed in the **SUPPLEMENTARY INFORMATION.**

List of Subjects

12 CFR Part 528

Advertising, Civil rights, Credit, Fair housing, Federal home loan banks, Mortgages, Reporting and recordkeeping requirements, Signs and symbols.

12 CFR Part 531

Federal home loan banks.

Accordingly, the Bank Board hereby amends Parts 528 and 531, Subchapter A, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER A—GENERAL

PART 528—[AMENDED]

1. The authority citation for Part 528 is revised to read as follows:

Authority: Title VIII, Pub. L. 95–128, 91 Stat. 1147 (12 U.S.C. 2901); Title VII, Pub. L. 93–495 (15 U.S.C. 1691); Title VIII, Pub. L. 90–284, 82 Stat. 81, as amended (42 U.S.C. 3601–3619), 16 Stat. 144, 14 Stat. 27 (42 U.S.C. 1981, 1982); EO 11063, 27 FR 11527; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 5, 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

2. Section 528.1(c) is revised to read as follows:

§ 528.1 Definitions.

* * * * *

(c) *Dwelling.* The term "dwelling" means any building, structure, or portion thereof, including a mobile home, which is occupied, or designed or intended for occupancy, as a residency by one or more individuals, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof. "Dwelling-related" means secured by a dwelling, regardless of the purpose of the loan or transaction, or intended for purposes related to a dwelling.

* * * * *

3. Section 528.1a is revised to read as follows:

§ 528.1a Supplementary guidelines.

The Board's § 531.8 policy statement supplements, and should be read together with, Part 528. Refer also to the HUD Fair Housing regulations at 24 CFR Parts 100 *et seq.* and Federal Reserve Regulation B at 12 CFR Part 202.

4. Section 528.2 is revised to read as follows:

§ 528.2 Nondiscrimination in lending and other services.

(See also, § 531.8 (a) through (d).)

(a) No member institution may deny a loan or other service, or discriminate in the purchase of loans or securities or discriminate in fixing the amount, interest rate, duration, application procedures, collection, or enforcement procedures, or other terms or conditions of such loan or other service on the basis of the age or location of the dwelling, or on the basis of the race, color, religion, sex, handicap, familial status (having one or more children under the age of 18), marital status, age (provided the person has the capacity to contract), or national origin of:

(1) An applicant or joint applicant;

(2) Any person associated with an applicant or joint applicant regarding such loan or other service, or with the purposes of such loan or other service;

(3) The present or prospective owners, lessees, tenants, or occupants of the dwelling(s) for which such loan or other service is to be made or given;

(4) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling(s) for which such loan or other service is to be made or given.

(b) A member institution shall consider without prejudice the combined income of joint applicants for a loan or other service.

(c) No member institution may discriminate against an applicant for a loan or other service on any prohibited basis (as defined in 12 CFR 202.2(z) and 24 CFR Part 100).

5. Section 528.3(a) is revised to read as follows:

§ 528.3 Nondiscrimination in applications.

(See also, § 531.8 (a) through (d).)

(a) No member may discourage, or refuse to allow, receive, or consider, any application, request, or inquiry regarding a loan or other service, or discriminate in imposing conditions upon, or in processing, any such application, request, or inquiry on the basis of the age or location of the dwelling, or on the basis of the race, color, religion, sex, handicap, familial status (having one or more children under the age of 18), marital status, age (provided the person has the capacity to contract), national origin, or other characteristics prohibited from consideration in § 582.2(c) of this part, of the prospective borrower or other person, who:

(1) Makes application for any such loan or other service;

(2) Requests forms or papers to be used to make application for any such loan or other service; or

(3) Inquires about the availability of such loan or other service.

* * * * *

6. Section 528.4 is revised to read as follows:

§ 528.4 Nondiscriminatory advertising.

No member institution may directly or indirectly engage in any form of advertising that implies or suggests a policy of discrimination or exclusion in violation of Title VIII of the Civil Rights Act of 1968, the Equal Credit Opportunity Act, or this part. Advertisements, other than for savings, shall include a facsimile of the following logotype and legend:

7. Section 528.5(b) is revised to read as follows:

§ 528.5 Equal housing lender poster.

* * * * *

(b) The text of the Equal Housing Lender Poster shall be as follows:

We Do Business In Accordance With Federal Fair Lending Laws

UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL, ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP, OR FAMILIAL STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:

[ ] Deny a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to deny any loan secured by a dwelling; or

[ ] Discriminate in fixing the amount, interest rate, duration, application procedures, or other terms or conditions of such a loan, or in appraising property.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410.

For processing under the Federal Fair Housing Act

AND TO:

Director, Office of Community Investment, Federal Home Loan Bank Board, Washington, DC 20552.

For processing under Federal Home Loan Bank Board Regulations

* * * * *

UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS ILLEGAL TO DISCRIMINATE IN ANY CREDIT TRANSACTION:

[ ] On the basis of race, color, national origin, religion, sex, marital status, or age;

[ ] Because income is from public assistance; or

[ ] Because a right has been exercised under the Consumer Credit Protection Act.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

Director, Office of Community Investment, Federal Home Loan Bank Board, Washington, DC 20552.

* * * * *

8. The text Appendix A and Appendix B to § 528.6 are revised to read as follows:

Appendix A—§ 528.6—Instructions—Association Instructions for Preparation of Loan Application Registers

Separate Loan Application Registers will be maintained for mortgage loans, home improvement and equipping loans, and mobile home loans. Only applications related to one- to four-family dwellings should be entered.

All home equity loans, secured by one- to four-family dwellings, should be entered on a Loan Application Register. If the primary loan purpose is stated as home improvement, the loan should be entered on the home improvement and equipping loan register. All other home equity loans should be entered on the register for mortgage loans.

Please note that these application registers are for loans originated by the institution or its decision centers, which may include branches, mortgage companies and service corporations. See Appendix B for instructions on completing Section R, Decision Centers. Loans or participations purchased from unaffiliated entities are never included in the registers.

I. Mortgage Loan Application Register

A. Loan Identification

1. *Loan Purpose.* Indicate the purpose of the loan, if known, by use of the numeric codes provided. If the purpose is not known, use Code 9, "Other."

2. *Application Number.* Indicate the application number in this column. Each application must be assigned a number at the time of receipt. The number should identify the application and facilitate locating it if the requested loan is not made.

3. *Date of Application.* Indicate the date that the application is received or taken by the association. These dates must appear on the application register in chronological order.

4. *Loan Number.* If a loan is made as a result of the application, show the loan's identifying number.

B. Loan Disposition

Disposition. Indicate the final disposition of the application using the numeric codes provided.

1. *Approved as Requested.* Loan application is approved and settled with terms as originally requested.

2. and 3. If the application is approved, but with any of the originally requested terms changed, the indication will be: a "2," if the terms are accepted by the applicant; or "3," if refused by the applicant. Any applications with changed terms must appear as either a "2" or "3."

4. Denied—Decision based on Applicant's Creditworthiness.

5. Denied—Decision based on Collateral.

6. Denied—Decision based on considerations other than those shown in 4 and 5 above.

7. *Withdrawn by Applicant.* Use this indication only if application is withdrawn before an approval/denial decision is made; or if application is approved with the same terms as requested and is withdrawn by applicant.

Date. For applications with a disposition code of "1" or "2," indicate the date the loan is settled. (Not the date of approval.) For all other disposition codes, indicate the date of denial, refusal by applicant, or withdrawal by applicant.

C. Property Location

1. *SMSA.* Indicate, by *name*, the SMSA in which the property is located. If the property is not in an SMSA, leave blank.

2. *Census Tract.* Indicate the census tract in which the property is located. If the property is not within a census tract, leave blank.

3. *Zip Code.* Indicate the zip code in which the property is located.

Note: All of the above locators which are obtainable must be shown.

D. Area Data

1. *CRA Delineated Community (as defined at 12 CFR 563e.3).* Show Y-yes if the property is located within the area established as the delineated community(ies) in the association's CRA Statement(s). If the property is not within a delineated community, show N-no.

2. *Low Income Census Tract.* Show (Y-yes, N-no) to indicate whether or not the property is located within a Low income census tract. If the property is within a census tract, this column must be completed. If the property is not located within a census tract, leave this column blank.

3. *Moderate Income Census Tract.* Show (Y-yes, N-no) to indicate whether or not the property is located within a moderate income census tract. If the property is within a census tract, this column must be completed. If the property is not located within a census tract, leave this column blank.

4. *Substantially Minority Census Tract.* Show (Y-yes, N-no) to indicate whether or not the property is located within a census tract which is substantially minority in composition. If the property is within a census tract, this column must be completed. If the property is not located in a census tract, leave this column blank. ("Substantially minority" is defined as those census tracts in which the minority resident constitute 25 percent or more of the total population in the census tract.)

The source data needed to enable an association to supply the information required in items 2, 3, and 4 above, will be furnished by the Federal Home Loan Bank Board. Each association will be furnished a complete list of census tracts by SMSA. This listing will be coded to show each census tract that is: (a) Low income, (b) moderate income, or (c) substantially minority.

The institution may also use data that it has available relative to the demographics required in 2, 3, and 4 above provided the data used conforms with the definitions for "Substantially Minority," "Low Income," and "Moderate Income" as used in the Bank Board's data—i.e., "Substantially Minority" means 25 percent or more of the area's population consists of minority residents; "Low Income" means those census tracts in which the median family income is 80 percent or less of the median family income for the entire SMSA; and "Moderate Income" means those census tracts in which the median family income ranges from 81 percent through 95 percent of the median family income for

the entire SMSA. If the association uses its own data it must make the data sources available for examiner inspection.

E. Applicant(s) Information

1. *Race.* Indicate the race of both the applicant and coapplicant using the numeric codes provided.
2. *Sex.* Indicate "M" for male or "F" for female for both the applicant and coapplicant.
3. *Marital Status.* Indicate the marital status of both the applicant and coapplicant using the codes provided.
4. *Age.* Indicate the age of the applicant and coapplicant.

F. Property Data

1. *Property Type.* Indicate the property type using the numeric codes provided.
2. *Purchase Price.* Indicate the purchase price of the security property if the Loan Purpose code is either "1" or "2." Leave blank for all other loan purpose codes.
3. *Appraised Value.* Indicate the appraised value of the security property, if an appraisal was made.
4. *Year Built.* Indicate the year built, or the approximate year built for the security property.

G. Loan Terms

For each heading under this section, if the loan was granted (disposition code 1 or 2), show the final loan terms. If the loan was not granted (disposition codes 3 through 7), show the loan terms requested.

1. *Loan Amount.* Indicate the dollar amount of the loan.
2. *Loan to Value Ratio.* Indicate the ratio of loan amount to appraised value. If an appraisal was not made, show ratio of loan amount to purchase price, if applicable.
3. *Interest Rate.* Indicate the contract interest rate.
4. *Maturity.* Indicate the term of the loan in number of months.
5. *Type of Financing.* Indicate the type of financing using the numeric codes provided.

II. Mobile Home Loan Application Register

Note: The instructions for the preparation of the Mortgage Loan Application Register shall be used in the preparation of this register for the following major headings:

A. *Loan Identification*
B. *Loan Disposition*
C. *Property Location*
D. *Area Data*
E. *Applicant(s) Information*

Instruction for Mobile Home Loan Application Register only:

F. Property Data

1. *Buyer's Total Cost.* Show an amount in this column when the amount loaned was based on the borrower's total cost.
2. *Valuation.* Show an amount in this column when the amount loaned was based on an appraisal, or other accepted system of valuation of a new or used mobile home.
3. *Year Built.* Show year in which mobile home unit was manufactured.

G. Loan Terms

Note: For each heading under this section, if the loan was granted (disposition code 1 or 2), show the final loan terms. If the loan was not granted (disposition codes 3 through 7), show the loan terms requested.

1. *Loan Amount.* Show the dollar amount of the loan, but exclude interest, however computed.
2. *Loan to BTC Ratio or Loan to Value Ratio.* A ratio should be shown in this column only when applicable. If the loan was based on the buyer's total cost or on a valuation, then a ratio should be shown. Leave this column blank for loans that are based on prescribed amounts, such as FHA and VA loans for the purchase of new homes.
3. *Interest*—a. *Rate.* Show contract rate of interest (not APR).
b. *Calculation Method.* Indicate the method of calculating interest by use of the alphabetic codes provided.
4. *Maturity Term.* Indicate the term of the loan in months.
5. *Type of Financing.* Indicate the type of financing using the numeric codes provided.

III. Home Improvement and/or Equipping Loan Application Register

Notes: All loan applications that identify home improvement as their primary purpose should be entered on this register.

The instructions for the preparation of the Mortgage Loan Application Register shall be used in the preparation of this register for the following major headings:

A. Loan Identification.
B. Loan Disposition (Including, when appropriate, item No. 5—denial based on collateral.)
C. Property Location.
D. Area Data.
E. Applicant(s) Information.
F. Property Data (Item No. 2—Purchase Price, and Item No. 3—Appraised Value, may be omitted if they are not contained in the application file).

Instructions for Home Improvement and/or Equipping Loan Application Register only:

G. Loan Terms.

1. *Loan Amount.* Show the *total* dollar amount of the loan, but exclude interest, however computed.
2. *Interest*—a. *Rate.* Show contract rate of interest (Not APR).
b. *Calculation Method.* Indicate the method of calculating interest by use of the alphabetic codes provided. If necessary, use an additional code, "O-Other".
3. *Maturity Term.* Indicate the term of the loan in months.
4. *Type of Financing.* Indicate the type of financing using the numeric codes provided.

Appendix B—§ 528.6—Instructions—Association Instructions for Preparation of Data Submission Report

Sections O, P, and Q

(Use FHLBB Forms 1192–O, 1192–P, and 1192–Q)

Introduction

The Data Submission Report (DSR) calls for tabulated summary information on applications that have had a disposition during the reporting cycle. Information on pending (i.e., no disposition) applications is collected and reported as a memo item. Information is requested on a semiannual basis for the periods ending in June and December.

All information for this report is obtained from the Loan Application Register. Information on the DSR is broken down by the total number and dollar amount of applications received and acted on, the number and dollar amount of these applications that have been granted, the number and dollar amount denied, and the number and dollar amount withdrawn. All dollar amounts are reported in thousands (e.g., $10,100 is reported as 10, not 10.1).

Under each of these divisions, the applications are further broken down by census tract groupings, race, sex, and marital status. An additional memo reflects the number of those applications still pending. The number of pending applications is NOT included in the total columns.

In technical amendments conforming to the Fair Housing Amendments Act of 1988, § 528.1(c) of the Federal Home Loan Bank System Regulations has been revised to make it clear that "dwelling-related" includes all loans secured by a one to four family dwelling, regardless of purpose or classification. This is also reflected in Appendix A.

Section 528.1(d) of the Federal Home Loan Bank System Regulations defines a "Decision Center" to mean a member institution's office where decisions are made to approve (on the terms requested, or as changed and accepted) or take any adverse action on applications for dwelling-related loans.

Each Decision Center will be responsible for maintaining its own Loan Application Registers and preparation of its own semiannual DSR. All Decision Centers should submit their Data Submission Reports to the institution's main office. The main office is responsible for submission of all DSRs for all its Decision Centers to the Federal Home Loan Bank Board AND to the District Bank of which the institution is a member.

Decision Centers are discussed on page OPQ–8 of these instructions

Completion of Form. A separate DSR will be prepared for:

FHLBB FORM

Mortgage loans	1192–O
Home improvement and/or equipping loans	1192–P
Mobile Home Loans	1192–Q

Home equity loans will be reported as mortgage loans on 1192–O, unless the stated purpose is home improvement and/or equipping, in which case they will be reported on 1192–P.

However, no DSR will be required for mobile home loan applications or home improvement and/or equipping loan applications if the decision center has not received more than 50 of these types of applications during the six (6) month reporting cycle.

The tabulation procedures described below will be used for all three types of Data Submission Reports.

I. Applications With a Disposition

Under this section, tabulate only those applications which have an indicator in the "Disposition" column of the application register.

Those with no disposition at the time this report is prepared will be separately tabulated and reported under the Pending column. Please refer to Part II (Applications Without a Disposition) of these instructions.

A. Category A—Census T

1. *Both Low Income and Substantially Minority.* From the appregister, total by number and dollar amount all applications with a disposition which have an indicator "Y" (yes) under both the Low Income census tract column and the Substantially Minority census tract column.

Of the above tabulated applications, total all which have a Loan Disposition code of "1" or "2" and place under the "Granted" columns.

Total those above applications with a Loan Disposition code of 3, 4, 5, or 6 and place under the "Rejected/Denied" columns.

Total the above applications with a Loan Disposition code of "7" and place under the "Withdrawn" columns.

The number and dollar amounts under "Granted," "Rejected/Denied," and "Withdrawn" on this line, when added together must total the amounts under the "Total" column.

Example

Nos. 103+105+107=101
Nos. 104+106+108=102

The following relationship of equality must be maintained on each line throughout this report:

Granted+Rejected/Denied+Withdrawn = Total

The number of pending applications should NOT be included in the total.

2. *Both Moderate Income and Substantially Minority.* From the application register, total by number and dollar amount all applications with a disposition which have an indicator "Y" (yes) under both the Moderate Income census tract column and Substantially Minority, by the same procedures described previously.

Breakdown these applications by the same disposition categories of "Granted," "Rejected/ Denied," and "Withdrawn," by the same procedures described previously.

3. *Low Income but not Substantially Minority.* From the application register, total by number and dollar amount all applications with a disposition which have an indicator of "Y" (yes) under the Low Income census tract column, and an indicator of "N" (no) under the Substantially Minority census tract column.

Breakdown these applications by the same disposition categories of "Granted," "Rejected/ Denied," and "Withdrawn" by the same procedures described previously.

4. *Moderate Income but not Substantially Minority.* From the application register, total by number and dollar amounts all applications with a disposition which have an indicator of "Y" (yes) under the Moderate Income census tract column, and an indicator of "N" (no) under the Substantially Minority census tract column.

Breakdown these applications by the same disposition categories of "Granted," "Rejected/Denied," and "Withdrawn" by the same procedures described previously.

5. *Not Low or Moderate Income but Substantially Minority.* From the application register, total by number and dollar amount all applications with a disposition which have an indicator of "Y" (yes) under the Substantially Minority census tract column, and an indicator of "N" (no) under both the Low Income census tract column and Moderate Income census tract column.

Breakdown these applications by the same disposition categories of "Granted," "Rejected/Denied," and "Withdrawn" by the same procedures described previously.

6. *All Other Tracts.* From the application register, total by number and dollar amount the applications which have a disposition, and for which a census tract is shown, but which do not have an indicator of "Y" (yes) in either the Low Income census tract column, the Moderate Income census tract column, or the Substantially Minority census tract column.

Breakdown these applications by the same disposition categories of "Granted," "Rejected/Denied," and "Withdrawn" by the same procedures described previously.

7. *Non-tracted Areas.* From the application register, total by number and dollar amount all applications which have a disposition, and are located in a non-tracted area.

Breakdown these applications by the same disposition categories of "Granted," "Rejected/ Denied," and "Withdrawn" by the same procedures described previously.

Total all columns under "Category A—Census Tracts." As with each individual line above, the totals under "Granted," "Rejected/Denied," and "Withdrawn" for this whole section will equal the accumulated "Total" column.

B. Category B—Race

Tabulate all applications with a disposition, on the basis of race, using the same breakdown procedures with respect to "Total," "Granted," "Rejected/Denied," and "Withdrawn" under this category as those used for Census Tracts. An additional instruction relative to race breakdowns is necessary, however.

The loan application register requests information relative to both the applicant and coapplicant. For the Data Submission Report, however, only one indicator per application is allowed in order to maintain comparable totals. Therefore:

If both the applicants are white, include the application under the totals for "White."

If one of the applicants is white and the other is one of the minority designations, tabulate the application under that minority designation.

If both applicants are the same minority, tabulate the application under that minority designation.

If both applicants are minorities, but different minorities, tabulate the application under either minority designation but not both.

As with the Census Tract category, all figures will total horizontally. In addition, the totals of each column under race will equal the totals of each column under Census Tracts, as well as all other categories.

Example

No. 191 = No. 291
No. 192 = No. 292
No. 193 = No. 293 etc.

C. Category C—Sex

Tabulate all applications with a disposition, on the basis of sex, using the same breakdown procedures with respect to "Total," "Granted," "Rejected/ Denied," and "Withdrawn" under this category as those described previously. An additional instruction relative to Sex designation is necessary, however.

As with the race breakdowns, only one indicator per application is allowed. Therefore:

If either of the applicants or both applicants are male, tabulate the application under the "Male" designation. (This will include coapplicants who are husband and wife.)

If there is only one applicant and that person is a female or if both applicants are females, tabulate the application under the "Female" designation.

(Anytime a male is involved as an applicant, tabulate under "Male." Tabulate under "Female" when all applicants are female.)

As with the other categories, all figures will total horizontally. In addition, all totals under Sex category will equal all totals under the other categories.

D. Category D—Marital Status

Tabulate all applications with a disposition, on the basis of marital status, using the same breakdown procedures with respect to "Total," "Granted," "Rejected/ Denied," and "Withdrawn" under this category as those described previously. An additional instruction relative to Marital Status is necessary, however.

As with the previous breakdowns, only one indicator per application is allowed. Therefore:

If both applicants are married, not necessarily to each other, tabulate the application under the "Married" designation.

If one applicant is married and the other is either unmarried or separated, tabulate the loan under that appropriate non-married designation.

If both applicants are in different non-married statuses, (i.e., one unmarried and one separated), tabulate the application under either designation but not both designations.

As with the other categories, all figures will total horizontally. In addition, all totals under the Marital Status category will equal all totals under the other categories.

II. Applications Without a Disposition (Pending)

Under this section, tabulate only those applications which were received during the six (6) month reporting cycle, and for which

there has been no disposition as of the last day of the reporting cycle. Do not include pending applications from any previous reporting cycle.

Remember that Pending applications are not included in tabulating the total columns.

A. Category A—Census Tracts

1. *Both Low Income and Substantially Minority.* From the application register, total, by number only, all applications with no disposition which have an indicator of "Y" (yes) under both the Low Income census tract column and the Substantially Minority census tract column. Place total number under Pending column.

2. *Both Moderate Income and Substantially Minority.* From the application register, total, by number only, all applications with no disposition which have an indicator of "Y" (yes) under both the Moderate Income census tract column and the Substantially Minority census tract column. Place total number under Pending column.

3. *Low Income but not Substantially Minority.* From the application register, total, by number only, all applications with no disposition which have an indicator of "Y" (yes) under the Low Income census tract column and an indicator of "N" (no) under the Substantially Minority census tract column.

4. *Moderate Income but not Substantially Minority.* From the application register, total, by number only, all applications with no disposition which have an indicator of "Y" (yes) under the Moderate Income census tract column and an indicator of "N" (no) under the Substantially Minority census tract column.

5. *Substantially Minority, but not Low or Moderate Income.* Total, by number only, all applications with no disposition which have a "Y" (yes) under the Substantially Minority census tract column, and an indicator of "N" (no) under both the Low Income and Moderate Income census tract columns.

6. *All Other Tracts.* Total, by number only, all applications with no disposition which show a census tract but which do not have an indicator of "Y" (yes) in either Low or Moderate census tract column or the Substantially Minority census tract column.

7. *Non-tracted Areas.* Total, by number only, all applications with no disposition for which a census tract is not shown.

Total all figures obtained in the above breakdown.

B. Category B—Race

Total, by number only, all applications with no disposition, by various race categories, using the same criteria previously supplied. The total for all applications without a disposition broken down by race will equal the total for all such applications under "Category A—Census Tracts," as well as all the other categories.

C. Category C—Sex

Total, by number only, all applications with no disposition, by sex, using the same criteria previously supplied. The total for all applications without a disposition under this category will equal the totals under the other categories.

D. Category D—Marital Status

Total, by number only, all applications with no disposition, by marital status, using the same criteria previously supplied. The total for all applications without a disposition under this category will equal the totals under all other categories.

The totals in each category will be equal.

Example

No. 199=No. 299=No. 399=No. 499

Decision Centers

Section 528.6(d) requires that:

* * * each member institution shall maintain, at each of its decision centers (defined in § 528.1 of this part), separate, current, readily accessible loan application registers for each of the following loan types made: one- to four-family dwelling loans, mobile home loans, and home improvement and/or equipping loans.

The decision center concept and the semiannual reporting requirement entail certain responsibilities for each decision center and for the main office of the association. These are as follows:

1. Individual Decision Center

A. Maintains its own loan application registers.

B. Prepares its own Data Submission Reports.

C. Assures that each Data Submission Report's line items and totals conform with the arithmetic equalities required.

Example

Nos. 103 + 105 + 107 = 101
Nos. 104 + 106 + 108 = 102
Nos. 191 = 291 = 391 = 491
Nos. 192 = 292 = 392 = 492

D. A unique and permanent identifying number must be reported to the Federal Home Loan Bank for each decision center (see the instructions on Section R). Decision centers must show this number on all Data Submission Reports. This number cannot be changed and cannot be re-assigned if the decision center is deleted.

E. Data Submission Reports (and required copies) will be submitted only to the main office of the institution by each decision center (the main office will submit all DSR's). One copy should be retained at the decision center.

2. Main Office

A. Assures that each Data Submission Report received from a decision center shows the proper decision center number, as recorded by the Board.

B. Assures that Data Submission Reports balance as required. (See 1.c. above.)

C. Makes sure that each decision center has submitted all required semiannual Data Submission Reports.

D. Data Submission Reports should be submitted by the main office as follows:

(1) The original of each report and one copy are to be filed with the Federal Home Loan District Bank of which the institution is a member.

(2) One additional copy of each report is to be mailed to: Information Systems Division, Federal Home Loan Bank Board, 1700 G Street NW., Mail Stop 2-6, Washington, DC 20552.

The copy of the report mailed to Washington, DC is used to enter data into the computerized system. Accordingly, such data entry copy must be completely legible. Where carbon copies of reports are prepared, it is suggested that the first copy of the report be mailed to Washington for data entry.

9. Section 528.7(f) is revised to read as follows:

§ 528.7 Nondiscrimination in employment.

* * * * *

(f) Any violation of the following laws or regulations by a member institution shall be deemed a violation of this Part 528:

(1) The Equal Employment Opportunity Act, as amended, 42 U.S.C. 2000e–2000h–2, and Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR 1600;

(2) The Age Discrimination in Employment Act, 29 U.S.C. 621–633, and EEOC and Department of Labor regulations;

(3) Department of the Treasury regulations at 31 CFR Part 12 and Office of Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR Part 60;

(4) The Veterans Employment and Readjustment Act of 1972, 38 U.S.C. 2011–2012, and the Vietnam Era Veterans Readjustment Adjustment Assistance Act of 1974, 38 U.S.C. 2021–2026;

(5) The Rehabilitation Act of 1973, 29 U.S.C. 701 et al.; and

(6) The Immigration and Nationality Act, 8 U.S.C. 1324b, and INS regulations at 8 CFR Part 274a.

10. Section 528.8 is revised to read as follows:

§ 528.8 Complaints.

Complaints regarding discrimination in lending by a member institution shall be referred to the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, DC 20410 for processing under the Fair Housing Act, and to the Director, Office of Community Investment, Federal Home Loan Bank Board, Washington, DC 20552 for processing under Federal Home Loan Bank Board regulations. Complaints regarding discrimination in employment by a member institution should be referred to the Equal Employment Opportunity Commission, Washington, DC 20506 and a copy, for information only, sent to the Office of Community Investment, Federal Home Loan Bank Board, Washington, DC 20552.

PART 531—[AMENDED]

11. The authority citation for Part 531 continues to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

12. Amend § 531.8 by revising paragraph (a) and adding a new paragraph (c)(8) to read as follows:

§ 531.8 Guidelines relating to nondiscrimination in lending.

(a) *General.* Fair housing and equal opportunity in home financing is a policy of the United States established by Federal statutes and Presidential orders and proclamations. In furtherance of the Federal civil rights laws and the economical home financing purposes of the statutes administered by the Board, the Board has adopted, in Parts 528 and 529 of this subchapter, nondiscrimination regulations that, among other things, prohibit arbitrary refusals to consider loan applications on the basis of the age or location of a dwelling and prohibit discrimination based on race, color, religion, sex, handicap, familial status (having one or more children under the age of 18), marital status, age (provided the person has the capacity to contract), or national origin in fixing the amount, interest rate, duration, application procedures, collection, or enforcement procedures, or other terms or conditions of housing related loans. Such discrimination is also prohibited in the purchase of loans and securities. This section provides supplementary guidelines to aid member institutions in developing and implementing nondiscriminatory lending policies. Each member institution should reexamine its underwriting standards at least annually in order to ensure equal opportunity.

* * * * *

(c) * * *

(8) *Fair Housing Act (Title VIII, Civil Rights Act of 1968, as amended).* Member institutions must comply with all regulations promulgated by the Department of Housing and Urban Development to implement the Fair Housing Act, found at 24 CFR 100 *et seq.*, except that they shall use the Equal Housing Lender logo and poster prescribed by Bank Board regulations at 12 CFR 528.4 and 528.5 rather than the Equal Housing Opportunity logo and poster required by 24 CFR Parts 109 and 110.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–16405 Filed 7–20–89; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nitrofurazone Soluble Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hess & Clark, Inc., providing for use of nitrofurazone soluble powder for the prevention or treatment of certain surface bacterial infections on dogs, cats, or horses.

EFFECTIVE DATE: July 21, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Hess & Clark, Inc., Seventh and Orange Sts., Ashland, OH 44805, is sponsor of NADA 140–910 providing for use of a 0.2-percent nitrofurazone soluble powder (NFZ® Wound Powder) for the prevention or treatment of surface bacterial infections of wounds, burns, skin ulcers, and abscesses after incision of dogs, cats, or horses. The application is approved, and 21 CFR 524.1580c(b) is revised to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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, Part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

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

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 524.1580c is amended by revising paragraph (b) to read as follows:

§ 524.1580c Nitrofurazone soluble powder.

* * * * *

(b) *Sponsor.* See 011519, 011801, and 054273 in § 510.600(c) of this chapter.

* * * * *

Dated: July 17, 1989.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 89–17114 Filed 7–20–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendment to the Bank Secrecy Act Regulations Regarding Administrative Rulings

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: Treasury is revising the Appendix to 31 CFR Part 103 to list a new administrative ruling. Bank Secrecy Act Administrative Ruling 89–2 deals with the aggregation and reporting of multiple transactions involving exempted accounts. Copies of administrative rulings may be obtained by contacting the Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement).

EFFECTIVE DATE: Bank Secrecy Act Administrative Ruling 89–2 was effective June 21, 1989.

ADDRESS: Office of Financial Enforcement, Office of the Assistant

Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: John Zoscak, Acting Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, 202-566-8022.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act, Pub. L. 91-508 (codified at 12 U.S.C. 1730d, 1829b, 1951-1959, and 31 U.S.C. 5311-5326), authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax, or regulatory matters. The regulations implementing the Bank Secrecy Act are at Part 103 of Title 31 of the Code of Federal Regulations. On September 22, 1987, Treasury issued final regulations implementing an administrative ruling system for interpretations of the Bank Secrecy Act. 52 FR 35545. Administrative rulings are published in the Appendix to Part 103. The administrative rulings are effective when signed. Publication in the **Federal Register** is merely a method of publicizing their existence.

One ruling is being added to the Appendix by this Final Rule. Bank Secrecy Act Administrative Ruling 89-2 deals with the aggregation and reporting of multiple transactions involving exempted accounts.

Copies of rulings may be obtained by contacting the Office of Financial Enforcement at the address listed above. Please make all requests for rulings in writing, specifying the relevant number or subject of the ruling.

Applicability of Notice and Effective Date Requirements

This amendment merely revises the appendix to add the text of an issued administrative ruling that interprets the Bank Secrecy Act regulations. The regulations in Part 103 are not amended in any way. Therefore, for good cause found, pursuant to 5 U.S.C. 553(b) and (d), notice and public procedure thereon and a delayed effective date are unnecessary.

Executive Order 12291

As this final rule promulgates a regulation dealing solely with issues of agency management and organization, compliance with Executive Order 12291 and a regulatory impact analysis are not required.

Regulatory Flexibility Act

As no Notice of Proposed Rulemaking is required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or by any other statute, this document is not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document is the Office of Financial Enforcement. However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law Enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

For reasons set forth in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation of Part 103 continues to read as follows:

Authority: Pub. L. 91-508, Title I, 84 Stat. 1114 (12 U.S.C. 1730d, 1829b and 1951-1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5326).

2. The Appendix to 31 CFR Part 103 is amended by adding at the end of following:

Appendix—Administrative Rulings

* * * * *

89-2 (June 21, 1989)

Issue

When a customer has established bank accounts for each of several establishments that it owns, and the bank has exempted one or more of those accounts, how does the bank aggregate the customer's currency transactions?

Facts

X Company ("X") operates two fast-food restaurants and a wholesale food business. X has opened separate bank accounts at the A National Bank (the "Bank") for each of its two restaurants, account numbers 1 and 2 respectively. Each of these two accounts has been properly exempted by the bank. Account number 1 has an exemption limit of $25,000 for deposits, and account number 2 has an exemption limit of $40,000 for deposits. X also has a third account, account number 3, at the bank for use in the operation of its wholesale food business. On occasion, cash deposits of more than $10,000 are made into this third account. Because these cash deposits are infrequent, the bank cannot obtain additional authority to grant this account a special exemption.

During the same business day, two $15,000 cash deposits totalling $30,000 are made into account number 1, a separate cash deposit of $35,000 is made into account number 2 and a deposit of $9,000 in currency is made into account number 3 (X's account for its wholesale food business).

The bank must now determine how to aggregate and report all of these transactions on a Form 4789, Currency Transaction Report, ("CTR"). Must they aggregate all of the deposits made into account numbers 1, 2 and 3 and report them on a single CTR?

Law and Analysis

Section 103.22 of the Bank Secrecy Act ("BSA"), 31 CFR Part 103, requires a financial institution to treat multiple currency transactions "as a single transaction if the financial institution has knowledge that they are by or on behalf of any person and result in either cash-in or cash-out totalling more than $10,000 during any one business day." This means that a financial institution must file a CTR if it knows that multiple currency transactions involving two or more accounts have been conducted by or on behalf of the same person and, those transactions, when aggregated, exceed $10,000. Knowledge, in this context, means knowledge on the part of a partner, director, officer or employee of the institution or on the part of any existing computer or manual system at the institution that permits it to aggregate transactions.

Thus, if the bank has knowledge of multiple transactions, the bank should aggregate the transactions in the following manner.

First, the bank should separately review and total all cash-in and cash-out transactions within each account. Cash-in transactions should be aggregated with other cash-in transactions and cash-out transactions should be aggregated with cash-out transactions. Cash-in and cash-out transactions should not be aggregated together or offset against each other.

Second, the bank should determine whether the account has an exemption limit. If the account has an exemption limit, the bank should determine whether it has been exceeded. If the exemption limit has not been exceeded, the transactions for the exempted account should not be aggregated with other transactions.

If the total transactions during the same business day for a particular account exceed the exemption limit, the total of all of the transactions for that account should be aggregated with the total amount of the transactions for other accounts that exceed their respective exemption limits, with any accounts without exemption limits, and with transactions conducted by or on behalf of the same person that do not involve accounts (e.g., purchases of bank checks with cash) of which the bank has knowledge.

In the example discussed above, all of the transactions have been conducted "on behalf of" X, as X owns the restaurants and the wholesale food business. The total $30,000

deposit for account 1 exceeds the $25,000 exemption limit for that account. The $35,000 deposit into account number 2 is less than the $40,000 exemption limit for that account. Finally, the $9,000 deposit into account number 3, does not by itself constitute a reportable transaction.

Therefore, under the facts above, the bank should aggregate the entire $30,000 deposit into account number 1 (not just the amount that exceeds the exemption limit), with the $9,000 deposit into account number 3, for a total of $39,000. The bank should not include the $35,000 deposit into account number 2, as that deposit does not exceed the exemption limit for that account. Accordingly, the bank should complete and file a single CTR for $39,000.

If the bank does not have knowledge that multiple currency transactions have been conducted in these accounts on the same business day (e.g., because it does not have a system that aggregates among accounts and the deposits were made by three different individuals at different times) the bank should file one CTR for $30,000 for account number 1, as the activity into that account exceeds its exemption limit.

Holding

When a customer has more than one account and a bank employee has knowledge that multiple currency transaction have been conducted in the accounts or the bank has an existing computer or manual system that permits it to aggregate transactions for multiple accounts, the bank should aggregate the transactions in the following manner.

First, the bank should aggregate for each account all cash-in or cash-out transactions conducted during one business day. If the account has an exemption limit, the bank should determine whether the exemption limit of that account has been exceeded. If the exemption limit has not been exceeded, the total of the transactions for that particular account does not have to be aggregated with other transactions. If the total transactions during the same business day for a particular account exceed the exemption limit, however, the total of all of the transactions for that account should be aggregated with any total from other accounts that exceed their respective exemption limits, with any accounts without exemption limits, and with any reportable transactions conducted by or on behalf of the customer not involving accounts (e.g., purchases of bank checks or "cash back" transactions) of which the bank has knowledge. The bank should then file a CTR for the aggregated amount.

Dated: June 28, 1989.

Salvatore R. Martoche,

Assistant Secretary, (Enforcement).

[FR Doc. 89-17124 Filed 7-20-89; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Hampton Roads, Reg. 89-40]

Safety Zone: Chesapeake Bay, Hampton Roads, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around three Soviet warships while entering and leaving Chesapeake Bay and the Norfolk Harbor. The vessels will be arriving at the Norfolk Naval Station on July 21, 1989 and departing on July 25, 1989. The safety zone is intended to minimize the risk of collision between these warships and other vessels. The Captain of the Port will establish a moving safety zone around the vessels. Vessels or individuals will not be permitted to enter the moving safety zone, except as permitted by the Captain of the Port or his designated representative.

EFFECTIVE DATE: These regulations are effective from 6:00 a.m., July 21, 1989 or when the Soviet vessels arrive at buoy "CBH" until the vessels have moored at the Norfolk Naval Station and again upon departure from the Norfolk Naval Station at about 7:00 a.m., July 25, 1989 until the vessels have departed Chesapeake Bay in the vicinity of buoy "CBH."

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R.R. Fiebrandt at telephone number (804) 441-3295.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 553 a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days from the date of **Federal Register** publication. The Coast Guard has determined that the circumstances of this safety zone allow for a military affairs exemption and normal rulemaking procedures are not applicable.

Drafting Information

The drafters of this regulation are Lieutenant Commander R.R. Fiebrandt, Project Officer, and Lieutenant Commander R.K. Kutz, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Coast Guard is establishing a moving safety zone around the Soviet guided missile cruiser Marshall Ustinov, the destroyer Otlichny, and the oiler Genrik Gasanov while transiting the Chesapeake Bay through Thimble Shoal Channel, the Entrance Reach and the Norfolk Harbor Reach enroute to the Norfolk Naval Station on July 21, 1989 and upon their departure on July 25, 1989. This safety zone will begin in the vicinity of buoy "CBH," located at approximately position 36°56.0′ N Lat, 75°55.8′ W Long. Because the arrival of these vessels is expected to generate considerable public interest and, therefore, vessel traffic, a moving safety zone is needed to minimize the risk of collision between the warships, spectator craft and all other vessels. The Captain of the Port will establish the moving safety zone and apply its provisions to all vessels in the interest of safety. This zone will extend from a point 500 yards directly ahead of the lead Soviet vessel to a point 500 yards directly astern of the trailing Soviet vessel, and will include those waters within 300 yards to either side of them. Commercial vessels anchored or moored within 300 yards of established channels and commercial vessels restricted to those channels by their draft will be permitted inside the safety zone, but only as directed by the Captain of the Port or his designated representative. Coast Guard patrol vessels will be on scene at all times while the safety zone is in effect to enforce the safety zone. Vessels desiring to enter the safety zone must contact the Captain of the Port or his designated representative aboard the Coast Guard Cutter BEAR prior to entering into passing agreements with the Soviet vessels. The Coast Guard Cutter BEAR can be contacted on channel 13 or 16 VHF-FM.

List of subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Vessels, Waterways.

Final Regulation

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T0574 is added to read as follows: § 165.T0574 Safety Zone: Chesapeake Bay and Hampton Roads, Virginia.

(a) *Location.* The following area is a safety zone: The waters surrounding the Soviet guided missile cruiser Marshall Ustinov, the destroyer Otlichny, and the oiler Genrik Gasanov, extending from a point 500 yards directly ahead of the lead Soviet vessel to a point 500 yards directly astern of the trailing Soviet vessel and including all waters within 300 yards to either side of them while these vessels transit the Chesapeake Bay and Hampton Roads in both directions between buoy "CBH," located at approximate position 36°56.0′ N Latitude, 75°55.8′ W Longitude, and Pier 7 at the Norfolk Naval Station.

(b) For the purpose of this section "designated representative" means a Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf with respect to this safety zone.

(c) *Regulations:* (1) No vessel other than those vessels already anchored or moored within 300 yards of the established shipping channels may enter the moving safety zone unless authorized by Captain of the Port or his designated representative.

(2) The Captain of the Port or his designated representative aboard the Coast Guard Cutter BEAR will permit commercial vessels restricted to established shipping channels by their draft to enter the moving safety zone and may permit other vessels to enter the safety zone in the event of an emergency. The Captain of the Port or his designated representative may be contacted aboard the Coast Guard Cutter BEAR on channel 13 or 16 VHF-FM.

(3) Any person or vessel given permission to enter the safety zone under the provisions of paragraph (c)(2) of this section shall obey immediately any lawful direction or order of the Captain of the Port or his designated representative.

(d) *Effective Dates.* These regulations are effective from 6:00 a.m., July 21, 1989 or when the Soviet vessels arrive at buoy "CBH" until the vessels have moored at the Norfolk Naval Station and again upon departure from the Norfolk Naval Station at about 7:00 a.m., July 25, 1989 until the vessels have departed Chesapeake Bay in the vicinity of buoy "CBH."

Dated: July 13, 1989.

E. K. Johnson,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 89-17141 Filed 7-20-89; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6840]

Suspension of Community Eligibility; New York et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any

economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1973, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region II				
New York:				
Coeymans, town of, Albany County	360005	July 31, 1974, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	Aug. 3, 1989	Aug. 3, 1989.
Westerloo, town of, Albany County	360017	June 17, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Region III				
Pennsylvania:				
Bell, township of, Clearfield County	421513	Feb. 17, 1976, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Berwick, borough of, Columbia County	420338	June 20, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Coalmont, borough of, Huntingdon County.	420484	Apr. 26, 1977, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Fishing Creek, township of, Columbia County.	421550	Aug. 7, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Hastings, borough of, Cambria County	420230	Aug. 25, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Howard, borough of, Centre County	420263	May 13, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Howard, township of, Centre County	421464	Feb. 9, 1976, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Jackson, township of, Huntingdon County.	421691	Dec. 21, 1978, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Lawrence, township of, Clearfield County.	421528	July 29, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Logan, township of, Huntingdon County.	421694	Mar. 20, 1978, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Madison, township of, Columbia County.	421553	Sept. 7, 1976, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Region V				
Illinois: St. Marie, village of, Jasper County	170820	Jan. 8, 1979, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Wisconsin:				
Merton, village of, Waukesha County	550484	July 21, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Waupaca, city of, Waupaca County	550502	May 13, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Region VI				
Texas: Trophy Club, town of, Denton County.	481606	June 12, 1987, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Region VIII				
Colorado: Sedgwick, city of, Sedgwick County.	080171	July 16, 1975, Emerg.; Aug. 3, 1989, Reg.; Aug. 3, 1989, Susp	do	Do.
Region IX				
California:				
San Diego County, unincorporated areas.	060284	Mar. 5, 1971, Emerg.; June 15, 1984, Reg.; Aug. 3, 1989, Susp	do	Do.
Benicia, city of, Solano County	060368	May 28, 1975, Emerg.; May 31, 1977, Reg.; Aug. 3, 1989, Susp	do	Do.
Region I				
Massachusetts: Chesterfield, town of, Hampshire County.	250158	Aug. 11, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	Aug. 15, 1989	Aug. 15, 1989.
Region III				
Pennsylvania:				
Boggs, township of, Centre County	421193	Sept. 16, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp.	do	Do.
Midway, borough of, Washington County.	422558	Mar. 22, 1976, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Penn, township of, Butler County	421241	June 10, 1974, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp.	do	Do.
Petersburg, borough of, Huntingdon County.	420490	Aug. 3, 1976, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Quemahoning, township of, Somerset County.	422053	Apr. 9, 1976, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Shirley, township of, Huntingdon County.	421700	Feb. 4, 1976, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Spangler, borough of, Cambria County	420240	July 30, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Stillwater, borough of, Columbia County.	421546	June 6, 1974, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Westover, borough of, Clearfield County.	420317	July 23, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Worth, township of, Centre County	421472	Dec. 8, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Virginia: Carolina County, unincorporated areas.	510249	June 3, 1974, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
West Virginia:				
Petersburg, city of, Grant County	540039	Apr. 18, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Pendleton County, unincorporated areas.	540153	Oct. 22, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Franklin, town of, Pendleton County	540154	July 2, 1975, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Region IV				
Florida: Jacksonville, city of, Duval County	120077	Nov. 19, 1971, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp.	do	Do.
Region VIII				
Colorado: Edgewater, city of, Jefferson County.	080089	June 6, 1974, Emerg.; Aug. 15, 1989, Reg.; Aug. 15, 1989, Susp	do	Do.
Region III				
Pennsylvania: Franklin, township of, Susquehanna County.	422079	Dec. 4, 1975, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp	May 17, 1989	May 17, 1989.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: June 17, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-17136 Filed 7-20-89; 8:45 am]

BILLING CODE 6718-21-M

44 CFR PART 64

[Docket No. Fema 6841]

Suspension of Community Eligibility; Missouri et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: As shown in third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas,, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, Federal Center Plaza, 500 C Street, SW., Room 416, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the **Federal Register** that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised floodplain management regulations after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator finds that notice and public procedures under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a

significant economic impact. Any economic impact results from the community's decision not to adopt adequate floodplain management measures, thus placing itself in noncompliance with the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State, community name, and county	Community No.	Effective date
Missouri: Kinloch, city of, St. Louis	290432	Aug. 3, 1989.
Ohio:		
Fairlawn, city of, Summit	390657	Do.
Greenfield, city of, Highland	390267	Do.
Hanover, village of, Licking	390831	Do.
Hebron, village of, Licking	390333	Do.
Holland, village of, Lucas	390659	Do.
Indian Hill, city of, Hamilton	390221	Do.
Ironton, city of, Lawrence	390327	Do.
Kenton, city of, Hardin	390253	Do.
Macedonia, city of, Summit	390750	Do.
McDonald, village of, Trumbull	390538	Do.
Parma, city of, Cuyahoga	390123	Do.
Pennsylvania:		
Bristol, borough of, Bucks	240183	Do.
Hulmeville, borough of, Bucks	240190	Do.
South Fayette, Township of, Allegheny	241106	Do.
South Dakota:		
Kennebec, town of, Lyman	460050	Do.
Montrose, town of, McCook	460052	Do.
Redfield, town of, Spink	460081	Do.
Utah:		
Glenwood, town of, Sevier	490126	Do.
Green River, city of, Emery	490062	Do.
Hatch, town of, Garfield	490068	Do.
Henefer, town of, Summit	490136	Do.
Henrieville, town of, Garfield	490069	Do.
Holden, town of, Millard	490201	Do.
Hyde Park, town of, Cache	490016	Do.
Unincorporated areas, Iron	490073	Do.
Joseph, town of, Sevier	490127	Do.
Lewiston, city of, Cache	490018	Do.
Mantua, town of, Box Elder	490009	Do.

Issued: June 17, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-17137 Filed 7-20-89; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[General Docket No. 87-551]

Radiofrequency Radiation Compliance of FM Booster Stations; Correction

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule; correction.

SUMMARY: This correction document is intended to make it clear that *low-powered* FM booster stations were meant to be categorically excluded from paragraph (b) of § 1.1307 as well as FM translator stations.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Cleveland, Office of Engineering and Technology, FCC, (202) 653-8169.

SUPPLEMENTARY INFORMATION: The summary of the *Report and Order* in the above captioned proceeding (FCC No. 88-401, adopted December 9, 1988, released December 29, 1988), that was published in the **Federal Register** on January 12, 1989 (54 FR 1177), is Corrected by *Erratum*, released February 23, 1989, as follows:

§ 1.1307 [Corrected]

The note published on page 1178, in the Thursday, January 12, 1989, **Federal Register**, FR Doc. 89-646, is correctly revised to read as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.

* * * * *

(b) * * *

Note: Paragraph (b) shall apply to facilities and operations licensed or authorized under the following Parts of the Commission's Rules: 5, 25, 73, 74 (Subpart A), 74 (Subpart G), 74 (Subpart L; only applies to FM booster stations with output powers in excess of 10 watts), and 80 (applies only to ship earth stations). Facilities and operations licensed or authorized under all other Parts, Subparts, or Sections of the Commission's Rules shall be categorically excluded from consideration under paragraph (b), unless such exclusion is superseded by actions taken by the Commission under the provisions of paragraphs (c) or (d) of this Section.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-17014 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-455; RM-5899; RM-6223; RM-6224; RM-6225; RM-6226, MM Docket No. 87-486; RM-5938; RM-6242; RM-6278]

Radio Broadcasting Services; Perry, Cross City, Holiday, Avon Park, Sarasota, Live Oak, Tallahassee, Quincy and Crawfordsville, FL, and Bambridge and Thomasville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, allots: (1) Channel 291A to Live Oak, Florida, as the community's second local FM service, at the request of Ray W. Forrester; (2) substitutes Channel 296C1 for Channel 296A at Thomasville, Georgia, and modifies the license of Station WLOR(FM) accordingly, at the request of Thomasville Radio, Inc.; and (3) substitutes Channel 295C1 for Channel 292A at Cross City, Florida, and modifies the license of Station WDFL-FM accordingly, at the request of Women in Florida Broadcasting, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATES: August 31, 1989. The window period for filing applications for Channel 291A at Live Oak, Florida, will open on September 1, 1989, and close on October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket Nos. 87-455 and 87-486, adopted June 27, 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Channel 291A can be allotted to Live Oak, Florida, without the imposition of a site restriction. The coordinates for Channel 291A at Live Oak are North Latitude 30-17-30 and West Longitude 82-59-12. Channel 296C1 can be allotted to Thomasville, Georgia, with a site restriction of 9.1 kilometers southwest. The coordinates for Channel 296C1 are North Latitude 30-47-12 and West Longitude 84-03-25. Channel 295C1 can be allotted to Cross City, Florida, with a site restriction of 26.1 kilometers south. The coordinates for this allotment are North Latitude 29-24-07 and West Longitude 83-08-10.

The request of: (1) Dolcom Broadcasting, Inc. to substitute Channel 276C2 for Channel 276A at Tallahassee, Florida; (2) Bitner-James Partnership to substitute Channel 276C2 for Channel 274A at Quincy, Florida; and (3) Pasco Pinellas Broadcasting Co. to substitute Channel 292C2 for Channel 292A at Holiday, Florida, are denied. The request of Roy Simpson, Virgle Leon Strickland and Paul H. Reynolds to allot Channel 298A to Bambridge, Georgia, and Channel 297A to Crawfordsville, Florida, is dismissed. The request of Rahu Broadcasting, Inc. to allot Channel 295A to Perry, Florida, is dismissed.

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 FM Table of Allotments for Florida, is amended as follows for the following communities: Cross City, add Channel 295C1, remove Channel 292A; Live Oak, add Channel 291A. Section 73.202(b), the FM Table of Allotments for Georgia, is amended as follows for the following community: Thomasville, add Channel 296C1, remove Channel 296A.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-17074 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-355; RM-6396]

Radio Broadcasting Services; Indian Springs, NV

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: The Commission, at the request of Claire B. Benezra, allots Channel 257A to Indian Springs, Nevada, as the community's first local FM service. Channel 257A can be allotted to Indian Springs in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 36-34-30 and West Longitude 115-40-06. With this action, this proceeding is terminated.

EFFECTIVE DATES: August 31, 1989. The window period for filing applications will open on September 1, 1989, and close on October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-355, adopted June 26 , 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (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 FM Table of Allotments for Nevada is amended by adding the following entry, Indian Springs, Channel 257A.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17076 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-332; RM-6390]

Radio Broadcasting Services; Egg Harbor City, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Rodio Radio, Inc., substitutes Channel 285B1 for Channel 285A at Egg Harbor City, New Jersey, and modifies its license for Station WRDR(FM) to specify operation on the higher powered channel. Channel 285B1 can be allotted to Egg Harbor City, New Jersey, in compliance with the Commission's minimum distance separation requirements with a site restriction of 22.6 kilometers (14.1 miles) east to avoid a short-spacing to Station WQHQ, Channel 284B, Ocean City, Maryland. The coordinates for this allotment are North Latitude 39–29–05 and West Longitude 74–23–38. With this action, this proceeding is terminated.

EFFECTIVE DATES: August 31, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–332, adopted June 26, 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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 FM Table of Allotments for Egg Harbor City, New Jersey, is amended by deleting Channel 285A and adding Channel 285B1.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–17075 Filed 7–20–89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB18

Endangered and Threatened Wildlife and Plants; Final Rule To Determine "Ranunculus Acriformis" var. "Aestivalis" (Autumn Buttercup) To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service has determined a plant, *Ranunculus acriformis* var. *aestivalis* (autumn buttercup), to be an endangered species under the authority of the Endangered Species Act of 1973, as amended. The plant is endemic to the upper Sevier River Valley in western Garfield County, Utah. The plant occurs on less than 0.004 hectare (0.01 acre) within a fresh water marsh. The single known population has experienced a population decline of over 90 percent in the past 6 years and now numbers only about 20 individuals. Continued grazing and any modification of its habitat is likely to cause the extinction of this taxon in the foreseeable future. This action implements protection provided by the Endangered Species Act of 1973, as amended, for *Ranunculus acriformis* var. *aestivalis*.

EFFECTIVE DATE: August 21, 1989.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Fish and Wildlife Enhancement Office, 1745 West 1700 South, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the above address, (801/524–4430 or FTS 588–4430).

SUPPLEMENTARY INFORMATION:

Background

Marcus E. Jones first collected the autumn buttercup in early September 1894. Jones' diary for the period indicates "Orton's Ranch" as the collection location (Benson 1948). Jones apparently did not describe the taxon (Mutz 1984) and his specimens of the buttercup were eventually deposited at Pomona College in Claremont, California. Lyman Benson while preparing a monograph of the genus *Ranunculus* in North America recognized the uniqueness of the Jones collection and revisited the general location in an attempt to rediscover the population. Benson located a grandson of Orton who led him to a swampy area along the Sevier River where he discovered a population of the buttercup and collected specimens from a group of "15 or 20 small clumps" in the vicinity of the Jones collection of a half century earlier; from this collection Benson described *Ranunculus acriformis* var. *aestivalis* (Benson 1948).

Despite Benson's very complete description of the population's location, the taxon was essentially lost for more than 30 years (Mutz 1984). The habitat was reported "over grazed" in 1960 (Mutz 1984), and the **Federal Register** dated July 1, 1975 (40 FR 27824), indicated that the taxon was "probably extinct." During field work in connection with a review of the genus *Ranunculus* for Utah, Margaret Plamieri was unable to relocate the autumn buttercup in August of 1974 (Palmieri 1976).

On August 23, 1982, Kathryn Mutz located the autumn buttercup in a wetland above the Sevier River about 1 mile north of the type location. This newly discovered site was revisited by Mutz in 1983 in conjunction with the preparation of a status report of that species for the Service, and 407 mature plants and 64 seedlings were counted. The species' habitat is a series of small peaty hummocks on a low knoll less than 0.004 hectare (0.01 acre) in size surrounded by a marsh. The knoll may be the result of a raised peat bog uplifted by the upwelling waters of a spring which surrounds it. The overflow channel of a nearby spring fed stock water pond also runs past the knoll. In 1984 the autumn buttercup was again observed but had been heavily grazed. In 1985 the habitat was heavily grazed and trampled; no flowers were observed and only eight individuals were counted. Of those eight plants only one mature leaf had not been grazed (Service 1985). In 1986, 14 plants were counted, 4 of which were in flower, and there had been only moderate grazing in the immediate vicinity of the buttercup (Service 1986). In 1987, 12 plants were counted, 2 with floral buds in early August. The site was revisited in late August of that year. During the 3 intervening weeks the site had been moderately grazed and all the flowering systems had been cropped before seed had set (Service 1987). In 1988, 9 mature plants and 13 seedlings were counted, most of these were severely grazed by small herbivores, probably voles (Service 1988).

Wire cages have been set over all remaining plants to protect them from large herbivores. Five seedlings were taken (one died) and moved to the

Arboretum at Flagstaff, Arizona, for protective cultivation in a greenhouse environment under the auspices of The Center for Plant Conservation. In December 1988 The Nature Conservancy purchased the property which harbors the species' last known population. The autumn buttercup apparently has been extirpated from its type locality. Searches by Mutz in 1982 and 1983 (Mutz 1984) and by the Service in 1985, 1986, and 1987 have not located any other populations of *R. acriformis* var. *aestivalis*. The entire known population of the taxon is on lands in private ownership.

The autumn buttercup is a herbaceous perennial plant normally growing between 0.3 to 0.6 meter (1 to 2 feet) tall. Most of the simple but deeply palmately divided leaves are clustered at the base. Leaves and stems are covered with fine hairs. Leaves with three linear divisions are found high on the flowering stems. Flowers, usually six to ten per plant, are about 1.3 centimeters (0.5 inch) in diameter with five yellow petals and five reflexed yellow green sepals which fall off soon after the flower opens. Fruits of the buttercup are achenes. Twenty to forty of these small, dry, one-seeded fruits are clustered on the surface of the receptacle of the past flower in the shape of a cylinder or inverted cone from 0.6 to 0.8 centimeter (0.25 to 0.33 inch) high. Height of the buttercups at flowering may apparently be altered by the intensity of grazing; the few plants observed flowering in 1983 were less than 7.6 centimeters (3 inches) tall. Seedlings of the autumn buttercup have small (less than 1.3 centimeters (0.5 inch) wide) leaves with three broad, rounded lobes (Mutz 1984).

Benson (1948) followed a conservative taxonomic approach in his nomenclatural designations. His publication contained the scientific description and the naming of the autumn buttercup from the Sevier River Valley of central Utah as *R. acriformis* var. *aestivalis*. In the same publication Benson indicated that by following a moderate policy in taxonomic determination, it would have been appropriate to designate the autumn buttercup as a species in its own right rather than a variety of *R. acriformis* (i.e., "*R. aestivalis*"). *R. acriformis* var. *aestivalis*, has floral characteristics very similar to typical *R. acriformis* (i.e., petal size and shape), although tending to be somewhat smaller. Seed characteristics, however, are markedly different, and leaf shape is different, with the lobes of *R. acriformis* var. *aestivalis*. being much narrower than the other varieties.

Welsh (1986) and Welsh et al. (1987) assigned the taxon to *R. acris* as *R. acris* var. *aestivalis* based on the more angular lobes of the basal leaves and the short beak of the achene which are typical of *R. acris*. *R. acris* is native to Europe and Asia with one variety, *R. acris* var. *frigidus*, occurring in the Aleutian Islands. Thus *R. acris* var. *aestivalis* would represent a Pleistocene relict population extremely isolated geographically from the main body of that species' population. The autumn buttercup differs morphologically from *R. acris* with its smaller and proportionally narrower petals, more slender stems, and more angular leaf shape. In addition, the autumn buttercup exhibits none of the aggressive weedy behavior and poisonous properties of *R. acris*, which has the common name of tall buttercup. Benson (1948) argues that *R. turneri* of the Western American arctic may be a phylogenetic link between *R. acris* of the old world and the *R. occidentalis* group (including *R. acriformis*) of the new world, with the closest relationship being with *R. acriformis* var. *montanensis*. Thomas Duncan, University of California at Berkeley, pers. comm., 1987, stated that his preliminary taxonomic evaluation of *R. acriformis* var. *aestivalis* would align that entity with *R. occidentalis* of the Pacific Northwest and that it appears to be a species in its own right. *R. acriformis* var. *aestivalis* represents an important part of scientific understanding of the development of the buttercup genus and its relationships in western North America and eastern Asia.

With the apparent extinction of all but one of its populations, an occupied habitat of less than 0.004 hectare (0.01 acre), a total population of about 20 individuals and a documented population decline of more than 90 percent in its remaining occupied habitat within the past 6 years, the autumn buttercup is in imminent danger of extinction.

Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) directed the Secretary of the Smithsonian Institution to prepare a report of those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4 of the Act and of its intention to review the status of plant taxa named within. *R. acriformis* var. *aestivalis* was included on list "C" of that notice as probably extinct.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, *Federal Register* publication. *R. acriformis* var. *aestivalis* was included in that proposed rule and was marked with an asterisk to denote it as a species for which the Service especially desired information on living specimens and extant populations. General comments received in relation to the 1976 proposal were summarized in the **Federal Register** on April 26, 1978 (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the June 16, 1976, proposal.

On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480); *R. acriformis* var. *aestivalis* was included in that notice as a category 1 species. Category 1 is comprised of taxa for which the Service has sufficient biological data to support proposing them as endangered or threatened. In addition, *R. acriformis* var. *aestivalis* was designated with an asterisk to identify that species as one that may have recently become extinct. In 1982, a *R. acriformis* var. *aestivalis* population was discovered (Mutz 1984). On November 28, 1983, the Service published a supplement to its December 15, 1980, notice of review in the **Federal Register** (48 FR 53640); *R. acriformis* var. *aestivalis* was included in that notice as a category 2 species. Category 2 is composed of taxa for which the Service has information which indicates that proposing to list those taxa as endangered or threatened species is possibly appropriate, but for which substantial data on biological vulnerability and threat are not currently known or on file to support proposed rules.

In 1983 another population of *R. acriformis* was discovered in the Wasatch Plateau of central Utah, and in 1984 still another population was found in the Wasatch Mountains of Utah. Before 1983 the only known occurrence of *R. acriformis* in Utah was of the variety *aestivalis*. The *R. acriformis* populations of the Wasatch Mountains and Wasatch Plateau have now been determined to be the variety *montanensis*, which previously had a known distribution in the northern Rocky Mountains of Idaho, Wyoming, and Montana. *R. acriformis* var.

aestivalis is morphologically, phenologically, and distributionally distinct from *R. acriformis* var. *montanensis*, which is distributed in Utah far to the north at a much greater elevation and flowers earlier than *R. acriformis* var. *aestivalis* (Welsh and Chatterley 1985, Welsh et al. 1987). As a consequence of a Service sponsored status survey (Mutz 1984) and taxonomic evaluation of the *R. acriformis* var. *aestivalis* and *R. acriformis* var. *montanensis* population in Utah (Welsh and Chatterly 1985), the Service changed the status of *R. acriformis* var. *aestivalis* back to category 1 in the updated plant notice of review published in the **Federal Register** on September 27, 1985.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary of the Interior to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the Act's amendments of 1982 further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *R. acriformis* var. *aestivalis* because of the Service's acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, October 12, 1984, October 11, 1985, October 10, 1986, and October 9, 1987, the Service made the successive 1-year findings that the listing of *R. acriformis* var. *aestivalis* was warranted, but precluded by other listing actions of higher priority. Biological data supplied by Mutz (1984) and by the Service (1985, 1986, 1987, and 1988) fully support the listing of *R. acriformis* var. *aestivalis*. On July 22, 1988, the Service published in the **Federal Register** (53 FR 27724) a proposal to list *R. acriformis* var. *aestivalis* as an endangered species. The Service now determines *R. acriformis* var. *aestivalis* to be an endangered species with the publication of this final rule.

Summary of Comments and Recommendations

In the July 22, 1988, proposed rule (53 FR 27724) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting general public comment were published, during the open public comment period between July 22, 1988 and September 20, 1988, in the following newspapers: Garfield County News, Panguitch, Utah; Deseret News, Salt Lake City, Utah; and The Salt Lake Tribune, Salt Lake City, Utah. Two comments were received and are discussed below.

One comment was received from a university botanist which questioned the taxonomic validity of *R. acriformis* var. *aestivalis*, suggesting that the extant population may be a remnant of an abandoned herb garden and that *R. acriformis* var. *aestivalis* may be an introduced population of *R. acris*. That same commenter suggested that the Service resolve that taxonomic question and provide interim protection to the Panguitch population of *R. acriformis* var. *aestivalis* until that question could be resolved. The commenter suggested that Dr. Thomas Duncan be contacted to resolve the question.

The Service had previously been aware of a possible taxonomic problem and had contacted Dr. Duncan. Dr. Duncan indicated that the species was not *R. acris*, but that it might be a species in its own right (pers. comm., 1987; see the Background section above). The time involved in resolving the question of the relationship of *R. acriformis* var. *aestivalis* to *R. acris* was a primary reason for the delay in proposing *R. acriformis* var. *aestivalis* to be an endangered species. A critical reevaluation of the taxonomy of *R. acriformis* var. *aestivalis* will be published in the scientific literature (Thomas Duncan, pers. comm., 1987). It will demonstrate the uniqueness of the taxon. The Governor of Utah commented in behalf of the State of Utah and did not oppose the proposed listing of *R. acriformis* var. *aestivalis* as an endangered species.

Summary of Factors Affecting the Species

After a through review and consideration of all information available, the Service has determined that *Ranunculus acriformis* var. *aestivalis* should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Ranunculus acriformis* var. *aestivalis* L. Benson (autumn buttercup) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Since the species was proposed as an endangered species, the Nature Conservancy purchased the land on which the last known population exists. This action has removed the impending threat of destruction or modification of that population's habitat. However, considering that the total known population of the autumn buttercup has been reduced to one hummocky knoll of less than 0.004 hectare (0.01 acre) and about 20 individuals as of August 1988, any inadvertent destruction or modification of that population's habitat could cause the species' extinction.

The autumn buttercup apparently has been extirpated from its type locality about 1 mile south of its currently known location (Benson 1948, Palmieri 1976, Mutz 1984). This modification of the species' range is the result of intense agriculture activities, primarily livestock grazing of wet meadows.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* With the very small existing population, any use of the autumn buttercup may seriously reduce the prospect of the species' survival. Benson (1948) recognized this threat. Any collecting or vandalism could cause the extinction of the autum buttercup.

C. *Disease or predation.* The autumn buttercup has been observed to be palatable to livestock and small mammals and to be selectively grazed. In the 1985 survey of the autumn buttercup population (Service 1985) only one leaf, on one of the eight plant found that year, had not been partially eaten. In 1987 and again in 1988 all the flowering stems had been grazed to ground level, with no seed produced. There are no known insect herbivores, parasites, or disease organisms which significantly affect this species.

D. *The inadequacy of existing regulatory mechanisms.* The autumn buttercup presently receives no protection or consideration under any Federal, State, or local law or regulation.

E. *Other natural or manmade factors affecting its continued existence.* The low numbers and limited distribution of the autumn buttercup contribute to the buttercup's vulnerability to natural or man-caused stresses. Further reduction in the number of plants would reduce the reproductive capability and genetic potential of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Ranunculus acriformis* var. *aestivalis* as endangered without critical habitat. Threatened

status would not reflect the extreme vulnerability of this species to extinction, because *Ranunculus acriformis* var. *aestivalis* is in danger of extinction throughout its very limited range due to grazing, inadvertent destruction or modification of its limited habitat, and the fact that there is currently no existing legislation (Federal, State, or local) to protect the species. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. The limited distribution and accessibility of the autumn buttercup make it vulnerable to vandalism and collecting. These potential threats are of particular significance since the known population site is easily accessible and public access would be difficult to control under existing authorities. The one remaining site contains a very small population, and any collection would be extremely detrimental. Publication of a critical habitat description would make this species even more vulnerable and increase enforcement problems. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Ranunculus acriformis* var. *aestivalis*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. However, *R. acriformis* var. *aestivalis* is not known to occur on lands under Federal jurisdiction and no Federal involvement with this species is currently known.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession this species from areas under Federal jurisdiction. In addition, for listed plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands, and their removal, cutting, digging up, or damaging or destroying of listed plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. With respect to *R. acriformis* var. *aestivalis*, it is anticipated that few, if any, trade permits would ever by sought or issued because the species is not common in the wild and, at present, only four individual plants are in cultivation. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203 (703/358-2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Benson, L. 1948. A treatise on the North American Ranunculi. American Midland Naturalist 40:1-261.

Mutz, K.M. 1984. Status report on *Ranunculus acriformis* A. Gray var. *aestivalis* L. Benson. Unpublished report prepared under contract with U.S. Fish and Wildlife Service, Denver, Colorado. 36 pp.

Palmieri, M.D. 1976. A revision of the genus *Ranunculus* for the State of Utah. Unpublished Master's Thesis. Brigham Young University, Provo, Utah. 141 pp.

U.S. Fish and Wildlife Service. 1985. Status of *Ranunculus acriformis aestivalis*. Salt Lake City, Utah. 1 p.

———. 1986. Status of *Ranunculus acriformis aestivalis*. Salt Lake City, Utah. 1 p.

———. 1987. Status of *Ranunculus acriformis aestivalis*. Salt Lake City, Utah. 1 p.

———. 1988. Status of *Ranunculus acriformis aestivalis*. Salt Lake City, Utah. 1 p.

Welsh, S.L. 1986. New taxa and combinations in the Utah Flora. Great Basin Naturalist 46:254-260.

Welsh, S.L., N.D. Atwood, L.C. Higgins, and S. Goodrich. 1987. A Utah flora. Great Basin Naturalist Memoirs Number 9. 897 pp.

Welsh, S.L. and L.M. Chatterley. 1985. Utah's rare plants revisited. Great Basin Naturalist 45:173-236.

Author

The primary author of this final rule is John L. England, U.S. Fish and Wildlife Service, Salt Lake City, Utah (see **ADDRESSES** section above) (801/524-4430 or FTS 588-4430).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation.

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-

304, 96 Stat. 1411; Pub. L. 100-478, 102 Stat. 2306; Pub. L. 100-653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Ranunculaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Ranunculaceae—Buttercup Family:						
* * * * *						
Ranunculus acriformis var. *aestivalis* (=*Ranunculus acris* var. *aestivalis*).	Autumn buttercup	U.S.A. (UT)	E	355	NA	NA
* * * * *						

Dated: June 12, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-17157 Filed 7-20-89; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 90637-9166]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The Secretary of Commerce changes the total allowable catch (TAC), allocations, and quotas for the Atlantic and Gulf of Mexico migratory groups of king and Spanish mackerel in accordance with the framework procedure of the Fishery Management Plan for the Coastal Migratory Pelagic Resources (FMP). This notice (1) for Gulf and Atlantic migratory groups of king mackerel, increases TAC, allocations, and quotas; and (2) for Gulf and Atlantic migratory groups of Spanish mackerel, increases TAC and allocations. The intended effects are to protect the mackerels and continue stock rebuilding programs while still allowing catch by the important recreational and commercial fisheries that are dependent on these species.

EFFECTIVE DATE: July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The king and Spanish mackerel fisheries are regulated under the FMP, which was prepared and amended jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR Part 642.

In accordance with the FMP and its implementing regulations, the Councils recommended and NOAA published a proposed rule containing changes in TACs, allocations, and quotas for king and Spanish mackerel for the 1989/90 fishing year (54 FR 24920, June 12, 1989). That notice (1) described the framework procedures of the FMP through which the Councils recommended changes in TACs, allocations, and quotas; (2) specified the recommended changes; and (3) described the need and rationale for the recommended changes. Those descriptions are not repeated here; the specifications implemented by this final rule are the same as those in the proposed rule. No comments were received on the proposed rule.

NOAA concurs that the Councils' recommendations are necessary to protect the stocks and prevent overfishing and that they are consistent with the goals and objectives of the FMP. In addition, they are consistent with the Magnuson Act and other applicable law. Accordingly, the Councils' recommended changes are implemented.

Amendment 4 to the FMP proposes to reallocate Atlantic migratory group Spanish mackerel between commercial and recreational users. A proposed rule to implement Amendment 4 was published in the **Federal Register** on June 16, 1989 (54 FR 25593). If Amendment 4 is approved and implemented during the 1989/90 fishing year, further changes will be made to the commercial and recreational allocations for Atlantic group Spanish mackerel, contained in 50 CFR 642.21 paragraphs (c)(2) and (d)(2).

Other Matters

This action is authorized by 50 CFR 642.27, and complies with E.O. 12291.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 17, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 642 is amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for Part 642 continues to read as follows:

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

§ 642.21 [Amended]

2. In § 642.21, the numbers are revised in the following places to read as follows:

Paragraph	Removed	Added
(a)(1), introductory text	1.09	1.36
(a)(1)(i)	0.75	0.94
(a)(1)(ii)	0.34	0.42
(a)(2), first sentence	2.60	3.34
(b)(1)	2.31	2.89
(b)(2)	4.40	5.66
(c)(1)	2.85	2.99
(c)(2)	3.04	4.56
(d)(1)	2.15	2.26
(d)(2)	0.96	1.44

[FR Doc. 89-17101 Filed 7-17-89; 5:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 139
Friday, July 21, 1989

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

FEDERAL HOME LOAN BANK BOARD

[No. 89-1892]

12 CFR Part 523

Extension of Time Period for Board Action on Outstanding Proposal

Date: July 12, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; extension of time period for Board action.

SUMMARY: Pursuant to its regulatory review procedures, *see* Board Res. No. 88-269, 53 FR 13156 (April 21, 1988), the Federal Home Loan Bank Board ("Board") hereby gives notice that it is extending the time period for possible action by the Board or any successor agency on the following outstanding proposed regulation: Readmission of Federal Home Loan Bank members terminating their status as insured institutions, adopted by the Board on August 15, 1988 (53 FR 30686, August 15, 1988). The Board is taking this action in order to allow adequate time for consideration of a number of complex issues raised by this proposal. It is not soliciting additional comments on this proposal.

FOR FURTHER INFORMATION CONTACT: Mary Hoyle, Paralegal, Specialist, (202) 906-7135, Regulations and Legislation Division; Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 or the appropriate contact persons listed in the referenced **Federal Register** document.

SUPPLEMENTARY INFORMATION: Although the comment period on the following proposal has been closed for more than six months, the Board still has the proposal under active consideration for possible further action. The Board is hereby extending the time for possible final action by the Board or any successor agency on this proposal until sixty days after the enactment of the legislation currently pending regarding the regulation of the thrift industry.

Readmission of Federal Home Loan Bank Members Terminating Their Status as Insured Institutions, adopted by the Board on August 5, 1988 (53 FR 30686, August 15, 1988).

The Board notes that this action does not constitute a representation that the Board or any successor agency will take final action with respect to this proposal, only that it may do so within this extension of time. Moreover, this action carries no implication whatsoever with respect to the Board's view of the merits of the proposal.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17073 Filed 7-20-89; 8:45 am]

BILLING CODE 6720-01-M

[No. 89-1768]

12 CFR Part 545

Agency Offices; Federal Savings and Loan System

Date: July 11, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is proposing to revise 12 CFR Part 545 to remove the current restriction banning federal institutions from establishing agency offices to originate and service mortgage loans outside the same state as the home office of the institution or the same state of any institution's branch office approved by the Board. This change should, in the Board's view, afford federal institutions the flexibility required to effectively and efficiently service and manage their multi-state operations. Additionally, the Board proposes to amend 12 CFR 545.96(d) to require notification in writing of agency openings and closings.

DATE: Comments must be received on or before September 19, 1989.

ADDRESS: Please send comment letters to the Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comment letters will be available for inspection at the Board's Information Services Office, 801 17th Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Cindy L. Hausch, Financial Analyst, (202) 906-7488; or Cheryl Martin, Regional Director, (202) 906-7869; or Kathleen V. O'Dea Willard, Assistant Director, (202) 906-6789; or Patrick G. Berbakos, Director, Office of District Banks, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Section 545.96 of the Federal Regulations, 12 CFR 545.96 (1988), currently restricts federal institutions from establishing agency offices to originate and service mortgage loans outside the same state as the home office of the institution or the same state of any institution's branch office approved by the Board.

As part of Corporate Governance, Parts III and IV, Board Res. No. 87-687, 52 FR 25870 (July 9, 1987) ("Corporate Governance"), the Board requested comments as to whether its regulations on branch and agency offices should be revised in light of the Board's policy statement on branching which encourages Federal institutions to provide "choices of facilities for improved financial services to the public." 12 CFR 556.5(a)(1) (1988).

Seven commenters addressed the issue of agency offices. The commenters noted that agency offices (also referred to as loan production offices) can provide more efficient and effective support for activities in which federal institutions are currently engaged if federal institutions are permitted to establish agency offices in any state.

The Board believes that permitting federal institutions to establish agency offices on a nationwide basis without regard to the location of the home office or branch office(s) would result in a number of benefits as follows:

(1) Increase the efficiency of a federal institution by reducing loan origination costs;

(2) Benefit consumers by permitting federal institutions to offer mortgages and other loans at lower costs, without reducing present profit margins;

(3) Increase the competitiveness of federal institutions; and

(4) Permit federal institutions to become equivalent with national banks in the nationwide lending arena.

This change should, in the Board's view, afford federal institutions the

flexibility required to effectively and efficiently service and manage their multi-state operations. Nationwide lending can only realize its potential benefits to lenders and consumers alike if lenders are permitted to move appropriate operations closer to their customers. Expanding the agency offices on a nationwide basis would enhance the competitiveness and business flexibility of federal institutions, while bringing a number of potential benefits to consumers. The change would in no way diminish an institution's obligation to help meet the credit needs of its local community under the Community Reinvestment Act.

At the present time, a federal institution has the option to open a second tier service corporation that services and originates mortgage loans. Present regulations require that agency offices in states other than where an institution has a home or branch office must be operated through the service corporation of a federal institution because of the geographical limitations on the locations of agency offices. The Board does not believe that limiting agency offices to the state or states in which institutions have "brick-and-mortar" branches is necessary or in the best interest of the industry. To require institutions to establish loan production offices through the use of a second tier service corporation in states where the institution has no branch is costly. It denies the institution the opportunity to originate mortgage loans on uniform instruments which contain uniform provisions which are in full and complete compliance with the regulations of the Board. Federal institutions should be able to operate an agency office directly rather than through its second tier service corporation. The use of the service corporation requires additional legal, administrative, and licensing expenses which would not otherwise be required. Origination of mortgages through a second tier service corporation increases costs and is generally less efficient than through loan production offices.

Because a federal institution's second tier service corporation already may engage in nationwide lending, the proposed change would not directly represent an increase in the powers of federal institutions. Instead of operating the loan production office through a service corporation, the loan production office would be operated as an agency office of the federal institution and would be monitored routinely by the supervisory and examination staff. Loan records and documentation would continue to be kept in the institution's decision center for examination review.

The Board's present policy puts federal institutions at a competitive disadvantage with commercial banks who are able to establish loan production or agency offices anywhere in the United States. The Board's agency office regulation is more restrictive than comparable provisions applicable to other depository institutions. Present federal laws and regulations permit national banks, state institutions and state banks, to establish loan production offices in states in which they are not permitted to branch. 12 CFR 7.7380 delineates the national bank's regulation regarding loans originated at other than banking offices. Specifically, it states "Origination of loans by employees or agents of a national bank or of a subsidiary corporation at locations other than the main office or a branch office of the bank does not violate 12 U.S.C. 36 and 81; Provided, That the loans are approved and made at the main office or a branch office of the bank or at an office of the subsidiary located on the premises of, or contiguous to, the main office or branch office of the bank." The regulation gives no limitation based on state lines. The Board's proposed action thus would not allow federal institutions to penetrate new markets but allow them to operate more efficiently and to compete more effectively in existing markets. The proposal would allow federal institutions to become equivalent with other depository institutions in the nationwide-lending arena.

The Board welcomes comments on this proposed rule.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act; 5 U.S.C. 603, the Board is providing the following initial regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to all insured institutions.

3. *Impact of the proposed rule on small entities.* The proposed rule would not have a significant economic impact on small institutions. Small institutions as well as large ones will benefit from the changes recommended in this proposal.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the **SUPPLEMENTARY INFORMATION** set forth above.

List of Subjects in 12 CFR Part 545

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

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 545, Subchapter C, Chapter V, Title 12, *Code of Federal Regulations,* as set forth below.

PART 545—OPERATIONS

1. The authority citation for Part 545 continues to read as follows:

Authority: Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402–403, 407, 48 Stat. 1256–1257, 1260, as amended (12 U.S.C. 1725–1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

2. Amend § 545.96 by revising paragraphs (a) and (d) to read as follows:

§ 545.96 Agency.

(a) *General.* A Federal association may, without approval of the Board, to the extent authorized by its board of directors, establish or maintain, agencies which only service and originate (but do not approve) loans and contracts and/or manage or sell real estate owned by the association.

* * * * *

(d) *Notice.* A Federal association shall notify the Supervisory Agent in writing when it opens or closes an agency.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89–17072 Filed 7–20–89; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-019]

RIN 1218-AA51

Permit Required Confined Spaces; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of written comment period.

SUMMARY: This notice extends the time in which written comments and requests for a hearing may be submitted concerning the notice of proposed rulemaking which OSHA issued on June 5, 1989 on permit required confined spaces (54 FR 24080).

DATE: Written comments and requests for a hearing on the proposal must be postmarked by October 4, 1989.

ADDRESS: Comments and requests for a hearing must be submitted, in quadruplicate, to the Docket Office, Room N-2634, 200 Constitution Avenue NW., Washington, DC 20210. The information and comments, along with any hearing requests and objections that are submitted, will be available for public inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, OSHA, Room N-3647, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: OSHA issued a notice of proposed rulemaking on June 5, 1989 (54 FR 24080) which proposed to establish safety requirements, including a permit system, for entry into those confined spaces which OSHA has identified as posing special dangers for entrants due to their configuration or other features. Interested persons were given until August 4, 1989 to submit comments pertaining to the proposal. The notice of proposed rulemaking also informed the public of the opportunity to request an informal public hearing on the proposal.

OSHA has received several requests for an extension of the comment period, based on the complexity of the subject matter. To ensure the fullest participation of interested persons, OSHA is extending the period in which written comments may be submitted on the proposed rule until October 4, 1989. The comments should be sent in quadruplicate to the Docket Office at the above address. Commenters are requested to provide substantive data and documentary evidence in support of their views regarding the proposal.

In addition, OSHA is extending the period during which interested persons may file objections to the proposed rule or request an informal hearing until October 4, 1989. The objections and hearing requests should be submitted in quadruplicate to the Docket Office at the above address and must comply with the following conditions:

1. The objections and hearing requests must include the name and address of the objector;
2. The objections and hearing requests must be postmarked by October 4, 1989;
3. The objections and hearing requests must specify with particularity the provisions of the proposed rule to which objection is taken and must state the grounds therefor;
4. Each objection and hearing request must be separately stated and numbered; and
5. The objections and hearing requests must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

Authority

This document was prepared under the directin of Alan C. McMillan, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It was issued under sec. 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911.

Signed at Washington, DC, this 14th day of July 1989.

Alan C. McMillan,

Acting Assistant Secretary.

[FR Doc. 89-17129 Filed 7-20-89; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 761

Areas Unsuitable for Mining; Areas Designated by Act of Congress; Applicability of Prohibitions of the Surface Mining Act to the Surface Impacts of Underground Coal Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Withdrawal of proposed rule.

SUMMARY: On December 27, 1988, the Department of the Interior published a proposal to amend those portions of its permanent program regulations at 30 CFR Part 761 that address the circumstances which constitute valid existing rights (VER) to mine in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. 53 FR 52374.

The comment period on this proposed rule closed on April 24, 1989. A large number of comments were received during the comment period.

After further consideration of the proposed rule and the comments on the proposal, the Department of the Interior has decided that the proposed rule should be withdrawn for further study.

FOR FURTHER INFORMATION CONTACT: Dr. Annetta Cheek or Mr. Dermot Winters, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington DC 20240; telephone Dr. Cheek at (202) 343-5241 and Dr. Winters at (202) 343-1928 (Commercial or FTS).

Accordingly, the proposed rule published at 53 FR 52374 (December 27, 1988) is hereby withdrawn.

James M. Hughes,

Deputy Assistant Secretary—Land and Minerals Management.

July 18, 1989.

[FR Doc. 89-17130 Filed 7-20-89; 8:45 am]

BILLING CODE 4310-05-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM89-5]

Filing of Petition and Request for Initial Comments

July 17, 1989.

AGENCY: Postal Rate Commission.

ACTION: Notice of filing of petition for rulemaking proceeding and request for initial comments.

SUMMARY: On July 10, 1989, Advo-System, Inc. (Advo) filed a petition for rulemaking, asking that the Commission establish rules of practice for the consideration, pursuant to 39 U.S.C. ch. 36, subch. II, of contract rates, which might be arrived at by negotiation between the United States Postal Service (Service) and one or more mail users. The Commission hereby gives public notice of the filing of this petition and concurrently invites any interested party to file initial comments on the legal feasibility of the Advo proposal, together with any preliminary views they may wish to present on its desirability.

DATE: Comments must be received on or before September 19, 1989.

ADDRESS: Comments and correspondence relating to this Notice should be sent to Charles L. Clapp, Secretary of the Commission, Suite 300, 1333 H Street NW., Washington, DC 20268 (telephone: 202/789-6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street NW., Washington, DC 20268 (telephone: 202/789-6820).

SUPPLEMENTARY INFORMATION: Advo suggests that the Commission should enact a set of rules of practice for the consideration of contract rates of postage. It urges that nothing in the Postal Reorganization Act (39 U.S.C. 101 et seq.) forbids the negotiation of contractual rates, as long as they cover attributable costs, contribute reasonably to institutional costs, and otherwise meet the regulatory criteria of the Act. Advo describes two forms of contract rate mechanism that might be considered: (i) A contract rate classification, whereby the Commission in classification proceedings would establish eligibility terms and a permissible range of rates for a classification of mail, and eligible mailers would then negotiate with the Service over the precise rate payable; and (ii) joint Postal Service-mailer proposals, negotiated between the Service and one or more mailers and submitted to the Commission in a proceeding the result of which would be a contract service that other mailers could obtain on the same terms. Eligibility conditions might include mailer-guaranteed minimum volumes, frequencies, or revenues, and preparation steps involving addressing, presortation, containerization, time/place of entry, and advance notice. Specialized service features might include guaranteed delivery dates, follow-up reports by the Service concerning delivery, and refunds for failure to serve. Advo submitted with its petition a sample draft of rules.

In order to use its own, and interested parties', resources economically, the Commission has decided to begin exploration of the general idea Advo presents by soliciting an initial round of comments, principally concerning the feasibility under the Postal Reorganization Act of such contract rates—which are not in use today and were not in use in 1970 when the Act was signed. If commenters wish at this time to include preliminary views on the wisdom of or need for a contract rate mechanism they may do so—although, if the matter is pursued further, the Commission expects to provide another opportunity for general comment on the merits of the idea. This Notice does not solicit comments on the specific sample language submitted by Advo, though commenters are also free to discuss it.

Following consideration of the initial comments solicited herein, the Commission will determine what if any further proceedings are warranted and will give notice of its determination in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 89-17105 Filed 7-20-89; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 424

[BDP-610-P]

RIN 0938-AE06

Medicare Program; Diagnosis Codes on Physician Bills

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing that each bill or request for payment for a service furnished by a physician under Medicare Part B must include appropriate diagnostic coding for the diagnosis or the nature of the illness or injury for which the Medicare beneficiary received care. This rule would implement certain provisions of section 202(g) of the Medicare Catastrophic Coverage Act of 1988.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on September 19, 1989.

ADDRESS: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-610-P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

If comments concern information collection or recordkeeping requirements, please address a copy of the comments to:

Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron

In commenting, please refer to file code BPD-610-P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Pat Brooks, R.R.A., (301) 966-5319.

SUPPLEMENTARY INFORMATION:

I. Background

Generally, medical services are furnished to a Medicare beneficiary by providers, physicians, and suppliers. Title XVIII of the Social Security Act (the Act) defines the term physician, just as it defines the terms provider and supplier. Under section 1861(r) of the Act, the term physician, subject to limitations concerning the scope of practice by each State and other provisions of title XVIII of the Act, means a doctor of—(1) Medicine or osteopathy; (2) Dental surgery or dental medicine; (3) Podiatry; (4) Optometry; or (5) Chiropractic.

In general, payment for physician services furnished directly to a beneficiary is made under Part B of the Medicare program (Supplementary Medical Insurance). After furnishing physician services to a beneficiary, billing and payment are generally made in one of two ways. A physician may bill the beneficiary directly or some other person or entity on behalf of the beneficiary. That person or entity then seeks reimbursement from Medicare. Alternatively, a physician may bill Medicare directly for his or her services furnished to the beneficiary. When a physician or other supplier agrees to accept the amount the carrier determines to be the reasonable charge as payment in full, it is called "assignment" or accepting payment on "an assignment-related basis." In this case, the physician can bill the beneficiary only for applicable deductible and coinsurance amounts.

Rules concerning assignment are located at 42 CFR 424.55.

A physician who bills Medicare for payment submits a Health Insurance Claim Form (HCFA-1500) directly to a Medicare carrier who then processes the claim. This form, which is also used by most third-party payors, including Medicaid and other Federal government health insurance programs, is, in effect, an itemized bill. If a physician is not to be paid directly by Medicare for physician services, the physician generally bills the Medicare beneficiary directly (or bills another third-party payor). The beneficiary then seeks reimbursement from Medicare for payment made to the physician by submitting a Patient's Request for Medicare Payment (HCFA-1490 S) to the carrier. This form directs the beneficiary to attach itemized bills from his or her physician to the form. In cases in which a third party has made payment to the physician, the third party seeks reimbursement from Medicare for this payment by submitting a Request for Medicare Payment by Organizations which Qualify to Receive Payment for Paid Bills (HCFA-1490 U). We require that the physician fill out Part II of this form, which is similar to an itemized bill.

Currently, each bill or request for payment for physician sevices furnished to a Medicare beneficiary must include, among other information, a narrative description of the diagnosis of the nature of the illness or injury for which the beneficiary received care. Although there is no current requirement for diagnostic coding (that is, a description of the diagnosis or the nature of the illness or injury in a numeric code), many physicians have routinely provided this information. In addition, all physicians currently provide a narrative description of procedures, medical services, and supplies that are furnished to a beneficiary and many physicians also furnish procedure codes for these activities.

II. New Legislation

Section 202(g) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360), enacted July 1, 1988, added paragraph (p) to section 1842 of the Act. Under the provisions of new section 1842(p)(1) of the Act, each bill or request for payment for physician services under Medicare Part B must include appropriate diagnostic coding "as established by the Secretary" for the narrative diagnosis or the nature of the illness or injury for which the Medicare beneficiary received treatment. The conference report that accompanied Pub. L. 100-360 explained clearly the purpose of the requirement for physician diagnostic coding. After rejecting a Senate provision that would have required the use of diagnosis codes on all prescriptions because the conferees decided that that requirement would have been "unduly burdensome," the conferees agreed to require diagnostic coding for physician services under Part B, explaining their reasoning for this requirement as follows:

"This information would be available for immediate use for utilization review of physician services (and could be used for prepayment screens) and could be used in the future to facilitate drug utilization review by merging Part B with drug claims data." H.R. Rep. No. 661, 100th Cong., 2nd Sess. 191 (1988).

Section 1842(p)(2) of the Act provides for denial of payment for a bill submitted by a physician on an assignment-related basis if it does not include the appropriate diagnostic coding. Section 1842(p)(3) of the Act directs the Secretary to impose penalties if a physician who is not paid on an assignment-related basis fails to provide the appropriate diagnostic coding on the bill to the Medicare beneficiary. That is, section 1842(p)(3(A) of the Act provides for a civil money penalty not to exceed $2,000 if the physician knowingly and willfully fails to provide the appropriate diagnostic coding, and section 1842(p)(3)(B) of the Act provides for a sanction under 1842(j)(2)(A) of the Act if the physician "knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection," to furnish appropriate diagnostic coding. Section 1842(p)(3) of the Act does not prohibit the payment of an unassigned claim simply because the physician did not provide diagnosis codes. Section 202(m)(4) of Pub. L. 100-360 provides that new paragraph 1842(p) of the Act will apply to physician services furnished after March 31, 1989.

This proposed rule concerns the requirements related to the provisions of section 1842(p)(1) and (p)(2) of the Act. In the Department of Health and Human Services, the responsibility for both civil money penalties and sanctions has been delegated to the Office of Inspector General (OIG). The OIG is currently developing a separate rulemaking document concerning civil money penalties under section 1842(p)(3)(A) of the Act and sanctions under section 1842(p)(3)(B) of the Act.

III. Provisions of this Proposed Rule

Under the provisions of new section 1842(p)(1) of the Act, each bill or request for payment for physician services under Part B must include appropriate diagnostic coding "as established by the Secretary" that relates to the narrative description of the diagnosis or the nature of the illness or injury for which the Medicare beneficiary received care.

As noted above, generally, physician services furnished directly to a beneficiary are paid under Medicare Part B. (In addition, under the regulations set forth at Subpart D of 42 CFR Part 405, we make payments to hospitals under Part A for physician services related to the supervision and teaching of interns and residents who participate in the care of hospital inpatients. Rules concerning bills for these Part A physician services would not be affected by this proposed rule.)

Under this proposed rule, a physician would be required to furnish diagnosis codes in lieu of the narrative description that a physician is currently required to furnish. Payment would be denied for a claim for physician services furnished on an assignment-related basis if the claim did not contain appropriate diagnostic coding. This would not be true for a claim for physician services not furnished on an assignment-related basis. In other words, the beneficiary's submission of a claim for the payment for physician services would not be denied solely because the claim did not contain diagnostic coding. If enough information is provided to enable a carrier to process the claim, the claim would be processed without the diagnostic coding. (As explained above, section 1842(p)(3)(B) of the Act provides for a sanction under section 1842(j)(2)(A) of the Act if the physician "knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection," to furnish appropriate diagnostic coding.) To aid in implementation, a limited grace period will be established during which payment will not be denied and sanctions will not be imposed for failure to include diagnosis codes.

To implement the provisions of section 1842(p)(1) of the Act, we must determine which system should be used to code diagnoses and provide direction to physicians for use of that coding system with our claim forms. We are proposing to use the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM). (The Tenth Revision of ICD would not automatically be used. Instead, we would announce our use of that or any other subsequent revision.)

We have chosen ICD-9-CM as the most appropriate diagnostic coding system because it is the only nationally recognized coding system that includes

all possible diagnoses for Medicare beneficiaries. It is for that reason that it is already widely used by physicians. Other coding systems are limited to medical specialties. For example, the American Psychiatric Association publishes the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised (DSM-III-R), which contains a coding syustem that is limited to mental disorders. (Although all DSM-III-R codes are based on ICD-9-CM codes, there are variations between the two systems.) (Although the many physicians who currently furnish procedure codes use the American Medical Association's Physicians' Current Procedural Terminology, Fourth Edition (commonly referred to as CPT-4), this system cannot be used for diagnostic coding because it contains procedure codes only.)

We are already using ICD-9-CM in the Medicare program for classifying Diagnosis Related Groups (DRGs) for payment under the inpatient hospital prospective payment system. That is, cases are classified into DRGs based on the principal diagnosis, up to four additional diagnoses, and certain procedures performed during the hospital stay, as well as age, sex, and discharge status of the patient.

The International Classification of Diseases, Ninth Revision (ICD-9) is a classification system developed by the World Health Organization for recording morbidity and mortality information for statistical purposes, for indexing hospital records by diseases, and for storing and retrieving data. The clinical modification to ICD-9 (that is, ICD-9-CM) is a coding system for reporting diagnostic information and procedures performed on a patient in hospitals or connected with other types of health care delivery systems.

ICD-9-CM was developed under the guidance of the National Center for Health Statistics (NCHS) to adapt the ICD-9 classification system to the needs of hospitals in the United States. The modifications were intended to provide a mechanism to present a clinical picture of the patient. Thus, ICD-9-CM codes are more precise than those included in ICD-9 since greater precision is needed to describe the clinical picture of a patient than for statistical groupings and trend analysis.

Effective January 1979, after nearly two years of development by numerous national experts on clinical technical matters, the ICD-9-CM became the single classification system intended for use by hospitals in the United States. This system replaced several earlier related but somewhat dissimilar classification systems. Once the ICD-9-CM classification system was in place, several errors and omissions were noted. Consequently, in September 1980 a second edition of ICD-9-CM was published. The preface to the second edition noted that the continuous maintenance of ICD-9-CM is the responsibility of the Federal government. The preface also stated that no future modifications to ICD-9-CM would be made by the Federal government without considering the opinions of representatives of major users of the classification system.

In September 1985, the ICD-9-CM Coordination and Maintenance Committee (the committee) was formed. This is a Federal interdepartmental committee that maintains and updates the ICD-9-CM. This includes approving new coding changes, developing errata, addenda, and other modifications to the ICD-9-CM to reflect newly developed procedures and technologies and newly identified diseases. The committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The committee is co-chaired by NCHS and HCFA. NCHS has primary responsibility for the ICD-9-CM diagnosis codes included in Volume 1—Diseases: Tabular List and Volume 2—Diseases: Alphabetic Index. HCFA has primary responsibility for the ICD-9-CM procedure codes included in Volume 3—Procedures: Tabular List and Alphabetic Index.

The committee encourages participation in the development of diagnosis and procedure codes by health-related organizations, organizations in the coding field, and other members of the public. During each Federal fiscal year (FY), the Committee holds three public meetings during which coding changes are discussed. (For example, the Committee presented proposals for coding changes for FY 1990 at public meetings held on April 14, 1988, July 21-22, 1988, and December 1-2, 1988.) Taking into account the public comments made at each meeting and the public correspondence received within 30 days after each meeting, the committee then formulates recommendations, which must be approved by the co-chair agency heads (that is, the Administrator of HCFA and the Director of NCHS) before adoption for general use.

Coding changes approved by the committee and agency heads are published annually in the **Federal Register** (see 53 FR 38590, September 30, 1988, for changes concerning diagnosis and procedure codes that became effective on October 1, 1988).

Only these official volumes and addenda as published by GPO are to be considered in the assignment of diagnosis codes for Medicare patients. (That is, we are not responsible for mistakes made by businesses in the replication of these official volumes and addenda, which are then sold to the public.) Three official addenda became effective on the following dates: October 1, 1986, October 1, 1987, and October 1, 1988. A fourth addendum, containing the Human Immunodeficiency Virus (HIV) Infection Codes, became effective for Medicare patients discharged on or after July 1, 1988.

The GPO has exhausted its supply of these addenda and has no plans to reprint more copies. In addition, we expect that changes to the ICD-9-CM coding system will continue to be published each October 1st. However, GPO will no longer provide addenda except to purchasers of the 3rd edition. Therefore, for physicians to comply with the requirements of this rule, they should obtain Volumes 1 and 2 of ICD-9-CM, third edition. The third edition was published in March 1989. It incorporates all four addenda that were previously published. Therefore, if a physician has not yet obtained ICD-9-CM, second edition, and updated the set with the addenda, the physician should obtain the recently updated Volumes 1 and 2 (that include the four addenda). Any new addenda issued through 1991 will automatically be sent without charge to anyone who orders the recently updated Volumes 1 and 2. (Although these future addenda will not be furnished by the GPO to anyone other than to purchasers of ICD-9-CM, third edition, both the American Medical Records Association (AMRA), the national professional association of medical records practitioners, and the American Hospital Association (AHA) have indicated that they intend to reprint these future addenda and make them available for sale.)

The price of Volumes 1 and 2 of ICD-9-CM, third edition is $43.00 for delivery within the United States and $53.75 for delivery outside of the United States. A purchaser must furnish an address other than a post office box because the volumes will be delivered only to a place of business or a residence. When ordering, the purchaser should enclose a check, money order, or Visa or Mastercard account name, number, and expiration date. Checks should be made out to the Superintendent of Documents.

Updated volumes 1 and 2 may be purchased by writing to the following address—

ICD-9-CM, 3rd Edition, Volumes 1 and 2, P.O. Box 360121, Pittsburgh, PA 15250-6121

(Telephone orders may not be made.)

Section 424.32 sets forth the basic requirements for all claims. Under § 424.32(a), all claims (including claims filed directly with Medicare by physicians and claims filed by beneficiaries or other persons or entities for physician services furnished to Medicare beneficiaries) must be filed in accordance with HCFA instructions. Section 424.34 provides additional requirements for claims filed with Medicare by beneficiaries. Under § 424.34(b)(4), the itemized bill must include a listing of services in sufficient detail to permit determination of reasonable charges. We would revise § 424.32(a) to state specifically that a claim for physician services must include appropriate diagnostic coding using ICD-9-CM. We would revise § 424.34(b)(4) to state specifically that an itemized bill furnished by a physician to a beneficiary for physician services must include appropriate diagnostic coding using ICD-9-CM. In addition, we would add the definition of ICD-9-CM, the International Classification of Diseases, Ninth Revision, Clinical Modification, to § 424.3.

Procedures and other instructions for diagnostic coding were developed in order to take into account circumstances unique to care furnished by physicians. These procedures and other instructions for completing bills and requests for payment were distributed to the carriers on March 3, 1989. The carriers then mailed this information, in the form of a Medicare Bulletin, to the physicians that they service. During preparation of these procedures and other instructions, we consulted with the American Medical Association (AMA) and provided them with an opportunity to comment on the material. We considered all of AMA's comments and made changes where appropriate. (For the convenience of the reader, we have republished the coding and reporting requirements as an appendix to this proposed rule.) If additional coding requirements are developed, they will also be distributed to the physicians.

Currently, there are a number of organizations and individuals that publish coding advice. The only publication endorsed by HCFA is Coding Clinic for ICD-9-CM (Coding Clinic), published by AHA for use by hospitals. Coding Clinic provides specific diagnostic information and guidelines that are helpful for determining proper diagnostic coding. For example, a recent issue of Coding Clinic contained an article about sepsis and septic shock that included significant pointers for coding these cases. (Although the articles in Coding Clinic are about diagnostic coding or procedure coding involving hospital inpatients or outpatients, this periodical contains information that may be helpful for coding involving physician services furnished in any setting.)

In 1985, the Editorial Advisory Board of Coding Clinic identified four organizations whose representatives have responsibility for review and approval of the contents of this publication. These four cooperating organizations are AMRA, AHA, HCFA, and NCHS. Because the Department has reviewed and approved all articles published in Coding Clinic since the May-June 1985 issue, users of Coding Clinic may assume that the written material is consistent with our position on coding. Subscriptions for Coding Clinic may be ordered by writing to the following address:

American Hospital Association, Division of Quality Control Management, 840 N. Lake Shore Drive, Chicago, IL 60611

The subscription rate is $85.00 per year for AHA members and $135.00 per year for nonmembers. Refer to publication ISSN 0742-9800.

Currently, the AMA is offering instruction in ICD-9-CM coding to its members. Additional information may be obtained by writing to the following address:

Barry Eisenberg, Director, Division of Health Programs, The American Medical Association, 535 North Dearborn Street, Chicago, IL 60610

AMRA is also offering nationwide training classes and training materials for physician office staff for ICD-9-CM diagnostic coding. (Physicians may also wish to contact the Medical Records Association in the State in which they practice to determine whether that association is offering training classes and materials.) Written inquiries to AMRA should be made to the following address:

The American Medical Records Association, 875 N. Michigan Avenue, Suite 1850, Chicago, IL 60611

Telephone inquiries concerning AMRA training sessions and materials should be made to Rita Finnegan at (312) 787-2672.

IV. Regulatory Impact Analysis

A. Executive Order 12291 and Regulatory Flexibility Analysis

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, the rule would likely result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians are treated as small entities.

We are preparing a voluntary regulatory impact analysis and voluntary regulatory flexibility analysis because of our inability to quantify with any degree of certainty the estimated costs of these provisions, and because of the large number of physicians who would be affected and the significance and potential controversy of these provisions.

This proposed rule would implement some of the provisions of section 202(g) of Pub. L. 100-360. These provisions require that each bill or request for payment for a service furnished by a physician include appropriate diagnostic coding related to the illness or injury for which the Medicare beneficiary received care. A physician who is to be paid on an assignment-related basis would not be paid if he or she failed to include appropriate diagnostic coding on the bill. (As stated above, the Department's OIG is currently developing a separate rulemaking document concerning civil money penalties under section 1842(p)(3)(A) of the Act and sanctions under section 1842(p)(3)(B) of the Act applicable when a physician who is not accepting assignment intentionally fails to furnish diagnostic coding on the bill submitted to his or her patient.)

With one exception, any effects of this proposed rule would be a direct result of the legislative provisions in section 202(g) of Pub. L. 100–360. The exception is that the legislation allows us discretion in the choice of which system should be used to code diagnoses. We are proposing to use ICD–9–CM because it is the only nationally recognized coding system that includes all possible diagnoses for Medicare beneficiaries. It is for that reason that it is already widely used by physicians. Furthermore, we are already using ICD–9–CM in the Medicare program for classifying DRGs for payment under the inpatient hospital prospective payment system. Therefore, we believe that it would be the easiest coding system for physicians to use.

Currently, physicians are not required to provide ICD–9–CM or any other type of diagnostic codes on their Medicare bills or requests for payment. Therefore, we believe that most physicians would be affected by the provisions of this proposed rule through increased paperwork, the cost of training themselves and their staff, and the probable need to purchase ICD–9–CM, third edition.

As of December 31, 1986, there were 569,160 physicians practicing in the United States (Physician Characteristics and Distribution in the U.S., 1986. Department of Data Release Services, Division of Survey and Data Resources, American Medical Association, 1987). We believe that at least 30 percent of physicians are currently reporting ICD–9–CM codes, thus the 70 percent of the physicians not reporting codes equals approximately 398,000. If all of these physicians need new coding books, ICD–9–CM Volumes 1 and 2 at a cost of $43.00 per set, the total cost would be approximately $17,100,000. However, we believe that not all of these physicians would purchase new coding books. For example, some physicians may be in a group practice, some may work for hospitals and would not have thier own patients, while some may already own coding books.

Based on claims data, we project that there will be approximately 320.1 million physician claims processed for the period from April 1, 1989 to March 31, 1990. We estimate the clerical cost of coding each claim to be $0.075 for a total of $24,007,500. We arrived at the $0.075 figure be assuming an hourly rate of the typical physician's office staff person to be $4.50 per hour. We believe that it takes one minute to code a claim, therefore $4.50 divided by 60 minutes equals $0.075. However, we believe that approximately 30 percent of the claims are already being coded. Thus, 70 percent or approximately $16,800,000 of the cost of coding of claims could be attributed to this proposed rule. These coding costs would be ongoing. However, we believe that coding time and costs would probably be reduced with experience.

We are aware that AMRA and other vendors are sponsoring, for a fee, coding training for physicians' office staff. Additionally, carrier-sponsored training will be available at no cost. Of the 70 percent of physicians who do not currently code, we anticipate that each of those physicians may either send one or more persons for training, or may determine that formal training is not needed. Some of those physicians may not send any staff since they may be in a group practice (in which case, one staff member may represent several physicians), or may work for hospitals and not have their own patients.

Below, we are providing a range of estimated training costs through the use of two examples. The first example gives a higher estimate; the second, a lower.

In the first example, we assume that all physicians who currently do not code would, on average, send one of their office staff to attend a half-day session sponsored by a national firm. We anticipate that the cost of such a training session could be as high as $100.00. Thus, for this estimate, we are assuming a cost of $100.00. Furthermore, we assume they would pay the hourly rate (assumed to the $4.50 per hour) of their employees while they are attending the coding session. Given these assumptions, we would estimate training costs as follows:

(All estimates are rounded to the nearest $100.000.)

• Half-day (four hours) at $4.50 per hour=$18.00. Then $18.00×398,000 employees	$7,200,000
• Session cost $100.000×398,000 employees	39,800,000
• Total training costs	47,000,000

In the second example, we assume that, on average, physicians who currently do not code would send one of their office staff to coding sessions sponsored by carriers or insurance companies at no cost or not send them at all. Assuming that the office employee is paid $4.50 an hour, we estimate the total training costs as follows:

• Half-day (four hours) at $4.50 per hour=$18.00. Then $18.00×398,000 employees	$7,200,000
• Session costs	0
• Total training costs	$7,200,000

Below, we show the total estimated first year costs for the two examples.

• For the first example, the total estimated first year costs would consist of:

Coding costs	$16,800,000
Training	47,000,000
Books	17,100,000
Total	$80,900,000

• For the second example, the total estimate first year costs would consist of:

Coding costs	$16,800,000
Training	7,200,000
Books	17,100,000
Total	$41,100,000

These are an estimated range of first year costs. The cost of books would be a one-time expense. Training costs would be recurring to the extent that staff turnover would occur. Coding costs would be ongoing. However, we believe that coding time and costs would probably be reduced with experience.

In conclusion, we do not know how the physician community would react to this proposed rule insofar as the extent to which they would utilize coding training for their office staff. Thus, we cannot with any accuracy estimate the costs involved.

B. Rural Hospital Impact Statement

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule would have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area.

As discussed above, only physicians would be affected by this proposed rule. Therefore, we are not preparing a rural impact statement since we have determined, and the Secretary certifies that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

V. Other Required Information

A. Paperwork Reduction Act

Proposed regulations at §§ 424.32(a) and 424.34(b) contain information collection and recordkeeping requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511). These proposed regulations and the information collection and recordkeeping requirements apply to the requirement that a physician provide appropriate diagnostic coding on each bill or request for payment for a physician service furnished under Medicare Part B. Public reporting burden for this collection of information is estimated to average one minute per submitted Part B claim. This includes time spent reviewing instructions, searching existing data sources, gathering and maintaining needed data, and completing and reviewing the collection of information. The information collection and recordkeeping requirements associated with this proposed rule have been sent to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the "ADDRESS" section of this preamble.

B. Public Comment

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date specified in the "Dates" section of this preamble, and we will respond to the comments in the preamble of the final rule.

List of Subjects in 42 CFR 424

Assignment of benefits, Physician certification, Claims for payment, Emergency services, Plan of treatment.

42 CFR Part 424 would be amended as set forth below:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

A. The authority citation for Part 424 is revised to read as follows:

Authority: Secs. 215(j), 1102, 1814, 1815(c), 1835, 1842(b) and (p), 1861, 1866(d), 1870(e) and (f), 1871 and 1872 of the Social Security Act (42 U.S.C. 415(j), 1302, 1395f, 1395g(c), 1395n, 1395u(b) and (p), 1395x, 1395cc(d), 1395gg(e) and (f), 1395hh and 1395ii)

Subpart A—General Provisions

B. In § 424.3, the introductory text is republished and a definition for "ICD-9-CM" is added in alphabetical order to read as follows:

§ 424.3 Definitions.

As used in this part, unless the context indicates otherwise—

"ICD-9-CM" means the International Classification of Diseases, Ninth Revision, Clinical Modification.

* * * * *

Subpart C—Claims for Payment

C. In § 424.32, paragraph (a) is revised to read as follows:

§ 424.32 Basic requirements for all claims.

(a) A claim must meet the following requirements:

(1) A claim must be filed with the appropriate intermediary or carrier on a form prescribed by HCFA and in accordance with HCFA instructions.

(2) A claim for physician services must include appropriate diagnostic coding using ICD-9-CM.

(3) A claim must be signed by the beneficiary or the beneficiary's representative (in accordance with § 424.36(b)) unless the beneficiary has died.

(4) A claim must be filed within the time limits specified in § 424.44.

* * * * *

D. In § 424.34, the introductory text of paragraph (b) is republished and paragraph (b)(4) is revised to read as follows:

§ 424.34 Additional requirements: Beneficiary's claim for direct payment.

* * * * *

(b) *Itemized bill from the hospital or supplier.* The itemized bill for the services, which may be receipted or unpaid, must include all of the following information:

* * * * *

(4) A listing of the services in sufficient detail to permit determination of reasonable charges; for itemized bills from physicians, appropriate diagnostic coding using ICD-9-CM must be used. (For example, a bill for ambulance service must specify the pick-up and delivery points.)

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare Supplementary Medical Insurance)

Dated: February 22, 1989.

Terry Coleman,

Acting Administrator, Health Care Financing Administration.

Approved: May 26, 1989.

Louis W. Sullivan,

Secretary.

Appendix—Claims Review and Adjudication Procedures

4020.3

C. Coding and Reporting Requirements

Use of ICD-9-CM:

For information about the use of certain abbreviations, punctuation, symbols, and other conventions used in the ICD-9-CM Tabular List (the volume with the code numbers and titles) see the sections on Conventions Used in the Tabular List and guidance in the use of ICD-9-CM at the beginning of Volume 1. Information about the correct sequence to use in finding a code is described in the Introduction of Volume 2, Diseases: Alphabetic Index. The most critical rule involves beginning the search for the correct code assignment through the Index, Volume 2. Never begin searching initially in the Tabular List (Volume 1) as this will lead to coding errors.

1. Physicians must use the appropriate code or codes from 001.0 through V82.9 to identify diagnoses, symptoms, conditions, problems, complaints, or other reason(s) for the encounter/visit.

A. In reporting ICD-9-CM diagnosis codes, physicians will be describing the patient's condition using terminology which includes specific diagnoses as well as symptoms, problems, or reasons for the encounter. There are ICD-9-CM codes to describe all of these.

In selecting codes to describe the reason for the encounter the physician will frequently be using codes 001.0 through 999.9 which is the section ICD-9-CM for the classification of diseases and injuries (e.g. infectious and parasitic diseases; neoplasms; symptoms, signs, and ill-defined conditions, etc.). Codes that describe symptoms and signs, as opposed to diagnoses, are acceptable for reporting purposes if this is the level of certainty documented by the physician. Chapter 16 of ICD-9-CM, Symptoms, Signs, and Ill-defined Conditions (code 780.0-799.9) contains many, but not all codes for symptoms.

B. However, ICD-9-CM also provides codes to deal with encounters for circumstances other than a disease or injury. This Supplememtary Classification of Factors Influencing Health Status and Contact with Health Services (V01.0-V82.9) is provided to deal with occasions when circumstances other than a disease or injury are recorded as diagnoses or problems. The V codes should be used for bills of this type. For example, the correct code for a cancer patient who is seen solely for radiotherapy is V58.0, Radiotherapy session.

2. List first the ICD-9-CM code for the diagnosis, condition, problem, or other reason for encounter/visit shown in the medical record to be chiefly responsible for the

services provided. List additional codes that describe any coexisting conditions.

Physicians will be reporting up to four diagnosis codes, not narrative descriptors, on the billing form. In addition, they will indicate which diagnosis code relates to the service(s) reported. The physician must select among the four diagnosis codes to be reported that code which best describes the reason for the encounter, as discussed above. At times there may be several conditions that equally led to the encounter. In these cases the physician is free to select the one to be listed first.

The physician will be reporting a minimum of one diagnosis code. However, there will frequently be instances where the patient has greater than four conditions present at the time of the encounter. Bill limitations allow the reporting of only four diagnosis codes. The physician should select first the reason for the encounter. In selecting the other three conditions to report, the physician should attempt to select first those conditions for which procedure codes are listed and to which the procedures where directed.

3. Codes are to be used at their highest level of specificity, e.g.

—Assign 3-digit codes only if there are no 4-digit codes within that code category,
—Assign 4-digit codes only if there is no fifth digit subclassification for that category, and
—Assign the fifth digit subclassification code for those categories where it exists.

ICD-9-CM is composed of codes with either 3, 4, or 5 digits. Codes with 3 digits are included in ICD-9-CM as stand alone codes or as the heading of a category of codes that are further subdivided by the use of fourth or fifth digits which provide greater specificity.

Examples:

a. Chronic obstructive pulmonary disease is assigned code 496, Chronic airway obstruction, not elsewhere classified. There are no fourth of fifth digits for 496.

b. Acute myocardial infarction, 410, has fourth digits that describe the location of the infraction (e.g. 410.5 Of other inferior wall). It would be incorrect to report code category 410, without a fourth digit, when there are fourth digits provided. Also note that for this code category there is a fourth digit provided to use when the coder is not given information about the location of the infarction (410.9 Unspecified site).

c. Gastric ulcer, 531, has fourth digits assigned to provide information such as whether there is hemorrhage or perforation. In addition the coder is instructed to assign a fifth digit (0 or 1) the describe whether or not obstruction is mentioned. It would be incorrect to leave off the fifth digit.

d. Rupture of tendon, nontraumatic, 727.6, has fifth digits that provide information on the tendon which has ruptured. It would be incorrect to leave off the fifth digit.

Claims submitted with 3 or 4 digit codes where 4 and 5 digit codes are available may be returned for proper coding. It is recognized that a specific diagnosis may not be known at the time of an initial office visit. However, that is not an acceptable reason to submit a 3 digit code when 4 or 5 digits are more appropriate.

Example:

A pediatric patient presents with blood in the urine (hematuria) and high blood pressure. The physician makes a diagnosis of acute glomerulonephritis. There is a 3 digit code for the category Acute glomerulonephritis (580), but it is further subdivided into fourth and fifth digits. A claim with the diagnosis code 580 will not be accepted because more specificity is available and must be provided. For example, 580.0 is the code for acute poststreptococcal glomerulonephritis. If, as often is the case with initial visits, it is not certain whether the condition is poststreptococcal or associated with a specified pathological lesion, then code 580.9, Acute glomerulonephritis with unspecified pathological lesion in kidney, would be appropriate.

4. Do not code diagnoses documented as "probable," "suspected," "questionable," or "rule out" as if they are established. Rather code the condition(s) to the highest degree of certainty for that encounter/visit, such as symptoms, signs, abnormal test results, or other reason for the visit.

Physicians should be aware that this is contrary to the coding practices used by hospital and medical record departments for coding the diagnoses of hospital inpatients. Hospital coding practices would lead to the coding of all discharge diagnoses listed as "probable," "suspected," "questionable," or "rule out" as if the condition existed. Further the coding of symptoms by medical record departments for inpatients is generally unacceptable particularly when there is an established diagnosis. A requirement that conditions listed as "probable," "suspected," "questionable," or "rule out" as if the condition existed would lead to significant over-counting of conditions. Therefore codes for symptoms and signs are appropriate and acceptable for physician reporting.

Example:

A neurologist evaluates a patient with complaints of dizziness and double vision. On physical examination, a visual field defect in noted. A diagnosis of "rule out multiple sclerosis" is made and the patient is referred for a magnetic resonance imaging (MRI). Multiple sclerosis would not be coded as an established diagnosis. The physician should identify one of the signs or symptoms as the reason for the encounter and may list others as additional diagnoses if desired.

Note that the requirement for diagnosis coding applies only to the neurologist's bill or claim for payment. Ordering physicians are not required to include diagnosis codes on referral slips or requests for radiologic or other diagnostic tests. However, consistent with accepted medical practice such referral slips or requests should include a narrative description of the reason for the test. In addition to assisting the radiologist, pathologist, or other physician in the proper performance and interpretation of the requested test, the information will assist the referring physician in the completion of his/her bill or claim for payment. (See #6 below).

In those instances where the physician does not document (identify) a definite diagnosis or problem at the conclusion of a patient care encounter/visit, the physician's office staff may select the documented chief complaints(s) as the reason for the encounter/visit.

Example:

Patient is seen in the office with chief compliant of severe neck pain exacerbated by any movement. Pain appeared earlier in the day upon awakening from nap. No history of any injury or unaccustomed physical activity. The Physician's brief write-up stated normal finding on physical and neurological examination, and the patient was instructed on immobility, heat, and analgesics. No diagnosis was documented. In this instance, code the chief complaint of neck pain, 723.1.

5. Chronic disease treated on an ongoing basis may be coded and reported as many times as the patient receives treatment and care for the condition(s).

Example:

A patient is seen on a monthly basis for treatment of rheumatoid arthritis, 714.0. This diagnosis should be coded and reported at each visit regardless of the number or frequency of visits.

6. For patients receiving ancillary diagnostic services only during an encounter/visit, the appropriate V code for the examination is sequenced first, and the diagnosis or problem for which the services are being performed is sequenced second.

This category will be used frequently by radiologists who are performing radiological examinations on referrals. V72.5, Radiological examination, not elsewhere classified will describe the reason for the encounter and will be sequenced first on the bill. When the reason for the referral is for other than a routine screening exam, a second diagnosis code should be reported, e.g., wheezing, coughing.

Failure to list a second code in addition to V72.5 may lead to problems with carrier screens on bill submittal. The code for Radiological examination, Not Elsewhere Classified (V72.5) includes referrals for routine chest x-rays which are not covered by Medicare. Carriers may establish screens to verify that the referrals were not for routine chest x-rays. By supplying a second code to describe the reason for the referral, these bills can clearly be identified as referrals to evaluate symptoms, signs, or diagnoses. The omission of a second code may lead to requests from carriers for more information prior to payment of the claim.

This category will also be used frequently by pathologists. V72.6, Laboratory examination, will describe the reason for the encounter (e.g., study of biopsy specimen). If at the time of the bill submittal there is a diagnosis (e.g., malignant neoplasm) then an additional code can be submitted to describe the diagnosis.

Examples:

A physician refers a healthy, asymptomatic patient to a radiologist for a routine chest x-ray as part of a routine physical examination. The radiologist will code V72.5, Radiological examination, not elsewhere classified, as the reason for the visit.

A physician refers an ill patient to a radiologist for a chest x-ray but does not indicate the reason for the test. Use code V72.5, Radiological examination, not elsewhere classified, as the reason for the visit. Since it is generally accepted medical practice to include the reason for the referral

on a referral note the internist's office should be contacted for this information. The reason for the referral (e.g., chest pain (786.50), wheezing (786.09)) should then be coded and reported on the bill.

A physician refers a patient to a radiologist for a chest x-ray with the reason for exam identified as cough and fever, rule out pneumonia. The x-ray is normal. The radiologist should code V72.5, Radiological examination, not elsewhere classified, as the reason for the visit. List an additional code or codes for cough (786.2) and/or fever (780.6, Pyrexia of unknown origin) to describe the reason for the referral. Do not code "rule out pneumonia", as it is not an established condition.

A physician refers a patient to a radiologist for a chest x-ray with the reason for exam identified as cough and fever, rule out pneumonia. The x-ray demonstrates bronchopneumonia. The radiologist should code V72.5, Radiological examination, not elsewhere classified, as the reason for the visit. List an additional code for bronchopneumonia (485, Bronchopneumonia, organism unspecified). Do not code cough and fever, as more specific information is available.

A physician refers a patient to a radiologist for a chest x-ray with the reason for exam identified only as rule out pneumonia. The x-ray is normal. The radiologist should code V72.5 as the reason for the visit. Do not code "rule out pneumonia" as if it exists. List an additional code for undiagnosed disease (799.9, Other unknown and unspecified cause). This code indicates that the patient has some condition, but it is not clearly defined.

7. For patients receiving ancillary therapeutic services only during an encounter/visit, the appropriate V code for the service is listed first, and the diagnosis or problem for which the services are being performed is listed second.

Example:

Use a code to describe rehabilitation services, V57.1, Other physical therapy, or V57.89, Other care involving use of rehabilitation procedures for a patient with multiple sclerosis, 340. Sequence the V code first, followed by the code for multiple sclerosis.

8. For surgery, code the diagnosis for which the surgery was performed. If the postoperative diagnosis is known to be different from the preoperative diagnosis at the time the claim is filed, select the postoperative diagnosis for coding.

9. Code all documented conditions that coexist at the time of the encounter/visit, and that require or affect patient care treatment or management. Do not code conditions previously treated and no longer existing.

Physicians are advised to exercise care in coding (a) conditions presently existing, (b) conditions no longer existing, (c) residuals (late effects) of conditions no longer existing, and (d) certain postoperative status conditions that require consideration in the management of patient care and warrant coding. Some physicians will add to the list of conditions currently being treated any previous surgery or conditions that no longer exist to provide easy reference of patient's history for recapitulation in the ongoing care of the patient. These should not be coded unless they require or affect patient case treatment or management.

Example:

The physician sees a patient for a follow-up visit for hypertension and angina and prescribes a diuretic and nitroglycerin. The physician documents benign hypertension, angina, status post pneumonia (6 months ago), status post hysterectomy (6 years ago), and status post appendectomy (15 years ago). In this instance, only two code assignments are made: hypertension (401.1, Essential hypertension, benign) and angina (413.9, Chronic ischemic heart disease, unspecified). The other conditions are not listed since they did not require or affect patient care.

[FR Doc. 89-17122 Filed 7-20-89; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR 325

RIN 3067-AB48

Emergency Health and Medical Occupations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This rulemaking amends part 325 in Title 44 CFR Emergency Health and Medical Occupations Guidance, Chapter 1, Federal Emergency Management Agency, Subchapter E Preparedness. Part 325 responds to part 1 of Executive Order 12656 of November 18, 1988, which provides that the Director, FEMA, assists the National Security Council in the implementation of national security emergency preparedness policy and which delegates to the Director the responsibility for coordinating and supporting the initiation, development, and implementation of national security emergency preparedness programs and plans among the Federal departments and agencies. This part lists and defines those Emergency Health and Medical Occupations necessary to ensure survival. The list is provided for use in the implementation of health and human services programs. The Director, FEMA, is to provide policy guidance for use by Federal departments and agencies in their mobilization plans and programs. The Director is also to provide the President with a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies.

DATE: Comments are requested and should be submitted in writing to the address listed below no later than September 19, 1989.

ADDRESSES: Submit written comments, in duplicate, on the proposed rulemaking, to the Rules Docket Clerk, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Victor H. Esch, M.D. Health Resources Manager, Office of Mobilization Preparedness, Federal Emergency Management Agency, Room 624, 500 C Street, SW., Washington, DC 20472, Telephone (202) 646-3062.

SUPPLEMENTARY INFORMATION: This proposed procedure is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. It will not have an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices to consumers, individual industries, Federal, State or local agencies, or geographic regions; and will not have a significant adverse impact on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

This part applies to Federal Government agencies. In accordance with the Regulatory Flexibility Act of 1980, it is hereby certified that this proposed rule will not have a significant economic impact on a substantive number of small entities.

This rule does not contain information requirements that are subject to the Paper Work Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and OMB implementing regulations 5 CFR 1320.

The regulation in this part provides guidance to Federal agencies which may or may not take an action which could be subject to environmental documentation requirements. The guidance has no environmental consequences and it is determined, under FEMA's regulation published in 44 CFR 10.8, that it is not necessary to prepare either an environmental assessment or an environmental impact statement.

In promulgating these rules, FEMA has considered the President's Executive Order on Federalism issued on October 26, 1987 (E.O. 12612, 52 FR 41685). The purpose of the order is to assure the appropriate division of governmental responsibilities between national government and the States. Among other provisions, this rule implements the requirements that agency rules be in accordance with the so-called common rule, adopted by FEMA at 44 CFR Part 13, Uniform Administrative Requirements for Grants and

Cooperative Agreements to State and local Governments. The problem dealt with in this part is national in scope. In view of the joint Federal-State responsibility for civil defense, and FEMA's role under the Federal Civil Defense Act of 1950, as amended, the regulation in this part is determined to conform FEMA assistance to Executive Order 12612.

List of Subjects in 44 CFR Part 325:

National defense, Emergency health and medical occupations.

Accordingly, Subchapter E Chapter 1, Title 44, Code of Federal Regulations is amended by revising Part 325 to read as follows:

PART 325—EMERGENCY HEALTH AND MEDICAL OCCUPATIONS

Sec.
325.1 Purpose.
325.2 Scope applicability.
325.3 Policy.
325.4 Definitions.
325.5 Implementation.
325.6 Reporting.

Authority: National Security Act of 1947, as amended, 50 U.S.C. 404; Defense Production Act of 1950, as amended, 50 U.S.C. App. 2061 *et seq*; Federal Civil Defense Act, as amended, 50 U.S.C. App. 2251 *et seq*; E.O. 12148 of July 20, 1979, 3 CFR 1979 Comp., p. 412; and E.O. 12656 of November 18, 1988, 53 FR 47491.

§ 325.1 Purpose.

(a) The Director, Federal Emergency Management Agency, after consultation and agreement with the Secretary of Labor and the Secretary of Health & Human Services, and in support of the requirement of section 203(5) of Executive Order 12656, is issuing this List of Emergency Health & Medical Occupations to identify those medical occupations and skills for which there will be a critical need in time of a national security emergency.

(b) This List is for the use of Departments and agencies with responsibility for developing plans and programs to mobilize the health industry and health resources for use in time of a national security emergency.

(c) This List is for use by those departments and agencies concerned with planning for the emergency training and emergency recruitment of health & medical personnel engaged in the listed occupations.

§ 325.2 Scope and applicability.

The list entitled "Emergency Health and Medical Occupations" is not intended to be all inclusive, rather it identifies those health and medical occupations which would be most needed to provide health and medical services for national defense needs and during and immediately after an emergency in which survival of the population is the primary consideration.

§ 325.3 Policy.

(a) As part of the national security emergency preparedness policy, it is the responsibility of each Federal department and agency to identify occupations and skills for which there may be a critical need in the event of a national security emergency.

(b) The List of Health and Medical Occupations shall be used by departments and agencies in the development of plans and programs for the mobilization of the health industry and health resources for national defense needs.

§ 325.4 Definitions.

(a) *National Security emergency* is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States.

(b) *Mobilization* is the process of marshalling resources, including human and health resources, to respond to and manage a national security emergency.

§ 325.5 Implementation.

(a) *Develop plans, programs and training.* (1) Under Part 8 of Executive Order 12656, the Secretary of Health and Human Services, in cooperation with other Federal departments and agencies, State and local governments, and appropriate private sector organizations as part of its mobilization preparedness responsibility shall:

(i) Define the emergency roles which would be performed by those individuals filling the occupations included on the List of Emergency Health and Medical Occupations;

(ii) Develop and implement appropriate emergency training programs designed to prepare individuals in these occupations to perform effectively their specialized roles in a national security emergency as distinguished from their peacetime functions; and

(iii) Set quantitative and qualitative training objectives for each occupational category and developing arrangements for payment for the training.

(2) Under Part 12 of Executive Order 12656, the Department of Labor as part of its mobilization preparedness responsibility shall:

(i) Develop programs for increasing the availability of critical workforce skills and occupations.

(ii) Plan for the effective use of civilian workforce resources during national security emergencies. Plans shall include, but not necessarily be limited to priorities and allocations, recruitment, referral, training and programs for increasing the availability of critical workforce skills and occupations.

(b) *Volunteerism.* Although Federal, State, and local health officials are expected to have the requisite authority to take such actions in a declared national emergency, it is probable that the traditional role of volunteerism in the health and medical field will prevail and minimize the need for involuntary controls. Jurisdiction over health and medical personnel in actual emergencies would remain with their employers and the integrity of institutional services will be preserved wherever possible.

(c) *Priority of the health and medical workforce.* During a declared national security emergency, in which survival of the population is the preeminent consideration, the provision of health and medical services would be a priority emergency response and recovery function.

(d) *Mobilization of health and medical personnel.* To ensure that this priority need is met, departments and agencies responsible for the allocation of the workforce in emergencies will use the List of Emergency Health and Medical Occupations as an aid in the mobilization of available health and medical personnel and the staffing of emergency health and medical services. Emergency situations may dictate the need to redistribute, on a temporary basis, health and medical personnel in order to provide for equitable and needed coverage of the emergency caseload.

(e) *Use of health and medical personnel in other priority emergency activities.* While health and medical services will be an immediate priority need in most declared national security emergencies, as each situation unfolds, different priority needs will evolve, placing unusual demand on scarce workforce resources. As emergency health hazards and medical care loads are brought under control, it may be possible to release certain health and medical personnel who fill positions in the occupational categories listed on the List of Emergency Health and Medical Occupations for augmentation of other essential work groups on a temporary basis.

(f) *Ancillary and support personnel.* Vital to the effective performance of the emergency health and medical teams are individuals in direct support

occupations such as hospital, sanitation, and laboratory helpers, as well as engineering, clerical, food service, and custodial personnel. Personnel in these ancillary and support categories should remain on their jobs during and after a declared national security emergency until health hazards and medical care loads are brought under control. Reassignment of these personnel will follow the policy cited in paragraph (e) of this section.

(g) *List of emergency health manpower occupations.*

Occupational title	Code number [1]
Administrator, Hospital	187.117
Biophysicist	041.061
Dentist (all categories)	072
Dental Assistant (Medical Service)	079.371
Dietitian, Clinical (Prof. & Kindred)	077.127
Emergency Medical Services Coordinator	079.117
Entomologist (Prof. & Kindred)	041.061
Food and Drug Inspector (Government Services	168.267
Health Physicist	079.021
Laboratory Assistant, Blood and Plasma	078.687
Medical Assistant	079.367
Medical Laboratory Assistant	078.381
Medical Record Administrator	079.167
Nurse Aide	355.674
Nurse, Licensed Practical	079.374
Nurse, Registered (all categories)	075
Orderly (Medical Service)	355.674
Orthopedic Assistant	712.661
Osteopathic Physician	071.101
Pharmacist (all categories)	074
Phlebotomist	079.364
Physicians and Surgeons (all categories)	070
Physician Assistant	079.364
Podiatrist	079.101
Radiological Equipment Specialist	719.261
Psychiatric Aide	355.377
Psychologist, Clinical	045.107
Public Health Microbiologist	041.261
Radiation Monitor	199.167
Sanitary Engineer	005.061
Social Worker, Medical	195.107
Social Worker, Psychiatric	195.107
Technicians:	
Biomedical Equipment Technician (inst. and app.; medical service)	719.261
Biomedical Equipment Technician (Prof. & Kindred)	019.261
Cardiac monitor technician	077.367
Dialysis Technician	078.362
Electrocardiograph Technician	078.362
Electroencephalographic Technician	078.362
Emergency Medical Technician	079.374
Laboratory Technician, Veterinary	073.361
Medical Laboratory Technician	078.381
Pulmonary function techician	078.262
Medical Record technician	079.367
Surgical Technician	079.374
Decontaminator	199.384
Technologists:	
Cardia pulmonary technologist	078.362
Cytotechnologist	078.281
Immune technologist	078.221
Medical Technologist	078.361
Microbiology Technologist	078.261
Nuclear Medical Technologist	078.361
Perfusionist technologist	078.362
Radiologic Technologist	078.362
Radiation therapy technologist	078.361
Tissue Technologist	078.361
Ultra sound technologist	078.364
X-ray Technologist	078.362
Therapists:	
Inhalation Therapist	079.361
Respiratory Therapist	079.361
Veterinarians [2]	073

[1] Dictionary of Occupational Titles/Department of Labor/Fourth Edition.

[2] Though current planning provides that many veterinarians be utilized in casualty care and preventive medicine activities immediately after an emergency, veterinarians will continue to be needed to perform services of a strictly veterinary nature after most of the human casualties have been cared for temporarily. Such veterinary activities will include protection of food, animals against diseases and the effects of atomic, biological, and chemical warfare; meat and poultry inspection and supplementing food inspection forces for certain food processing plants, and food storage facilities.

§ 325.6 Reporting.

In carrying out its responsibility of periodically reporting to the President and the National Security Council on the implementation of the national security emergency preparedness policy, the departments and agencies shall cooperate with FEMA to the extent appropriate, in compiling, evaluating, and exchanging data on emergency health and medical occupations programs.

Dated: July 14, 1989.

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-17132 Filed 7-20-89; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-314, RM-6773]

Radio Broadcasting Services; Colusa, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Mark P. Guidotti, permittee of Station KKLU(FM), Channel 243A, Colusa, California, seeking the substitution of Channel 276A for Channel 243A and modification of his permit accordingly.

DATE: Comments must be filed on or before September 7, 1989, and reply comments on or before September 22, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Howard M. Liberman and Gerald Stevens-Kittner, Esqs., Arter & Hadden, 1919 Penn. Ave., NW., Suite 400, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-314 Adopted June 26, 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 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, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments. See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17077 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-315, RM-6662]

Radio Broadcasting Services; Spirit Lake, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Campus Radio Company, Inc. proposing the substitution of Channel 280C2 for Channel 280A at Spirit Lake, Iowa, and the modification of its license for Station KU00(FM) to specify operation on the

higher powered channel. Channel 280C2 can be allotted to Spirit Lake in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.6 kilometers (2.2 miles) south to avoid a short-spacing to the proposed allotment of Channel 283C2 to St. James, Minnesota (MM Docket 86-491). In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in use of Channel 280C2 at Spirit Lake or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before September 7, 1989, and reply comments on or before September 22, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marnie K. Sarver, Esq., Pierson, Ball & Dowd, 1200 18th Street, NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-315, adopted June 27, 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17078 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No 89-317, RM-6677]

Radio Broadcasting Services; Taos, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Taos County Radio seeking the substitution of Channel 260C2 for Channel 260A at Taos, New Mexico, and the modification of its construction permit for a new station on the Class A channel accordingly. Channel 260C2 can be allotted to Taos in compliance with the Commission's minimum distance separation requirements with a site restriction of 25.8 kilometers (16.0 miles) northeast to accommodate petitioner's desired transmitter site. The coordinates for this allotment are North Latitude 36-32-10 and Wesdt Longitude 105-20-10. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in use of the channel at Taos or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before September 7, 1989, and reply comments on or before September 22, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert A. DePont, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036-2679 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-317, adopted June 23, 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17079 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 89-316, RM-6709]

Radio Broadcasting Services; Morristown, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Four Seasons Communications, Inc. seeking the allotment of Channel 275A to Morristown, New York, as the community's first local FM service. Channel 275A can be allotted to Morristown in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 44-35-18 West Longitude 75-39-00. Canadian concurrence is required since Morristown is located within 320 kilometers (220 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before September 7, 1989, and reply comments on or before September 22, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the

FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Timothy D. Martz, President, Four Seasons Communications, Inc., P.O. Box 36, Fairfield, Connecticut 06430 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commision's Notice of Proposed Rule Making, MM Docket No. 89-316, adopted June 27, 1989, and released July 17, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contracts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-17080 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

48 CFR Parts 914, 915, and 952

Acquisition Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) proposes to amend the Department of Energy Acquisition Regulation (DEAR) by revising current policies concerning the use and format of DOE's unique simplified offeror representations and certifications procedures, thereby relying substantially on the current Federal Acquisition Regulation (FAR) coverage in this area. However, specific DEAR coverage on this subject will still be necessary to implement the FAR for DOE's purposes.

On October 27, 1987, a proposed rule was published in the **Federal Register** (52 FR 41390) which, among other things, amended the FAR coverage concerning the use of annual versus individual offeror representations and certifications submissions in response to solicitations. This proposed rule (to amend the DEAR) is being issued prospectively and in anticipation of the final FAR rule.

The amendments being proposed today will be implemented in the DEAR as amended sections 914.201-5; 915.406-5; 952.215-71; and, 952.215-72.

DATE: Written comments on this proposed rule must be received by August 21, 1989.

ADDRESS: Comments should be addressed to: Edward Simpson, Procurement Policy Division (MA-421), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Edward Simpson, Procurement Policy Division (MA-421), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, U.S. Department of Energy, Washington, DC 2058, (202) 586-8246.

Paul Gervas, Office of the Assistant General Counsel for Procurement and Finance (GC-34), U.S. Department of Energy, Washington, DC 20585, (202) 586-6918.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Review Under Executive Order 12291
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act
E. Review Under Executive Order 12612
III. Public comments

I. Background

Federal agencies are required by various statutes, Executive orders, and regulations to obtain certain representations and certifications from offerors as part of the bid/proposal evaluation process. These representations and certifications aid the Federal agency in determining the eligibility of the offeror to receive a Federal contract award. The customary practice of most Federal agencies is to require the submission of these representations and certifications with each bid or proposal.

With the promulgation of the Department of Energy Acquisition Regulation (DEAR) on April 1, 1984 (49 FR 11922, March 28, 1984), the Department of Energy (DOE) implemented the use of a simplified offeror representation and certification procedure on an elective basis by its contracting activities. The purpose of this optional procedure was to reduce administrative and paperwork burdens on offerors (particularly small businesses, educational institutions, and nonprofit organizations) in submitting the representations and certifications needed by DOE as part of the contract award process. Regulatory coverage for the optional simplified representation and certification procedure was contained in the DEAR at section 915.406-5.

In essence, this simplified procedure permitted those offerors, who submitted numerous bids and proposals to a particular DOE contracting activity, to complete and place on file with that organization a comprehensive submission of recurrent representations and certifications. The representations and certifications considered to be "recurrent" were those that would apply to virtually all contracts, and, therefore, did not need to be executed by offerors with each individual contract award. Upon acceptance by the contracting activity, the comprehensive submission would be placed on record with the contracting activity for a period of three years. During this three year period, those offerors who submitted an acceptable comprehensive representations and certifications package would need only to submit with their bids and proposals (1) a certification regarding the accuracy and currency of their comprehensive submission, (2) any representations and certifications that differed from those contained in their comprehensive submission, and (3) any additional representations and certifications required by the instant solicitation or contract.

Subsequently, DOE amended its acquisition regulations (the DEAR) to further simplify the submission of representations and certifications (50 FR 35956, September 4, 1985). This amendment mandated the use of simplified procedures by DOE's contracting activities in obtaining representations and certifications from offerors through what could be

characterized as a phased submission process. By implementing these further simplified procedures, DOE anticipated that additional administrative efficiencies would be realized both by its own contracting actitivities and by offerors.

In implementing this new requirement, DOE developed a three part form for representations and certifications whereby all offerors would initially submit, with their proposal, the minimally needed representations and certifications to allow for evaluation of the bid or proposal by DOE. A comprehensive submission of recurrent representations and certifications would only be obtained by DOE from the successful offeror. This later submission would then be placed on file with the contracting activity in a repository and remain valid for that offeror for a period of three years, subject to certain conditions. Under this procedure, offerors not advancing to selection for award of a contract would be spared the time and expense of completing unnecessary paperwork.

The amendments being proposed today would revise existing coverage of the simplified representation and certification submission procedures by eliminating the requirements for mandatory use of the simplified approach, for use of the three part form, and for the maintenance of a central repository. In lieu thereof, DOE will use a one-part comprehensive format to be completed and submitted by offerors as part of their proposal at the time of bid or proposal submission. The use of an annual representations and certifications submission procedure will remain as an option to DOE contracting activities, using the appropriate coverage in the Federal Acquisition Regulation (FAR), as supplemented by the DEAR.

The lack of Governmentwide implementation of significantly similar procedures has resulted in offerors having to establish several approaches to provide the representations and certifications to individual Federal agencies in response to their solicitations. In this regard, DOE has discovered that many times offerors are not fully complying with DOE's solicitation instructions regarding the submission of the three part form, but rather continue to complete the whole form with each bid or proposal; offerors thus are not taking the advantages that could accrue to them in future bid/proposal submittals by not having to complete the full complement of representations and certifications on a proposal-by-proposal basis. This situation is complicated by the decentralized operations of DOE's contracting activities. Individual offerors that have received contract awards from more than one contracting activity must submit the full complement of representations and certifications to each awarding contracting activity to establish the "official file" version of the recurrent portion of the representation and certification submission. Further, absent universal acceptance of its procedures by offerors, DOE has, in effect, been forced to operate under two systems to obtain this needed information. Because of the oftentimes sporadic offeror compliance with the three part procedures, the administrative burden on the individual DOE contracting activity in establishing and maintaining the central repository at the local level is great.

Therefore, DOE has concluded that these amendments to the existing simplified representations and certifications submission procedures are needed because the expected benefits of the current procedures both to offerors and DOE are not being realized. DOE has further concluded that a reliance on the FAR coverage of the subject will probably result in less of an administrative and paperwork burden on all affected parties through the use of the FAR approach.

As a result, DEAR section 914.201–5, "Part IV—Representations and instructions," which provides instructions concerning the use of the simplified three part representations and certifications in sealed bidding, and DEAR section 915.406–5, "Part IV Representations and instructions," governing negotiated acquisitions, are being amended to implement the revised policies regarding the submission of representations and certifications by offerors. In addition, the solicitation provisions at DEAR section 952.215.71, "Simplified representations and certifications—negotiated acquisition" and DEAR sections 952.215–72, "Simplified representations and certifications—sealed bid," will be removed as they will no longer be necessary.

II. Procedural Requirements

A. Review Under Executive Order 12291

This Executive order, entitled "Federal Regulation," requires that certain regulations be reviewed by the Office of Mangement and Budget (OMB) prior to their promulgation. OMB Bulletin 85–7 exempts all but certain types of procurement regulations from such review. This proposed rule does not involve any of the topics requiring review under the Bulletin and, accordingly, is exempt from such review.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this proposed rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.* (1976)), or the Council on Environmental Quality regulations (40 CFR Parts 1500 through 1508), and the DOE Guidelines (40 CFR Parts 1021), and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

Executive Order 12612 requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or in the distribution of power and responsibilities among the various levels of government. If there are sufficient substantial direct effects, then the Executive order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's proposed rule, when finalized, will implement certain policies and procedures set forth in the FAR relating to the methods used by Federal agencies to collect the representations and certifications of offerors that are needed as part of the contract award process. States which contract with DOE will be subject to this rule.

However, DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of the States.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed DEAR amendments set forth in this notice. There copies of written comments should be submitted to the address indicated in the "ADDRESS" section of this notice. All written comments received by August 21, 1989, will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

DOE has concluded that this proposed rule does not involve a substantial issue of fact or law, and that the proposed rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Pub. L. 95-91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects

48 CFR Part 914

Sealed bidding.

48 CFR Part 915

Contracting by negotiation.

48 CFR Part 952

Solicitation provisions and contract clauses.

For the reasons set out in the preamble, Parts 914, 915, and 952 of Title 48 of the Code of Federal Regulations are proposed to be amended as set forth below.

Berton J. Roth,

Deputy Assistant Secretary for Procurement and Assistance Management.

The regulations in 48 CFR Chapter 9 are proposed to be amended as set forth below:

1. The authority citation for Parts 914, 915, and 952 would continue to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

914.201-5 [Amended]

2. Section 914.201-5 is amended by revising paragraph 914.201-5(a)(1) to read as follows and by adding a new paragraph 914.201-5(a)(2):

(a) *Section K, Representations, certifications, and other statements of bidders.* (1) The Office of Policy, Procurement and Assistance Management, will maintain a pre-printed comprehensive one-part representations, certifications, and other statements package for use by contracting activities in solicatations.

(2) DOE contracting activities may elect to use an annual representations and certifications submission procedure for sealed bidding, as authorized by FAR 14.213, subject to the requirements therein and to the requirements of 915.406-5(a)(2).

* * * * *

915.406-5 [Amended]

3. Section 915.406-5 is amended by revising paragraph 915.406-5(a) to read as follows:

(a) *Section K, Representations, certifications, and other statements of offerors or quoters.* (1) The Office of Policy, Procurement and Assistance Management, will maintain a pre-printed comprehensive one part representations, certifications, and other statements package for use by contracting activities in solicitations.

(2) DOE contracting activities may elect to use an annual representations and certifications submission procedure for negotiated acquisitions, as authorized by FAR 15.407(i).

(i) The decision to implement and use an annual representation and certification submission procedure shall be made by the Head of the Contracting Activity for all contracting offices under the cognizance of the Head of the Contracting Activity.

(ii) The use of an annual representation and certification submission procedure should be considered in instances where a contracting activity issues numerous solicitations for like or similar supplies or services, thereby creating a situation where offerors would benefit from not having to complete and submit an individual comprehensive representation and certification package as part of each proposal submitted in response to the solicitations.

(iii) If the contracting activity decides to use an annual representations and certifications submission procedure, the contracting activity shall establish written procedures and responsibilities for requesting, receiving, storing, verifying, and updating offerors' annual submissions.

(iv) The Head of the Contracting Activity may authorize the use of an effective period for offeror's annual representations and certifications of greater than one year from the date of signature by the offeror; however, under no circumstances shall the effective period for the offeror's annual representations and certifications exceed three years from the date of signature by the offeror.

* * * * *

952.215-71 [Removed]

4. Section 952.215-71 is hereby removed.

952.215-72 [Removed]

5. Section 952.215-72 is hereby removed.

[FR Doc. 89-17160 Filed 7-20-89; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-07; Notice 5]

RIN 2127-AB12

Federal Motor Vehicle Safety Standards; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed rule, reopening of period for public comment.

SUMMARY: This notice grants three requests for an extension of the period to submit written comments on an agency notice about air brake systems. The agency notes that the additional comment period will allow commenters to develop meaningful test data. Accordingly, the period for comment is extended by 90 days from the date the initial comment period closed.

DATES: Comments on Docket No. 85-07; Notice 4 must be received on or before October 3, 1989.

ADDRESSES: Comments should refer to Docket No. 85-07; Notice 4 and be submitted to the following: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours 8:00 a.m. to 4:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. Marvin L. Shaw, Office of Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2992.

SUPPLEMENTARY INFORMATION: On May 3, 1989, NHTSA published in the **Federal Register** (54 FR 18912) a supplemental notice of proposed rulemaking (SNPRM) seeking comments on two proposed amendments to Standard No. 121, *Air Brake Systems,* concerning pneumatic

timing. Comments were requested by July 3, 1989.

Bendix Heavy Vehicle Systems of Allied Signal (Bendix), Ford Motor Company, and the Motor Vehicle Manufacturers Association (MVMA) submitted timely petitions requesting an extension of the period to comment on the SNPRM. Ford and MVMA requested a 90 day extension of the comment period, and Bendix requested a 60 day extension.

Ford stated that its preliminary review of the agency's proposal suggests that there may be difficulties with some of its existing products, if the proposal were adopted. Ford requested additional time so that it could conduct additional tests to determine whether the proposed timing requirements are practicable. Ford noted that it would need at least two months to conduct the additional tests to evaluate the gladhand timing and one month to analyze this data and prepare its comments. Bendix and MVMA offered similar reasons for an extension of the comment period.

NHTSA recognizes that manufacturers need the 90 day extension to conduct and evaluate the additional testing. The agency believes that the comments based on this testing will benefit the agency by providing more comprehensive test data on air-braked vehicles. Accordingly, the agency has decided to grant the petitioners' request and is reopening the comment period for this notice to provide a total of 150 days to comment, starting from the publication date of the May notice.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor Vehicles, Rubber and rubber products, Tires.

(15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.50 and 501.8)

Issued on July 17, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-17088 Filed 7-17-89; 3:34 p.m.]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN: 1018-AB31

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Geum Radiatum and Hedyotis Purpurea var. Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list two plants, *Geum radiatum* (spreading avens) and *Hedyotis purpurea* var. *Montana* (Roan Mountain bluet), to be endangered species under authority of the Endangered Species Act of 1973, as amended (Act). These perennial herbs, limited to 11 *Geum* populations and 5 *Hedyotis* populations in North Carolina and Tennessee, are endangered by residential and recreational development and from habitat disturbance due to heavy use by hikers and climbers, collection, and natural succession. This proposal, if made final, would implement Federal protection provided by the Act for *Geum radiatum* and *Hedyotis purpurea* var. *montana*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 19, 1989. Public hearing requests must be received by September 5, 1989.

ADDRESSES: Comments and materials, and requests for public hearing concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nora Murdock at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Geum radiatum, described by André Michaux (1803) from material collected in North Carolina, is a perennial herb with basal rosettes of leaves arising from horizontal rhizomes. The stems grow 2 to 5 decimeters tall and are topped with an indefinite cyme of bright yellow actinomorphic flowers. Flowering occurs from June through September with fruiting from August through October. The fruit is a hemispheric aggregate of hirsute achenes, 7 to 9 millimeters in diameter (Kral 1983, Radford *et al.* 1968, Massey *et al.* 1980). This species can be easily distinguished from other southeastern *Geums* by its large yellow flowers and by its leaves (mostly basal) that have large terminal lobes and small laterals (Massey *et al.* 1980). *Geum radiatum* has been placed in other genera by various workers; Robert Brown (1823) placed it in the genus *Sieversia;* Bolle (1933) placed it in the genus *Acomastylis; and* Hara (1935) placed it in *Parageum.* Currently accepted taxonomic treatment places this species in the genus of Michaux's original description (Raynor 1952, Robertson 1974).

Hedyotis purpurea (L.) T. & G. var. *montana* (Small) Fosberg was first described as *Houstonia montana* in 1903 by J. K. Small from specimens collected by J. W. Chickering, Jr. in 1877 from the summit of Roan Mountain in North Carolina and Tennessee. Another synonym is *Houstonia purpurea L.* var. *montana* (Small) (Terrell 1959, Terrell 1978). This species is a shallow-rooted perennial that forms low-growing, loose tufts 1 to 1.5 decimeters tall. The inflorescence is a subsessile few-flowered cyme. The bright purple flowers appear in July and early August, followed by the many-seeded capsule (Kral 1983, Radford *et al.* 1968). *H. purpurea* var. *montana* is distinguished from *H. p.* var. *purpurea* by its larger corolla size, different corolla color (deep purple as opposed to purplish to white in *H. p.* var. *purpurea*), and its larger seed size (Kral 1983, Terrell 1978).

These two species are endemic to a few scattered mountaintops in western North Carolina and eastern Tennessee where they grow, exposed to full sunlight, in the shallw acidic soils of high elevation cliffs, outcrops, steep slopes, and gravelly talus associated with cliffs. Substrate types are variable for the species but include various igneous, metamorphic, and metasedimentary rocks such as quartz diorite, garnet-rich biotite, muscovite and quartz schist, quartz phyllite, metagraywacke, metaconglomerate, and metarkoses containing feldspar and chlorite, amphibole, hornblende, and feldspar gneiss (Massey *et al.* 1980). Common associates of these two species include *Leiophyllum buxifolium, Menziesia pilosa, Rhododendron catawbiense, Aster* spp., *Carex* spp., *Solidago* spp., *Heuchera villosa, Saxifraga michauxii,* and various grass species. Some of the sites are also occupied by *Liatris helleri* and/or *Solidago spithamaea,* species that are already federally listed as threatened. The high elevation coniferous forests adjacent to the rock outcrops and cliffs occupied by these two species are dominated by red spruce (*Picea rubens*) and another Federal candidate species, Fraser fir (*Abies fraseri*) (Massey *et al.* 1980, Morgan 1980, Kral 1983).

Sixteen populations of *Geum radiatum* have been reported historically; 11 remain in existence. Three of these populations are in Ashe County, North Carolina, with one population each remaining in Avery, Transylvania, Watauga, Buncombe, and

Yancey Counties, North Carolina, and Sevier County, Tennessee; the other two populations are located on the Mitchell County, North Carolina/Carter County, Tennessee line and the Avery/Watauga County line in North Carolina. Six of the remaining populations are located on privately owned lands; four are located on public land administered by the U.S. Forest Service and the National Park Service, and one is located on State park land administered by the North Carolina Department of Natural Resources and Community Development. Five additional populations were historically known for this species. The reasons for the disappearance of *Geum radiatum* at these sites are undocumented. However, most of these former sites have been subjected to heavy recreational use by hikers, climbers, and sightseers.

Hedyotis purpurea var. *montana* was known historically from six populations; five remain. Two of these are located on the line between Avery and Watauga Counties, North Carolina; one is at the juncture of the boundaries of Mitchell and Avery Counties, North Carolina, and Carter County, Tennessee; and one population each remains in Ashe and Watauga Counties, North Carolina. The sixth population was reported from Yancey County, North Carolina, but has not been found there during recent searches (Paul Somers, personal communication, Tennessee Department of Conservation, 1988). That site, like those from which *Geum radiatum* has vanished, has also been subjected to relatively heavy recreational use.

The continued existence of both species is threatened by trampling and associated soil erosion and compaction, other forms of habitat disturbance due to heavy use of the habitat by recreationists such as hikers, as well as by development for commercial recreational facilities and residential purposes. Since both species are early successional pioneers, some of the populations are also threatened by natural succession (Massey *et al.* 1980, Kral 1983). Construction of new trails, other recreational improvements, significant increases in intensity of recreational use, or intensive development without regard to the welfare of these species at any of the sites could further jeopardize their continued existence.

Most of the populations occupy a very small total area. Seven of the remaining *Geum radiatum* populations have fewer than 50 plants remaining in each, with 3 of these having fewer than 10 plants each. Over the past decade, at least four of the currently extant *Geum radiatum* populations have undergone significant population declines (ranging from 67 percent to 96 percent); four others have suffered declines of lesser magnitude. Only three are known to have maintained relative stability during the same period. One of the privately owned sites for these two species has been developed as a commercial recreation facility; development of a second site as a ski resort is currently underway. The third privately owned site is owned in part by The Nature Conservancy and is, therefore, partially protected. The remaining three sites in private ownership are unprotected, with residential development currently underway at two of the sites. The five sites in public ownership are located in scenic areas that attract large numbers of visitors annually.

Federal government actions on *Geum radiatum* began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27832) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act and of its intention thereby to review the status of the plant taxa named within. *Geum radiatum* was included in the July 1, 1975, notice of review. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480); *Geum radiatum* was included in that notice as a category 1 species; *Hedyotis purpurea* var. *montana* was included as a category 2 species. Category 1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened species. Category 2 species are those for which listing as endangered or threatened may be warranted but for which substantial data on biological vulnerability and threats is not currently known or on file to support proposed rules.

On November 28, 1983, the Service published a supplement to the notice of review for native plants in the **Federal Register** (48 FR 53640); the plant notice was again revised September 27, 1985, (50 FR 39536). *Geum radiatum* was included as a category 2 species in both the 1983 supplement and the 1985 revised notice. *Hedyotis purpurea* var. *montana* was included in the 1985 notice as a category 2 species. Subsequent to the 1985 notice, the Service received additional information from the North Carolina Natural Heritage Program (A. Weakley, personal communication, 1988); this information and additional field data gathered by the Heritage Program, the Fish and Wildlife Service, and the National Park Service (Keith Langdon, personal communication, Great Smoky Mountains National Park, 1988; Bambi Teague, personal communication, Blue Ridge Parkway, 1988) indicate that the addition of *Geum radiatum* and *Hedyotis purpurea* var. *montana* to the Federal List of Endangered and Threatened Plants is warranted.

Section 4(b)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Geum radiatum* because of the acceptance of the 1975 Smithsonian Report as a petition. In October of 1983, 1984, 1985, 1986, 1987, and 1988, the Service found that the petitioned listing of *Geum radiatum* was warranted but precluded by listing actions of a higher priority and that additional data on vulnerability and threats were still being gathered. Publication of this proposal constitutes the final finding that is required.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal list. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Geum radiatum* Michaux (spreading avens) and *Hedyotis purpurea* var. *montana* (Chickering) Fosberg (Roan Mountain bluet) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Geum radiatum* and *Hedyotis purpurea* var. *montana* are restricted to a few mountaintops and cliff faces in the souther Appalachians of western North Carolina and eastern Tennessee (see "Background" section for specific distributions). Although

populations are declining and vanishing for reasons that are, in many cases, not clearly understood, destruction and adverse modification of their habitat pose a major threat to the remaining populations of both species. Thirty-one percent of the historically known *Geum radiatum* populations have been extirpated, along with 17 percent of the *Hedyotis purpurea* var. *montana* populations. Only 11 populations of the *Geum* and 5 of the *Hedyotis* remain.

The five remaining *Hedyotis* populations are small and vulnerable, with two occupying a total of less than 10 square meters. Two of these populations occupy sites that have been or are being developed for commercial recreation. A third site, located on land administered by the U.S. Forest Service, contains 41 percent of the remaining individuals of this species and is subjected to heavy and increasingly intense recreational use. The other two populations are located on private land and are completely unprotected.

As detailed in the **Background** section, significant declines have been documented in many of the extant *Geum* populations during the past decade. Five of the remaining 11 *Geum* populations are located on public lands where they are subjected to heavy recreational use. One of these sites, owned by the U.S. Forest Service, currently supports 73 percent of the remaining individuals of this species; recreational pressure on this already heavily used site is steadily increasing. Of the six privately owned sites, one has been developed as a commercial recreation facility, which attracts several hundred thousand visitors annually. A second site is currently being developed as a ski resort; the other four privately owned sites are currently unprotected and located in an area that is rapidly developing as a center for resorts and tourism.

The greatest damage to *Geum radiatum* and *Hedyotis purpurea* var. *montana* in the past has probably come from the commercial development of the open mountain summits where they occur. The construction of trails, parking lots, roads, buildings, observation platforms, suspension bridges, and other recreational, residential, and commercial facilities has taken its toll on the species either through the actual construction process or by trampling due to hikers and sightseers (Kral 1983). Currently, heavy trampling occurs at six of the locations where these two species are known to survive; however, all of the small habitats occupied by these species are threatened by increase in intensity of use, particulary if additional development occurs (Massey *et al.* 1980).

With anticipated increased usage by sightseers, rock climbers, and hikers at 8 of the remaining 11 localities where *Geum radiatum* occurs, and at 4 of the 5 remaining *Hedyotis purpurea* var. *montana* localities, significant impacts on these species in the form of increased soil erosion, soil compaction, and trampling could occur if protection is not provided. Likewise, additional development at any of the locales (such as expansion of trails or sidewalks, construction of additional visitor facilities, or residential development) could further threaten the species if proper planning does not occur.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Neither *Geum radiatum* nor *Hedyotis purpurea* var. *montana* is currently a significant component of the commercial trade in native plants; however, both have attractive growth habits and showy flowers and have potential for horticultural use. Some collecting from wild populations of *Geum* is already occuring. Publicity could generate an increased demand and intensify collecting pressure on wild populations of both species.

C. *Disease or predation.* These taxa are not known to be threatened by disease or predation.

D. *The inadequacy of existing regulatory mechanisms. Geum radiatum* and *Hedyotis purpurea* var. *montana* are afforded legal protection in North Carolina by North Carolina General Statute, Chapter 106, Article 19–B, 202.12–102.19, that prohibits intrastate trade and taking of State-listed plants without a State permit and written permission of the landowner. *Geum radiatum* is listed in North Carolina as threatened—special concern (currently proposed as endangered—special concern); *Hedyotis purpurea* var. *montana* is currently being added to the State's list as endangered. In Tennessee, State-listed plants are afforded legal protection by the Rare Plant Protection and Conservation Act of 1985, Tennessee Code Ann., Chapter 242, Section 11–26–201 to 11–26–214, Public Acts of 1985. This statute prohibits taking of listed species without permission of the landowner or manager and regulates commercial sale and export. *Geum radiatum* is listed as endangered in Tennessee. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat or unintentional damage from recreational use. The Endangered Species Act will provide additional protection and encouragement of active management for *Geum radiatum* and *Hedyotis purpurea* var. *montana,* particularly on Federal lands.

E. *Other natural or manmade factors affecting its continued existence.* These taxa are rare and vulnerable due to their specialized habitat requirements and the limited amount of potential habitat. As mentioned in the previous sections of this proposed rule, most of the remaining populations are small in numbers of individuals and in terms of area covered by the plants. Therefore, little genetic varibility exists in these species, making it more important to maintain as much habitat and as many of the remaining colonies as possible. *Geum radiatum* and *Hedyotis purpurea* var. *montana* are early pioneer species growing on rock ledges in full sun. Depending upon the elevation and suitability of the site for supporting woody vegetation, invasion by shrubs and trees can occur, eliminating these species by overcrowding and shading. Since this type of succession is a slow process, this is not considered an immediate threat to survival of the species. However, proper management planning for *Geum radiatum* and *Hedyotis purpurea* var. *montana* is needed to address this aspect of the species' biology. Natural rock slides, severe storms or droughts, or other natural events may also eliminate populations of these plants.

In recent years the spruce fir forests adjacent to the cliffs and rock outcrops occupied by these species have suffered dramatic declines due, at least in part, to airborne pollution and the impacts of an exotic insect, the balsam wooly aphid. The impacts of this forest decline on these two rare herbaceous species cannot be accurately assessed at this time. Even though both species are pioneers and require exposure to full sunlight, the drastic decline in the high elevation forests may result in excessive desiccation of the moist sites occupied by the *Geum* and *Hedyotis.* This theory would seem to be supported by the fact that populations of the *Geum,* particularly those located on drier sites, usually abort the fruiting stems before seed can be set. The rhizomes of these perennials are believed to be capable of surviving for decades. (Prince and Morse 1985), but continued failure in seed production poses a definite threat to long-term survival and recovery of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose

this rule. Based on this evaluation, the preferred action is to list *Geum radiatum* and *Hedyotis purpurea* var. *montana* as endangered. With 31 percent of *Geum* and 17 percent of *Hedyotis* populations having already been extirpated, and only eleven populations of *Geum* and five of *Hedyotis* remaining (all of which are subject to some form of threat), these species warrant protection under the Act. With the small number of remaining populations and the small number of individuals and area covered by these populations, and with significant declines having been documented in many of the surviving populations, these two plants are in danger of extinction throughout all or significant portions of their ranges and, therefore, qualify as endangered species under the Act. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatend. The Service finds that designation of critical habitat is not presently prudent for either *Geum radiatum* or *Hedyotis purpurea* var. *montana* at this time. Publication of critical habitat descriptions and maps would increase public interest and possibly lead to additional threats for these species from collecting and vandalism (see threat factor "B" above). Both species have showy flowers and have some potential for horticultural use. Increased publicity and a provision of specific location information associated with critical habitat designation could result in increased collecting from wild populations since neither is readily available from cultivated sources. Although taking of endangered plants from lands under Federal jurisdiction (and from privately owned lands under certain circumstances—see "Available Conservation Measures" section) and reduction to possession is prohibited by the Endangered Species Act, taking provisions are difficult to enforce. Publication of critical habitat descriptions would make *Geum radiatum* and *Hedyotis purpurea* var. *montana* more vulnerable and would increase enforcement problems for the U.S. Forest Service and the National Park Service. Also, the populations on private lands would be more vulnerable to taking. Increased visits to population locations stimulated by critical habitat designation, even without collection of plants, could adversely affect the species due to the associated increase in trampling of the fragile habitat occupied by these plants. The Federal and State agencies and landowners involved in managing the habitat of these species have been informed of the plants' locations and of the importance of protection; therefore, it would not be prudent and no additional benefit would result from a determination of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed in part below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Forest Service and the National Park Service have jurisdiction over portions of the species' habitat. Federal activities that could impact *Geum radiatum* and *Hedyotis purpurea* var. *montana* and their habitat in the future include, but are not limited to, the following: Construction of recreational facilities (including trails, buildings, or maintenance of these facilities), use of aerially applied retardants in fire fighting efforts, road construction, permits for mineral exploration, and any other activities that do not include planning for the species' continued existence. The Service will work with the involved agencies to secure protection and proper management of *Geum radiatum* and *Hedyotis purpurea* var. *montana* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions at section 9(a)(2) of the Act, implemented by 50 CFR 17.61 would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, the 1988 amendments (Pub. L. 100–478) to the Act protect listed plants from malicious damage or destruction on Federal lands and their removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Geum radiatum* and *Hedyotis purpurea* var. *montana* are not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, VA 22203–3507 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby

solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Geum radiatum* or *Hedyotis purpurea* var. *montana;*

(2) The location of any additional populations of either species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned acitvities in the subject area and their possible impacts on *Geum radiatum* and *Hedyotis purpurea* var. *montana.*

Final promulgation of the regulation on *Geum radiatum* and *Hedyotis purpurea* var. *montana* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Bolle, F. 1933. Ein Ubersicht über die Gattung *Geum* L. und ihr nahestehenden Gattungen. Repert. Sp. Nov. Fedde, Beih. 72:1–119.

Brown, R. 1823. A supplement to the appendix to Captain Parry's voyage. Reprinted in Miscellaneous Bot. Works of R. Brown. R. Hardwicke, London.

Hara, H. 1935. Preliminary report on the flora of southern Hidaka, Hokkaidô (Yezo) VI. Bot. Mag. Tokyo 49:124–125.

Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the south. USDA Forest Service Tech. Pub. R8–TP2. 1305 pp.

Massey, J., P. Whitson, and T. Atkinson. 1980. Endangered and threatened plant survey of 12 species in the eastern part of region IV. USFWS Contract 14–160004–78–108. Unpub. report.

Michaux, A. 1803. Flora Boreali-Americana. Typis Caroli Crapelet, Paris and Argentorati.

Morgan, S. 1980. Species status summary for *Geum radiatum* Michaux; Species General Information System: species, population, habitat, and threat inventory. Unpub. report submitted to U.S. Fish and Wildlife Service, Atlanta, GA.

Prince, J., and L. Morse. 1985. The Nature Conservancy global ranking form: *Geum radiatum.* The Nature Conservancy National Office, Arlington, VA. 2 pp.

Radford, A., H. Ahles, and R. Bell. 1968. Manual of the Vascular flora of the Carolinas. University of North Carolina Press, Chapel Hill. 1183 pp.

Raynor, L. 1952. Cytotaxonomic studies of *Geum.* American Jour. Bot. 39:713–719.

Robertson, K. 1974. The genera of *Rosaceae* in the southeastern U.S. J. of the Arnold Arboretum 55:344–385.

Small, J. 1903. Flora of the southeastern U.S. Science Press Printing Co., Lancaster, PA. 1554 pp.

Terrell, E. 1959. A revision of the Houstonia purpurea group (Rubiaceae). Rhodora 61:157–180, 188–207.

Terrell, E. 1978. Taxonomic notes on *Houstonia purpurea* var. *montana* (Rubiaceae). Castanea 43:25–29.

Author

The primary author of this proposed rule is Nora Murdock, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation of Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Rosaceae—Rose family:						
*	*	*		*	*	
Geum radiatum	Spreading avens	U.S.A. (NC, TN)	E		NA	NA
*	*	*		*	*	
Rubiaceae—Coffee family:						
*	*	*		*	*	
Hedyotis purpurea var. *montana.*	Roan Mountain bluet	U.S.A. (NC, TN)	E		NA	NA
*	*	*		*	*	

Dated: June 12, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-17158 Filed 7-20-89; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Spiraea Virginiana (Virginia Spiraea)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Spiraea virginiana* (Virginia spiraea) to be a threatened species and thereby provide the species needed protection under the authority contained in the Endangered Species Act of 1973, as amended. Eighteen populations are recorded from West Virginia south to Georgia. Although the species is widespread geographically, it is restricted to a narrow ecological niche and occurs in limited to moderate populations at most locations. Occurring along scoured banks of high gradient streams or braided features of lower reaches, *Spiraea virginiana* is presently known from 17 stream systems in 5 states. Approximately eight historic records are known in addition to one unverified record. A combination of factors contributes to the rarity of the species, including a very narrowly defined habitat niche that is subject to scouring and flooding, an apparent lack of successful sexual reproduction, limited opportunities for colonization, and competition from other species. Threats to the species include human disturbance at specific site locations and two proposed hydroelectric facilities. Unsuccessful seed germination tests and the lack of seedlings at any location suggest that only one genotype is present at each location. Critical habitat is not proposed at this time. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 19, 1989. Public hearing requests must be received by September 5, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, Suite 322, 315 S. Allen Street, State College, Pennsylvania 16801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sharon W. Morgan, Fish and Wildlife Biologist (see **ADDRESSES** section) (814/234-4090).

SUPPLEMENTARY INFORMATION:

Background

Spiraea virginiana Britt. was described from a specimen collected by C.F. Millspaugh on June 20, 1890, along the Monongahela River in Monongalia County, West Virginia (Clarkson 1959, Glencoe 1961). The original description also noted an 1878 collection from the mountains of North Carolina made by G.R. Vasey (Britton 1890).

Later studies of the Virginia spiraea described variations in leaf size, shape and degree of serration, resulting in the publication of variety *serrulata* (Rehder 1920), which was later reduced to form *serrulata* (Rehder 1949). Clarkson (1959) referred some specimens to *S. corymbosa* Raf. (=*S. betulifolia* Pallas) although Glencoe (1961) included these specimens in his concept of *S. virginiana*, noting that the species was extremely variable. After visiting many populations throughout the range of the species, Ogle has concluded that *S. virginiana* is a distinct species and is easily distinguished from *S. corymbosa* on the basis of plant height, branching patterns, inflorescence size, and leaf morphology (D. Ogle, Virginia Highlands Community College, pers. comm. 1988.). More important differences are the distinct habitat preferences of the two species and the non-overlapping geographic (allopatric) ranges (Ogle, pers. comm. 1988).

Virginia spiraea is a shrub in the rose family that grows from two to ten feet tall, with arching and upright stems. The species is a prolific sprouter and forms dense clumps that spread in rock crevices and around boulders. Leaves are alternate and quite variable in size, shape and degree of serration. Cream-colored flowers occur in branched, flat-topped inflorescences approximately four to eight inches wide. Plants flower during June and July.

S. virginiana is found in a narrowly defined habitat. It occurs along scoured banks of high gradient streams, or on meander scrolls, point bars, natural levees, or braided features of lower reaches. Scour must be sufficient to prevent canopy closure, but not extreme enough to completely remove small, woody species. Plants are most vigorous in full sun, but can tolerate some shading until released from competition (primarily from trees, large shrubs or vines). They occur within the maximum floodplain, usually at the water's edge with a variety of other disturbance-prone species (Ogle, pers. comm. 1988).

Presently, *S. virginiana* is known from 18 locations on 17 stream systems in 5 states. One unconfirmed record has been reported from the Greenbrier River in West Virginia and approximately 8 historic records are known. In Georgia, populations occur on Rock Creek in Walker County and Bear Creek in Dade County. The North Carolina sites are found on the South Fork of the New River in Ashe County, the Little Tennessee River in Macon County, the Nolichucky River in Mitchell and Yancey Counties (extending downstream into Unicoi County, Tennessee), the South Toe River in Yancey County, and the Cane River in Yancey County. The species is known from additional sites in Tennessee along Abrams Creek in Blount County, Cane Creek in Van Buren County, White Oak Creek in Scott County, and Clifty Creek in Roane County. The Virginia populations are found on the Russell Fork and Pound Rivers in Dickenson County, the New River in Grayson County, and the Guest River in Wise County. West Virginia records occur on the Bluestone River in Mercer County, in a shrub-dominated wet meadow in Raleigh County, and along the Gauley and Meadow Rivers in Nicholas and Fayette Counties.

Historic collections are known from North Carolina (Graham and Buncombe Counties), Tennessee (Blount and Morgan Counties), West Virginia (Fayette, Monongalia and Upshur Counties) and Pennsylvania (Fayette County).

Since the species is found sporadically scattered along streams and rivers, it is difficult to delineate the exact boundaries of discrete populations. All of the populations listed above occur within a five to six mile section of river; however, most populations are not scattered and only occur along a half mile or less of streambank.

Population estimates are based on the number of clumps recorded during field visits. Of the 18 known sites, 8 are limited populations (less than 10 clumps), 8 are moderate in size (from 10 to 50 clumps) and only 2 are abundant (greater than 50 clumps).

Populations occur in a variety of Federal and State ownerships. Many are also found on private property, and since populations occur along rivers, several sites involve more than one landowner. Federal ownership includes the Jefferson National Forest (Virginia),

the Cherokee National Forest (Tennessee), Great Smoky Mountains National Park (Tennessee), Big South Fork National River and Recreation Area (Tennessee—Corps of Engineers and National Park Service) and John Flannagan Dam (Virginia—Corps of Engineers). Populations are found in four State parks in Georgia, Tennessee, Virginia and West Virginia. Presently, three sites are voluntarily protected by private landowners contacted by The Nature Conservancy or State heritage programs. Throughout the range of the species, historically known sites have been eliminated by dam or navigational facility construction (sites on the Monongahela and Buckhannon Rivers in West Virginia). Other historically known populations have not been relocated and are assumed extirpated (five sites in North Carolina, Tennessee, West Virginia and Pennsylvania).

The Virginia spiraea is a rare species due to a combination of factors, and biological circumstances as well as documented and potential human disturbance threaten many populations. The species occurs in a constantly fluctuating environment and requires disturbance for successful colonization, establishment and maintenance; however, too much scouring and/or flooding could eliminate populations entirely (Ogle, pers. comm. 1988). Field observations have documented a lack of or a significant reduction in seed production (many populations show aborted seeds), and germination tests have produced low germination rates. These observations suggest that only one genotype may be present at each location. Opportunities for colonization of new sites are probably very limited and dependent upon a unique combination of biological and environmental conditions (Ogle, pers. comm. 1988). Competition by both native and introduced species adversely affects populations. Additionally, many populations are threatened by a range of human activities. A proposed hydroelectric facility at Summersville Dam on the Gauley River in West Virginia is located immediately upstream from one of the largest known populations, and long range plans include a hydroelectric generating facility at John Flannagan Dam on the Pound River in Virginia, above another population.

In 1986, the Service contracted with The Nature Conservancy's Eastern Regional Office to conduct status survey work on *Spiraea virginiana* and other Federal candidate plant species. Historic sites were searched in Pennsylvania, Tennessee and West Virginia. Suitable habitat was searched in Maryland (E. Thompson, Maryland Natural Heritage Program, pers. comm. 1988), West Virginia (Bartgis 1987) and Virginia (Ogle 1987). After completing fieldwork in Virginia, Ogle relocated historic sites in Georgia, Tennessee and North Carolina, searched approximately 75 to 100 miles of riverbank resulting in the discovery of about 20 new clones, and recorded detailed information at 14 of the 18 known sites (Ogle, pers. comm. 1988). Most field workers reported that much suitable habitat exists; however, they indicated that the potential for finding new locations is low due to the rough and remote terrain that needs to be searched, and the sporadic occurrence of the species. It is anticipated that some additional populations will be found, but apparent lack of sexual reproduction, small sizes of known populations, and a variety of threats suggest that few additional sites will be located.

The U.S. Fish and Wildlife Service (Service) recognized *Spiraea virginiana* as a Category 2 candidate for listing in the Supplement to Review of Plant Taxa for Listing as Endangered or Threatened Species published in the **Federal Register** on November 28, 1983 (48 FR 53641). Category 2 comprises those taxa for which listing is possibly appropriate but for which existing information is insufficient to support a proposed rule. The updated notice of review for plant taxa published on September 27, 1988, again included *Spiraea virginiana* in Category 2.

After evaluating the results of recent status survey work, the Service determined that listing *Spiraea virginiana* as a threatened species was appropriate. This decision was supported by The Nature Conservancy, Heritage Program personnel and other botanists (Bartgis 1987; Ogle, pers. comm. 1988; T. Rawinski, The Nature Conservancy, pers. comm. 1988; A. Weakley, North Carolina Heritage Program, pers. comm. 1988).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations codified at (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Spiraea virginiana* Britt. (Virginia spiraea) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Human disturbance at Virginia spiraea locations has been observed throughout the range of the species. Obvious signs of disturbance include debris sliding down a railroad embankment, mowing and clearing at the edge of a farm field, cutting for right-of-way maintenance, cutting for an access path to the river, habitat disturbance by rafters, a culvert draining directly onto plants and debris settling on plants from cutting of trees up slope. Recreational use of rivers is rising, and disturbance to *S. virginiana* populations is expected to continue or increase. However, appropriate disturbance (to eliminate competition from other species) is necessary to maintain open habitat for *S. virginiana* populations.

Populations in West Virginia have been eliminated through construction of a dam (Monongalia County) and construction of a railroad adjacent to the river (Upshur County) (Bartgis 1987). Populations have not been relocated and are believed to be extirpated from the only known site in Pennsylvania, two sites in North Carolina, and one location each in Tennessee and West Virginia.

Suitable habitat has been eliminated throughout the range of the species by reservoir construction. Even if populations are not directly flooded, they may face the potential indirect threats of upstream and downstream water stabilization, which would eliminate or reduce scouring action necessary to maintain open habitat for the species.

Natural threats to the species include large scouring floods and competition from other woody species. Although *S. virginiana* is adapted to a fluctuating riverine environment, large storm events (100-year or larger floods) would probably eliminate most populations. Competition from native species such as *Physocarpus opulenta, Cornus ammomum, Alnus serrulata, Platanus occidentalis, Rhus radicans, Salix* sp., *Ilex* sp., and *Vitis* sp. has been observed at most locations in varying degrees, in addition to competition from introduced species like *Pueraria lobata, Polygonum cuspidatum, Lonicera japonica, Miscanthus sinensis, Arthraxon hispidus, Phalaris arundinacea* and *Rosa multiflora* (Ogle, pers. comm. 1988).

B. *Overutilization for commercial, recreational, scientific or educational purposes. Spiraea virginiana* is not currently a significant component of the commercial trade in native plants; however, the species has good potential

for horticultural use, and publicity surrounding the listing of the species could generate an increased demand.

C. *Disease or predation.* Aphid damage on short tips has been observed at several populations in addition to leaf removal and laceration by caterpillars (Ogle, pers. comm. 1988). It is not known if this predation affects the competitive ability of *Spiraea virginiana.*

D. *Inadequacy of existing regulatory mechanisms.* Currently, personnel in Georgia, North Carolina and Virginia are working to add *S. virginiana* to their official State lists. The species is listed as extirpated in Pennsylvania and endangered in Tennessee. West Virginia does not maintain an official list of rare plants.

The Georgia Wildflower Preservation Act of 1973 prohibits digging, removal, or sale of State-listed plants from public lands without the approval of the Georgia Department of Natural Resources. One population in Georgia is on State park land and will be provided stronger protection once official State-listing occurs. However, the second population is on private land and is only protected voluntarily through an informal agreement (Patrick, Georgia Natural Heritage Inventory, pers. comm. 1988).

The unofficial status of *S. virginiana* in North Carolina is presently "primary proposed." Some legal protection will be given the species once listing occurs. North Carolina General Statute 19-B, 202.12-202.19, provides State-listed plants protection from intrastate trade without a permit, and provides for monitoring and management of listed populations. Most populations in North Carolina occur on private land.

Spiraea virginiana is not currently State-listed in Virginia, although the Department of Agriculture and Consumer Services is presently working to add it to the list. The Endangered Plant and Insect Species Act provides protection from taking without permits; however, private landowners are exempt from this provision. The Act also gives the Department authority to regulate the sale and movement of listed plants, and to establish programs for the management of listed plants.

S. virginiana is listed as an endangered species on Tennessee's list of endangered, threatened, and rare plant species. The Tennessee Rare Plant Protection and Conservation Act prohibits taking without permission of the landowner and requires that any commercial activity in the species be authorized by permit. Populations in Tennessee occur on Federal, State and private lands and have some protection under current State regulations.

Pennsylvania presently lists the species as extirpated under the regulations of the Wild Resources Conservation Act (25 Pa. Code, Chapter 82). Wild plant management permits are required by anyone who wishes to collect, remove, or transplant wild plants classified as endangered or threatened. Landowners are exempt from these requirements. Pennsylvania regulations also provide for the establishment of native wild plant sanctuaries on private lands where there is a management agreement between the landowner and the Department of Environmental Resources. It is anticipated that if *S. virginiana* were rediscovered in Pennsylvania, a change in the official State status would afford some protection for the species.

Existing regulatory mechanisms do not provide protection from human disturbance, habitat loss or biological limitations, which are presently the major threats to the species.

E. *Other natural or manmade factors affecting its continued existence.* Biological factors apparently threaten the continued existence of *S. virginiana.* Although the species flowers profusely and is visited by a variety of common insects, mature seeds have been observed at only a few populations (Ogle, pers. comm. 1988). While plants spread clonally, most plants observed are generally very old with well-established root systems. Field biologists have not reported the presence of seedings at any population. Ogle attempted to germinate seeds collected from two North Carolina populations and reported successful germination from seeds collected at only one site. Nicholson collected seeds from a Virginia population but only five seeds germinated out of hundreds (perhaps thousands) of seeds collected, an unusual occurrence for *Spiraea* species (R. Nicholson, Arnold Arboretum Greenhouse, pers. comm. 1988). Germination tests indicate that a mineral soil may be required for successful germination; then, successful growth and establishment of young plants may require humus to be added through seasonal deposition without flooding or swiftly flowing waters (e.g. slowly receding after high flows) (Ogle, pers. comm. 1988).

It is expected that new populations could originate from clumps breaking off and becoming established downstream during flood events. However, severe floods could potentially eliminate original populations and the dispersed clumps would have to lodge in a location where conditions favorable to establishment and survival existed (open canopy, lack of competition, available moisture without flooding or fast flows, and sufficient soil for plants to take root).

While few details of the life history are known, observations made during field visits suggest that each population may represent only one genotype (for a total of 18 different genotypes), and that opportunities for colonization and establishment of new sites are very limited (Ogle, pers. comm. 1988). Most populations appear to be very old and face a variety of threats throughout the range of the species. Heavy competition from other species occurs at most populations.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Spiraea virginiana* as a threatened species. Although known from 18 sites in 5 states, human disturbance, a constantly fluctuating environment, and competition from other species pose problems to the continued existence of many populations. Additionally, biological factors apparently limit opportunities for establishment and colonization of new sites. Field observations suggest that only 18 different genotypes exist, and 89 percent of the known populations are limited to moderate in size. However, populations are reproducing colonally, and it is possible that few additional populations will be discovered. These factors support listing as a threatened species. Critical habitat is not being designated for reasons discussed in the following section.

Critical Habitat

Section 4(a)3 of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Spiraea virginiana* at this time. Most populations of this species are limited to moderate in size and loss of plants to vandalism, or increased collection for scientific or horticultural use could potentially eliminate smaller populations. Collecting, without permits, will be prohibited at the locations under Federal management; however, taking restrictions will be dificult to enforce at these sites and will not be applicable to sites on private land. Therefore,

publication of critical habitat descriptions and maps would increase the vulnerability of the species without significantly increasing protection. The owners of all populations on Federal and State lands have been informed of the importance of protecting the species and its habitat. Landowners of major populations on private land have also been contacted by the Service, and State heritage program personnel have contacted two other landowners. Protection of this species' habitat will be addressed throughout the recovery process and through the section 7 jeopardy standard. No additional benefits would result from a determination of critical habitat. For these reasons, it would not be prudent to determine critical habitat for *Spiraea virginiana* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatended under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species.

The Nature Conservancy and State natural resource agencies have already secured voluntary protection of three sites. As a result of the Service funded status survey work and the subsequent recommendation list the species, three States are working to add *Spiraea virginiana* to their official State lists.

Five populations occur totally or partially on Federal lands (U.S. Forest Service, National Park Service and Army Corps of Engineers). An additional four sites occur partially or completely on State park lands in Georgia, Tennessee, Virginia and West Virginia. The appropriate managing agencies have been contacted, and it is anticipated that they will implement appropriate management plans.

Listing should encourage research on critical aspects of population biology. Information is needed regarding the number of different genotypes, the lack of successful seed production, and disturbance regimes required for population establishment and maintenance. These factors will be important in long-term management considerations for individual populations.

Other conservation measures, including required protection efforts by Federal agencies and prohibition against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Two populations occur downstream of dams at Army Corps of Engineers Reservoirs (John Flannagan Dam, Dickenson County, Virginia and Summersville Lake, Nicholas County, West Virginia). A hydroeletric project that requires a license from the Federal Energy Regulatory Commission (FERC) is currently proposed for Summersville Dam and long range plans include a similar project at John Flannagan Dam. Three populations in West Virginia occur in areas recently designated a National Recreation Area or a National Scenic River. These three populations occur on the Gauley, Meadow and Bluestone Rivers. Although These populations presently occur on private land, it is anticipated that the National Park Service will eventually acquire these lands. All of these projects will require consultation with the Servcie.

Other Federally funded or permitted actions that could affect this plant include, but are not limited to, Soil Conservation Service watershed management activities, FERC-permitted hydroelectric projects, road construction projects involving Federal Highway Administration funds, railroad abandonment proposals under the jurisdiction of the Interstate Commerce Commission, or projects under the jurisdiction of the Army Corps of Engineers.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. With respect to *Spiraea virginiana*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) of *Spiraea virginiana*;

(2) The location of any additional population of *Spiraea virginiana* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Spiraea virginiana*.

Final promulgation of the regulations on *Spiraea virginiana* will take into consideration the comments and any additional information received by the

Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Bartgis, R. 1987. Status surveys in West Virginia for *Carex polymorpha, Spiraea virginiana,* and *Thalictrum steeleanum.* Unpub. rept. West Virginia Field Office, The Nature Conservancy.

Britton, N.L. 1890. New or noteworthy American phanerogams. Bull. Torrey Bot. Club 17:310–316.

Clarkson, R.B. 1959. The West Virginia Spiraea. Castanea 24:143–146.

Glencoe, J.F. 1961. *Spiraea virginiana* Britton: A rare southern Appalachian endemic. MS. Thesis, West Virginia University. 29 pp.

Ogle, D. 1987. Contract report to the Virginia Natural Heritage Program on *Spiraea virginiana.* Unpub. rept. Va. Highlands Community College.

Rehder, A. 1920. New species, varieties and combinations from the herbarium and the collections of the Arnold Arboretum. Jour. Arn. Arb. 1:254–263.

———. 1949. Bibl. Cult. Trees and Shrubs, 2nd ed. 229.

Author

The primary author of this proposed rule is Sharon W. Morgan (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation of Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) for plants by adding the following, in alphabetical order under the family Rosaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Rosaceae—Rose family:						
*	*	*	*	*	*	
Spirea virginiana	Virginia spirea	U.S.A. (GA, NC, PA, TN, VA, WV)	T		NA	NA

Dated: June 12, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–17159 Filed 7–20–89; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 54, No. 139
Friday, July 21, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Regeneration Harvest and Road Construction Within the Tie Creek Drainage of the Absaroka Mountains

AGENCY: Forest Service, USDA.

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

SUMMARY: The purpose of this Environmental Impact Statement (EIS) is to analyze and disclose the environmental impacts of proposed regeneration timber harvest and road construction within the Tie Creek drainage, Absaroka Mountains, Livingston Ranger District, Park County, Montana. The action being considered invovles harvest of approximately 650 acres of mostly mature/overmature lodgepole pine and Douglas-fir forest and construction of 10.5 miles of new road in Sections 3, 4, 5, 8, 9, 10, 14, 15, 16, 22 and 23, Township 3 South, Range 11 East, P.M.M. The estimated volume yield is 7.5 million board feet (MMBF). This EIS will tier to the Gallatin National Forest Land and Resource Management Plan (Forest Plan) EIS of September, 1987, which analyzed goals and objectives for land management activities within the area. The purpose and goal for the proposed action is to help satisfy short-term demands for timber, to initiate age and size diversity of forested stands, and to improve the health and yield of specific sites within management area (MA) 10.

While some preliminary scoping for this project was done during the preparation of an Environmental Assessment for Tie Creek in 1982–83, the Forest Service is seeking additional information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparing the Draft EIS. The process will include identifying potential issues and environmental effects of the project. Issues currently identified include:

1. The effects of timber harvest and road development on the natural integrity of an area which is currently roadless. What effects the project will have on opportunities for solitude, primitive recreation use, and the potential for future wilderness classification.

2. The potential for increased sediment in streams from timber harvest and road construction. Stream sedimentation may affect Yellowstone Cutthroat Trout, a sensitive species which has been identified downstream from the project area in Mill Fork Creek.

3. The effects of timber harvest and new roads on big game cover and habitat security. Mule deer, moose, and elk are the primary species of concern.

4. The potential for noise, dust, and safety hazards to adjacent private landowners and forest visitors caused from logging, road construction and log hauling activities.

5. The effects of developmental change resulting from new roads and harvest units on outfitting and dude ranching businesses within the area.

The agency invites written comments and suggestions on these or other issues and on management opportunities which may occur in conjunction with proposed regeneration harvest and road construction.

DATE: Comments on this proposal should be received by August 31, 1989, to receive timely consideration in preparation of the draft EIS. Appointments to discuss issues and provide input may be made during the first three weeks of August by contacting Rita Beard at the Livingston Ranger Station, phone (406) 222–1892. In addition, a public meeting is scheduled for September 12, 1989, 7:00 p.m. at the Livingston Civic Center, Livingston, Montana.

ADDRESS: Submit written comments to Fred Salinas, District Ranger, Livingston Ranger District, Gallatin National Forest, Route 62, Box 3197, Livingston, Montana, 59047.

FOR FURTHER INFORMATION CONTACT: Comments or questions about the proposal and the Environmental Impact Statement should be made to Steve Christiansen, Interdisciplinary Team Leader, Gallatin National Forest, Supervisor's Office, P.O. Box 130, Bozeman, MT 59771, or to Fred Salinas, District Ranger, Livingston Ranger District, Gallatin National Forest, Route 62, Box 3197, Livingston, Montana, 59047.

SUPPLEMENTARY INFORMATION: Actions under consideration would occur in an area of approximately 2,700 acres in the northern tip of the Absaroka Mountain Range, in Sections 3, 4, 5, 8, 9, 10, 14, 15, 16, 22 and 23, Township 3 South, Range 11 East, P.M.M. This area is included within the North Absaroka Roadless Area (1–371) as identified in the Gallatin Forest Plan, final EIS.

The proposed action is designed in part, to fulfill the goals and objectives of the Land and Resource Management Plan (Forest Plan) for the Gallatin National Forest which provides the overall guidance for management activities in the area. Proposed timber harvest, regeneration and road construction occurs primarily within Forest Plan Management Area (MA) 10. Lands within MA 10 are considered suitable for timber management in conjunction with providing forage for livestock grazing. These areas are to be managed to provide for healthy stands of timber and promote a level of timber growth consistent with other goals.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative, in which none of the proposed regeneration harvest or road construction would be implemented. Other alternatives will examine varying levels and locations for the proposal in response to issues and objectives.

The Forest Service will analyze and document the direct, indirect and cumulative environmental effects of the alternatives. Past, present and projected activities on both private and National Forest lands will be considered. In addition, the EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

Public participation will be important during the scoping process (now through August, 1989), and in the review of the Draft EIS (January, 1990). People may also visit with Forest Service officials at any time during the analysis and prior to the decision.

The draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and available for public

review in December of 1989. At that time, EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft 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 stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *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 be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the final Environmental Impact Statement. The final EIS is scheduled to be completed by March, 1990. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under applicable Forest Service regulations.

Fred Salinas, District Ranger, Livingston Ranger District, Gallatin National Forest is the responsible official.

Date: July 14, 1989.

Fred S. Salinas,

District Ranger, Livingston Ranger District, Gallatin National Forest.

[FR Doc. 89-17146 Filed 7-20-89; 8:45 am]

BILLING CODE 3410-11-M

Snowbasin Land Exchange; Wasatch-Cache National Forest, Weber County, UT

AGENCY: Forest Service, USDA.

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

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to exchange acquired private lands for 1320 acres of National Forest land adjacent to the Snowbasin Ski Area. The National Forest land involved would provide space at key locations for the Sun Valley Company (the present owners) to develop a four season recreation resort. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur in the analysis so that interested and affected parties are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis should be received in writing by August 22, 1989.

ADDRESSES: Send written comments and suggestions concerning the scope of the analysis to Raymon Carling, District Ranger, Ogden Ranger District, 507 25th St., P.O. Box 1433, Ogden, Utah 84402.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed land exchange and environmental impact statement to Glen Casamassa, Recreation and Lands Forester, Ogden Ranger District, phone (801) 625-5110.

SUPPLEMENTARY INFORMATION: Management direction for the Snowbasin area is included in the Wasatch-Cache National Forest Land and Resource Management Plan. Preliminary scoping, data collection, and analysis for development of the environmental study has been in progress for approximately seven months.

The scoping process has included public meetings, on the ground reviews, news releases, personal telephone conversations, interviews, and letters. The environmental analysis progressed to the point of identifying relevant issues, concerns, and opportunities when it was determined that the effects on the quality of the human environment was highly controversial. At that point, it was determined that the intensity of the controversy was significant enough to require preparation of an environmental impact statement.

Federal, State, local agencies, organizations, and individuals have participated in the scoping process. Comments already received will be included in the environmental impact statement preparation. Additional scoping will be conducted so that any additional agencies, organizations, or individuals may participate. A public scoping meeting will be held on August 19, 1989 at 10:00 a.m. at the Snowbasin Lodge.

This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

At this point the following issues have been identified: the impacts of mass development in a municipal watershed, displacement of current recreation users, both dispersed and developed, effects on summer and winter wildlife habitat, impacts on facilities currently under Forest Service special use permits, loss of wetlands, impacts of development on identified highly erosive, unstable lands, and the long term economic impact to the surrounding counties.

A description of the preliminary alternatives are as follows:

1. Approve the land exchange as proposed.
2. Disapprove the land exchange as proposed.
3. Approve portions of the exchange. This option would eliminate portions of the exchange to resolve specific issues and concerns.

Stan Tixier, Regional Forester, Intermountain Region, 324 25th Street, Ogden, Utah 84401 is the responsible official. The Forest Service is the lead agency.

The draft environmental impact statement should be available for public review by October 1, 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.** The Final Environmental Impact Statement is scheduled to be completed in December 1990.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at this time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for Implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that 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 reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure 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.

Date: July 14, 1989.

Dale N. Boswort,

Forest Supervisor.

[FR Doc. 89-17145 Filed 7-20-89; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Certification of Central Filing System; Wyoming

The Statewide central filing system of Wyoming is hereby certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Kathy Karpan, Secretary of State, for all farm products produced in that State except timber to be cut.

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: July 17, 1989.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 89-17089 Filed 7-20-89; 8:45 am]

BILLING CODE 3410-KD-M

Rural Telephone Bank

Patronage Refunds and Class C Stock Dividends Calculation; Amendments to Bylaws

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of revised bylaws.

SUMMARY: Notice is hereby given of amendments to the bylaws of the Rural Telephone Bank pertaining to the calculation of patronage refunds and Class C stock dividends.

EFFECTIVE DATE: This action was effective March 30, 1989.

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Secretary, Rural Telephone Bank, Room 4063—South Building, 14th & Independence Avenue, SW., Washington, DC 20250 (202) 382-9552.

The Rural Telephone Bank Board of Directors adopted amendments on March 30, 1989, to the bylaws of the Rural Telephone Bank primarily to conform such bylaws with the amendments to the Rural Electrification Act of 1936 approved on December 22, 1987, as Pub. L. 100-203. Section 8.2 Calculation of Patronage Refunds of the bylaws was amended and Article VIII—Patronage Capital was amended to add Section 8.3 Calculation of Class C Stock Dividend. The amendments to the bylaws follow:

Sec. 8.2 Calculation of Patronage Refunds. (a) After the end of each fiscal year after fiscal year 1987, the patronage capital assignable will be transferred to the reserve for losses due to interest rate fluctuations. Any amounts in this reserve then in excess of $10,000,000 shal be transferred from the reserve, on the basis of amounts first transferred to the reserve being those first transferred therefrom and these amounts shall be allocated as Class B stock to those borrowers holding Class B stock during the fiscal year the amounts were earned. The amount allocated to each such holder of Class B stock for each fiscal year shall be calculated by applying to the amount for a particular year transferred from the reserve pursuant to the preceding sentence the ratio which the amount of interest revenue to the Bank from each such holder of Class B stock in that same fiscal year bears to the Bank's total interest revenue from all holders of Class B stock in that same fiscal year.

(b) If, at any time after all Class A stock has been retired, the board should determine that the Bank's financial condition will not be impaired thereby, it may establish procedures for the retirement of Class B stock in full or in part or its conversion to Class C stock in addition to the conversion authorized in section 2.2(b) hereof.

Sec. 8.3 Calculation of Class C Stock Dividend. For any fiscal year after 1988, any dividends on Class C stock shall be paid to the holders hereof on the basis of one-twelfth of the dividend for each full month, or portion of a month, the stock is held during such fisal year.

Dated: July 17, 1989.

Blaine D. Stockton, Jr.,

Acting Governor, Rural Telephone Bank.

[FR Doc. 89-17166 Filed 7-20-89; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF AGRICULTURE

Human Nutrition Information Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Dietary Guidelines Advisory Committee; Notice of Meeting

SUMMARY: The Committee will hold its second meeting on August 10, 1989 9:00 a.m. to 5:00 p.m. at the Wilbur J. Cohen Building, 330 Independence Avenue SW., Room 5051, Washington, DC 20201. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Betty B. Peterkin, Executive Secretary to the Committee from USDA, Human Nutrition Information Service, Federal Building, Hyattsville, MD 20782. (301) 436-5090; or Linda Meyers, Ph.D, Executive Secretary to the Committee from DHHS, Office of Disease Prevention and Health Promotion, Room 2132 Switzer Building, 300 C Street, Washington, DC 20201, (202) 472-5308.

SUPPLEMENTARY INFORMATION: Committee's Task: The Committee is to advise the Secretaries of the two Departments as to whether a revision of the second (1985) edition of Nutrition and Your Health: Dietary Guidelines for Americans is warranted. If the Committee decides a revision is warranted, it will recommend revisions to the Secretaries.

Announcement of Meeting: The Committee's second meeting will be August 10 from 9:00 a.m. to 5:00 p.m. e.s.t. The meeting will be held in the Wilbur J. Cohen Building, 330

Independence Avenue SW., Room 5051, Washington, DC 20201.

The agenda will include discussions of materials drafted by Committee members for possible inclusion in a third edition of Nutrition and Your Health: Dietary Guidelines for Americans. Drafts are being prepared by 2–3 member teams appointed at the first meeting on April 5–6, 1989.

Public Participation at Meeting: The meeting is open to the public; however, space is limited.

The public may file statements with the Committee before or after the meeting by addressing them to either of the contact persons listed above.

Done at Washington, DC this 17th of July, 1989.

James T. Heimbach,

Acting Administrator, Human Nutrition Information Service, U.S. Department of Agriculture.

J. Michael McGinnis,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services.

[FR Doc. 89–17131 Filed 7–20–89; 8:45 am]

BILLING CODE 3410-48-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Cynthia B. Thompson From an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of dismissal.

On December 7, 1988, Cynthia B. Thompson (Appellant) filed with the Department of Commerce a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and implementing regulations, 15 CFR Part 930, Subpart H. The appeal arose from an objection by the South Carolina Coastal Council (State) to Appellant's certification that her proposal to alter a freshwater wetland in order to create a boat channel to Lake Moutrie in Berkeley County, South Carolina would be consistent with South Carolina's coastal management program.

Appellant failed to submit a mandatory brief on the appeal. Accordingly, the Department of Commerce dismissed the appeal on June 26, 1989 for good cause pursuant to 15 CFR 930.128. The dismissal bars Appellant from filing another appeal from the State's objection to her consistency certification.

FOR ADDITIONAL INFORMATION CONTACT: Stephanie S. Campbell, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673–5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: July 17, 1989.

B. Kent Burton,

Assistant Secretary for Oceans and Atmosphere.

[FR Doc. 89–17087 Filed 7–20–89; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammals Permit Application; Miami Seaquarium (P35G)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) and Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* Miami Seaquarium, 4400 Rickenbacker Causeway, Miami, Florida 33149.

2. *Type of Permit:* Public Display.

3. *Name and Number of Marine Mammals:* One (1) pilot whale (*Globecephala melaena*) and one (1) common dolphin (*Delphinus delphis*).

4. *Type of Take:* Transfer stranded animals from Sealand of Cape Cod to maintain for public display at Miami Seaquarium.

5. *Location and Duration of Activity:* The pilot whale and common dolphin will be transported from Sealand of Cape Cod to the Miami Seaquarium via truck and aircraft in accordance with professionally accepted techniques and in compliance with regulations, standards, and conditions of the National Marine Fisheries Service, the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, and the staff of the Miami Seaquarium. This transport is anticipated to take less than 12 hours.

Both animals were stranded in 1986 and, due to their physical condition and length of captivity, are not releasable to the wild. They are currently maintained in Sealand's exhibit pool which APHIS has determined does not meet minimum space requirements. The Applicant proposes to maintain these animals as part of a permanent multi-species cetacean exhibit in facilities of adequate size.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7330, Silver Spring, Maryland 20910;

Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01920.

Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

Date: July 14, 1989.

[FR Doc. 89–17113 Filed 7–20–89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1989 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 21, 1989

ADDRESS: Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On May 12 and 26, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (54 FR 20628 and 22795) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018). No comments were received concerning the proposed additions to the Procurement list. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provided the service at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6. I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and service listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the service procured by the Government.

Accordingly, the following commodities and service are hereby added to Procurement List 1989:

Commodities

Clamp, Loop
5340–01–156–5482
5340–01–160–0398

Service

Food Service Attendant
Little Rock Air Force Base, Arkansas

E. R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 89–17150 Filed 7–20–89; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1989, Addition; Correction

The effective date of the addition to the Procurement List appearing on page 28832 of FR Doc. 89–16116 in the issue of Monday, July 10, 1989, should read August 9, 1989 rather than August 8, 1989.

E.R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 89–17152 Filed 7–20–89; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1989; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1989 a commodity to be produced by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before August 21, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Lacquer
8010–00–085–0559
(Requirements of U.S. Army Armament Munitions and Chemical Command, Rock Island, Illinois only)

E.R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 89–17151 Filed 7–20–89; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange; Proposed Amendment Relating to Delivery Points for the Live Cattle Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Mercantile Exchange ("CME") has submitted a proposed amendment to its live cattle futures contract that would eliminate Peoria, Illinois as a delivery point for that contract. The amendment as proposed would apply to all existing and newly listed contract months. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposed amendment is of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATE: Comments must be received on or before August 21, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed deletion of Peoria, Illinois as a delivery point for the CME live cattle futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The live cattle futures contract currently provides that delivery may be made at approved livestock yards in Peoria, Illinois; Omaha, Nebraska; Sioux City, Iowa; Dodge City, Kansas; Amarillo, Texas; and Greeley, Colorado. In addition, the existing terms of the futures contract provide that delivery can be made at Joliet, Illinois through the December 1989 contract month. The amendment, which would eliminate Peoria, Illinois as a live cattle futures delivery point, has been proposed to apply all existing and subsequently listed contract months upon Commission approval.

The CME bases its action on the view of its Live Cattle Committee that Peoria, Illinois should be eliminated immediately from the list of delivery points for the live cattle futures contract because it appears that the delivery facility at Peoria "* * * is no longer a viable stockyard * * *." In particular, the CME notes that, beginning on July 3, 1989, the Peoria Union Stock Yards reduced its live cattle market to sales on Mondays only. The CME also submits that, although the stockyards at Peoria will accommodate futures deliveries on all other weekdays, long traders will be extremely disadvantaged when disposing of cattle received on futures

delivery at Peoria on days other than Monday because cattle buyers are not likely to be present on any day except Monday.

In addition, the CME notes that the U.S. Department of Agriculture (USDA) has advised the CME that its cattle graders will no longer be present each day at the Peoria facility. The CME notes that, although USDA graders can be made available in Peoria for grading futures delivery cattle on days when such graders would not otherwise be present, making graders available in Peoria on such days will involve an additional expense which will be the responsibility of the short trader. The CME contends, accordingly, that this situation has the impact of making Peoria less economical as a delivery point than other existing delivery points for the futures contract. The CME also notes that annual saleable cattle receipts at the Peoria Stockyard have been steadily declining over time, with annual cattle receipts falling 78.3 per cent from 1976 to 1988.

In support of its proposal to make the deletion of Peoria effective immediately for all currently listed contract months, the CME notes that the recent reduction in live cattle sales at Peoria to one day per week affects all currently listed contract months and believes that this recent change in operations "* * * effectively eliminates Peoria as a viable delivery point * * *." Therefore, the CME believes it is necessary to implement the proposal immediately to prevent any possible delivery problems with currently listed contract months.

The Division specifically solicits comment on the following questions:

(1) To what extent, if any, will the deletion of the Peoria delivery point affect deliverable supplies for the CME's live cattle futures contract and the contract's susceptibility to price manipulation or market congestion?

(2) What delivery problems, if any, are likely to result for either long or short traders if Peoria is retained as a live cattle futures delivery point?

(3) If the Peoria delivery point is to be deleted, how should this change be implemented? For example, should the proposal apply exclusively to newly listed months or should it apply to certain currently listed contract months as well? If application to currently listed months is appropriate, should this amendment be applied immediately with respect to all currently listed contract months (*i.e.*, commencing with the first contract month that expires after the date the CME implements the amendment)? Alternatively, should this amendment be applied to only those currently listed contract months that expire after a specified time period following the implementation date for the amendment and, if so, what such period is appropriate (*e.g.*, all existing contract months that expire more than six months after the implementation date)?

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

The materials submitted by the CME in support of the proposed amendment may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC on July 18, 1989.

Steven Manaster,

Director, Division of Economic Analysis.

[FR Doc. 89-17111 Filed 7-20-89; 8:45 am]

BILLING CODE 6351-01-M

Minneapolis Grain Exchange; Proposed Amendments Relating to the White Wheat Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Minneapolis Grain Exchange ("MGE" or "Exchange") has submitted for the white wheat futures contract a number of proposed changes in the standards and procedures relating to the delivery of white wheat, including amendments to the regularity requirements for white wheat shippers, acceptable transportation modes of delivery, the daily premium charge for white wheat shipping certificates, delivery payment procedures, and quality price differentials. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that these proposals are of major economic significance. On behalf of the Commission, the Division is requesting comment on these proposals.

DATE: Comments must be received on or before August 21, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the amendments to the MGE white futures wheat contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Exchange submitted proposed amendments to the white wheat futures contract that would:

(1) Increase the number of persons or firms that are eligible to issue white wheat shipping certificates for delivery on the futures contract to include all entities that are capable of making delivery of white wheat by rail or barge to the Columbia River District (CRD) and that have adequate financial standing and credit. Currently, only persons or firms operating waterfront elevators located in the CRB are eligible to issue shipping certificates.

(2) Eliminate the existing provision of the futures contract specifying that receivers of shipping certificates may elect to take delivery of white wheat Free-on-Board (F.O.B.) a vessel at the certificate issuer's waterfront elevator in the CRD. As amended, the contract will require the delivery of white wheat by rail to a location in the CRD specified by the buyer. In addition, the amended contract will continue to specify that certificate issuers may choose to deliver by barge to the CRD if the quantity of wheat involved in the delivery is at least 90,000 bushels.

(3) Reduce to one-sixteenth from one-fifth of one cent per bushel per day the premium charge paid to issuers by holders of outstanding shipping certificates and change the date on which the daily premium charge commences to 20 calendar days from the day the certificates are delivered. Currently, the futures contract specifies that the daily premium charge on outstanding certificates commences on

the day after the certificates are delivered.

(4) Establish new requirements that receivers of shipping certificates must make payment to the Exchange for such certificates and that the payment shall be forwarded to the deliverer on the earlier of the day that the deliverer provides documents indicating that the wheat has been shipped to the location in the CRD specified by the receiver, or the 20th calendar day after the day on which the delivery notice was delivered to the receiver. Any interest earned on funds while they are deposited with the Exchange would be returned to the receiver less a servicing fee specified by the Board of Directors. The existing contract terms require that the receiver directly pay the deliverer for the certificates on the day following the receipt of the delivery notice.

(5) Change the contract's quality specifications by deleting the existing provision for delivery at par of grade U.S. No. 2 or better soft white wheat, and providing in lieu thereof for the delivery of grade U.S. No. 1 soft white wheat at par and grade U.S. No. 2 soft white wheat at a one-cent per bushel discount.

The MGE indicates that the proposal to expand the number of persons or firms who may issue shipping certificates for delivery on the futures contract will enhance the visability of the contract for hedging and pricing purposes by allowing a larger segment of the cash market to make full use of the benefits of futures trading. In addition, the MGE notes that many elevators and producers located outside the CFD are reluctant to trade the futures contract on the grounds that they currently cannot make delivery against the futures contract. The Exchange also indicates that the proposed amendment deleting the option of delivery of white wheat F.O.B. vessel in the CRD is appropriate in view of the fact that no vessel deliveries have occurred since the futures contract began trading. In this respect, the MGE further indicates that cash market participants have noted that delivery by rail or barge allows receivers greater flexibility than that afforded by vessel delivery in regard to the movement of the wheat to a location desired by the receiver.

In addition, the MGE notes that the proposal to reduce to one-sixteenth of one cent per bushel the daily premium charge applicable to outstanding shipping certificates will bring the premium charge into close alignment with corresponding fees charged by commercial firms in the existing rail delivery cash market within the CRD. The Exchange further notes that its proposals concerning the procedures for making and receiving payments for shipping certificates are intended, in part, to permit the contract's terms to reflect more closely cash market practices. Specifically, the MGE notes that receivers of shipping certificates currently are required to make full payment for the certificates on the day after the day the delivery notice is received and, therefore, lose control over the funds used to make payment without having yet received the wheat. The Exchange notes that, under prevailing cash market practices, payment for the wheat is not made until the grain has been received by the buyer. The MGE notes that the proposed amendments will allow receivers, who request and receive delivery of white wheat against certificates within 20 calendar days of receiving the certificates, to retain the interest earned on the funds to be used in payment for the certificate until such time as the wheat is delivered to the receiver.

The Exchange indicates that the proposed changes to the contract's quality specifications are intended to reflect the fact that grade U.S. No. 2 soft white wheat typically trades at a one-cent per bushel discount to grade U.S. No. 1 soft white wheat. The MGE believes that this proposed amendment will make the futures contract a more effective hedging and pricing mechanism.

The Exchange proposes to make the proposed amendments effective within 30 days after receipt of Commission approval. The MGE proposes to apply the proposed amendments to all contract months listed subsequent to the effective date for the proposals and to any contract months listed on the effective date which do not have open interest.

The Commission is seeking comment on the proposed amendments noted above. Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

The materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on July 18, 1989.

Steven Manaster,

Director, Division of Economic Analysis.

[FR Doc. 89-17112 Filed 7-20-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: August 11, 1989.

Time of Meeting: 0900-1900 hours.

Place: Yuma Proving Ground, Arizona.

Agenda: The Army Science Board Ad Hoc Subgroup for Tactical Explosive Systems (TEXS) will meet to review data regarding this subject matter. This meeting will be closed to the public in accordance with section 552(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-17147 Filed 7-20-89; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

Performance Review Boards, Membership

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the Performance Review Boards for the Department of Army.

EFFECTIVE DATE: July 15, 1989.

FOR FURTHER INFORMATION CONTACT: Robert C. Zenda, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of

the Army, the Pentagon, Washington, DC 20310.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the Office, Secretary of the Army are:

1. Mr. Milton H. Hamilton, Administrative Assistant to the Secretary of the Army, Office, Secretary of the Army.
2. Mr. Peter Stein, Deputy Administrative Assistant to the Secretary of the Army, Office, Administrative Assistant to the Secretary of the Army.
3. Mr. Thomas Druzgal, Director, Audit Policy, Plans and Resources, Army Audit Agency.
4. Mr. Francis E. Reardon, Deputy Audit General, Army Audit Agency.
5. Mr. Walter W. Hollis, Deputy Under Secretary of the Army (Operations Research), Office, Under Secretary of the Army.
6. Mr. Thomas W. Taylor, Deputy General Counsel (Installations and Operations), Office, General Counsel.
7. Mr. Anthony H. Gamboa, Deputy General Counsel (Acquisition), Office, General Counsel.
8. Ms. Susan J. Crawford, General Counsel, Office, General Counsel.
9. Mr. Charles A. Chase, Director, Riview and Oversight, Office, Assistant Secretary of the Army (Financial Management).
10. Brigadier General Josue Robles, Jr., Assistant Director Operations Division, Office, Assistant Secretary of the Army (Financial Management).
11. Mr. Paul W. Johnson, Deputy Assistant Secretary of the Army (Installations and Housing), Office, Assistant Secretary of the Army (Installations and Housing).
12. Mr. Eric A. Orsini, Deputy Assistant Secretary of the Army (Logistics), Office, Assistant Secretary of the Army (Installations and Housing).
13. Mr. Michael W. Owen, Principal Deputy Assistant Secretary of the Army (Installations and Housing), Office, Assistant Secretary of the Army (Installations and Housing).
14. Mr. Robert M. Emmerichs, Deputy Assistant Secretary of the Army (Military Personnel Management and Equal Opportunity Policy), Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).
15. Ms. Judy A. Miller, Deputy Assistant Secretary of the Army (Civilian Personnel Policy, NAF and Personnel Security), Office, Assistant Secretary of the Army (Manpower and Reserve Affairs).
16. Mr. George E. Dickey, Deputy for Policy and Evaluation, Office, Assistant Secretary of the Army (Civil Works).
17. Mr. Steven Dola, Deputy for Management and Budget, Office, Assistant Secretary of the Army (Civil Works).
18. Mr. George E. Dausman, Deputy Assistant Secretary of the Army (Procurement), Office, Assistant Secretary of the Army (Research, Development and Acquisition).
19. Brigadier General William S. Chen, Assistant Deputy for Systems Management, Office, Assistant Secretary of the Army (Research, Development and Acquisition).

The members of the Performance Review Board for the Program Executive Officer structure are:

1. Mr. Feliciano Giordano, Program Executive Officer, Strategic Information Systems.
2. Major General Peter A Kind, Program Executive Officer, Command & Control Systems.
3. Mr. Anthony M. Valletta, Program Executive Officer, Standard Army Management Information Systems.
4. Brigadier General Otto J. Guenther, Program Executive Officer, Communications Systems.
5. Brigadier General David L. Funk, Program Executive Officer, Aviation.
6. Mr. Albert J. Calabrese, Program Executive Officer, For Armaments.
7. Brigadier General Peter M. McVey, Program Executive Officer Heavy Force Modernization.
8. Brigadier General Robert A. Drolet, Program Executive Officer, Air Defense.
9. Brigadier General William J. Schumacher, Program Executive Officer, Fire Support.
10. Brigadier General William H. Campbell, Program Executive Officer, Intelligence and Electronic Warfare.
11. Lieutenant General Robert D. Hammond, Program Executive Officer, Strategic Defense Systems.
12. Mr. Melvin E. Burcz, Program Executive Officer, Combat Support.
13. Major General Ronald K. Anderson, Program Manager, Light Helicopter Program.
14. Mr. Robert F. Giordano, Deputy PEO, Command and Control Systems.
15. Mr. Neal Atkinson, Deputy PEO, Communications, Systems.
16. Mr. Andrew R. D'Angelo, Deputy PEO, Intelligence and Electronic Warfare.
17. Mr. Gary L. Smith, Deputy Program Executive, Aviation.
18. Mr. Robert D. Hubbard, Deputy Project Manager, Light Helicopter.
19. Mr. Jerry L. Chapin, Deputy PEO, Close Combat Vehicles.
20. Mr. George G. Williams, Deputy PEO, Fire Support Program Executive Office.
21. Mr. Bennie H. Pinkley, Deputy PEO, Air Defense.
22. Mr. Keith Charles, Deputy for Plans and Programs, Office, Assistant Secretary of the Army (Research, Development and Acquisition).
23. Mr. Stephen R. Burdt, Deputy for Program Evaluation, Office, Assistant Secretary of the Army (Research, Development and Acquisition).

The members of the Performance Review Board for the Office, Chief of Staff of the Army are:

1. Brigadier General William H. Forster, Deputy of Requirement Information, Deep Operations, Office Deputy Chief of Staff for Operations and Plans.
2. Mr. John A Reinte, Technical Advisor to the Deputy Chief of Staff for Operations and Plans, Office, Deputy Chief of Staff for Operations and Plans.
3. Mr. James C. Katechis, Project Manager, Exoatmospheric Re-entry Vehicle Interceptor Subsystem Project, U.S. Army Strategic Defense Command.
4. Mr. Edward L. Wilkinson, Director, Kinetic Energy Weapons Division, Weapons Directorate, U.S. Army Strategic Defense Command.
5. Mr. James D. Davis, Assistant Deputy Chief of Staff, Intelligence (Management), Office, Deputy Chief of Staff for Intelligence.
6. Major General Charles E. Eichelberger, Assistant Deputy Chief of Staff for Intelligence, Office, Deputy Chief of Staff for Intelligence.
7. Mr. Charles W. Weatherholt, Deputy Director of Civilian Personnel, Office, Deputy Chief of Staff for Personnel.
8. Mr. Gary L. Purdum, Deputy for Manpower, Programs and Budget, Office, Deputy Chief of Staff for Personnel.
9. Mr. Edgar B. Vandiver, III, Director, Concepts Analysis Agency, US Army Concepts Analysis Agency.
10. Mr. Julius J. Bellaschi, Deputy Director, Program Analysis and Evaluation, Office, Chief of Staff.
11. Major General James R. Klugh, Assistant Deputy Chief of Staff for Logistics, Office, Deputy Chief of Staff for Logistics.

12. Mr. Joseph P. Cribbins, Special Assistant to the Deputy Chief of Staff, Logistics and Chief, Aviation Logistics Office, Office, Deputy Chief of Staff for Logistics.

The members of the Performance Review Board for the Consolidated Command are:

1. Mr. Michael F. Bauman, Deputy Director, U.S. Army TRADOC Analysis Command.

2. Major General James W. Wurman, Assistant Deputy Chief of Staff for Civilian Personnel, U.S. Army HQ TRADOC.

3. Brigadier General Edward R. Baldwin, Jr., Commander, 7th Signal Command, U.S. Army Information Systems Command.

4. Dr. Michael L. Gentry, Technical Director, U.S. Army Information Systems and Engineering Command.

5. Major General W. H. Gourley, Director of Personnel, J1, HQ Forces Command.

6. Mr. William S. Fraim, Civilian Personnel Director, HQ Forces Command.

7. Mr. Thomas D. Collinsworth, Special Assistant for Transportation and Engineering, HQ Military Traffic Management Command.

8. Ms. Mary Lou McHugh, Senior Transportation Advisor, HQ Military Traffic Management Command.

9. Mr. Larry K. Lancaster, Deputy for Policy and Development, U.S. Army Intelligence and Security Command.

10. Brigadier General Floyd Runyon, Deputy Commanding General, U.S. Army Intelligence and Security Command.

11. Mr. Archie D. Grimmett, Assistant Deputy Chief of Staff for Personnel (Civilian Personnel), HQ U.S. Army Europe.

12. Mr. C. Cary Jones, Assistant Deputy Chief of Staff, Engineer, HQ U.S. Army Europe.

The members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. Major General George K. Withers, Jr., Deputy, Corps of Engineers, USA Corps of Engineers.

2. Mr. Herb Kennon, Chief, Engineering Division (Engineering and Construction).

3. Major General Peter J. Offringa, Assistant Chief of Engineers, Office of the Chief of Engineers.

4. Brigadier General Patrick J. Kelley, Commanding General, USA Engineering Division, South Pacific.

5. Brigadier General Arthur E. Williams, Commanding General, U.S. Army Engineering Division, Pacific Ocean.

6. Brigadier General Theodore Vander Els, Commanding General, USA Engineering Division, North Central.

7. Mr. Jack Kiper, Chief, Construction Operations Division, Ohio River Division.

8. Mr. Daniel Mauldin, Chief, Planning Division (Civil Works), Army Corps of Engineers.

9. Mr. William L. Robertson, Deputy Chief Counsel, Headquarters, U.S. Army Corps of Engineers.

10. Mr. Richard E. Hanson, Chief, Construction Division, (Engineering and Construction).

11. Mr. Joe G. Higgs, Chief, Engineering Division, Europe Division.

12. Mr. Barry G. Rought, Chief, Planning Division, ACE, Southwestern Division.

13. Dr. Robert Whalin, Technical Director, U.S. Army Engineer Waterways Experiment Station.

14. Dr. Robert B. Oswald, Jr., Assistant to the Chief of Engineers for Research and Development and Director, ACE, Directorate of Research and Development.

15. Mr. Allen M. Carton, Deputy Assistant Chief of Engineers for Planning, Programming and Congressional Affairs, ACE, Assistant Chief of Engineers.

The members of the Performance Review Board for the U.S. Army Surgeon General are:

1. Major General Alcide LaNoue, Deputy Surgeon General.

2. Major General Philip K. Russell, Commander, U.S. Army Medical Research and Development Command.

3. Major General Billy B. Lefler, Assistant Surgeon General for Dental Services.

4. Brigadier General Clara L. Adams-Ender, Chief, Army Nurse Corps.

5. Brigadier General Michael J. Scotti, Chief, Medical Corps Affairs.

6. Brigadier General Robert E. Via, Jr., Chief, Veterinary Corps.

7. Brigadier General Bruce T. Miketinac, Chief, Medical Service Corps.

8. Dr. Timothy J. O'Leary, Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.

9. Dr. Louis S. Baron, Chief, Department of Bacterial Immunology, Walter Reed Army Institute of Research.

10. Dr. Michael A. Chirigos, Deputy of Science, U.S. Army Institute of Infectious Diseases.

11. Dr. Bhupendra P. Doctor, Director, Division of Biochemistry, Walter Reed Army Institution of Research.

12. Dr. Robert R. Engle, Deputy Director, Division of Experimental Therapeutics, Walter Reed Army Institute of Research.

13. Dr. Samuel B. Formal, Chief, Department of Bacterial Diseases, Walter Reed Army Institute of Research.

14. Dr. Elson D. Helwig, Chairman, Department of Bacterial Diseases, Walter Reed Army Institution of Research.

15. Dr. Nelson S. Irey, Chairman, Department of Environmental and Drug Induced Pathology, Armed Forces Institution of Pathology.

16. Dr. Kamal G. Ishak, Chairman, Department of Hepatic Pathology, Armed Forces Institution of Pathology.

17. Dr. Frank B. Johnson, Chairman, Department of Chemical Pathology, Armed Forces Institute of Pathology.

18. Dr. Arthur D. Mason, Chief, Laboratory Division, U.S. Army Institute of Surgical Research.

19. Dr. Fathollah K. Mostofi, Chairman, Department of Genitourinary Pathology, Armed Forces Institute of Pathology.

20. Dr. Henry J. Norris, Chairman, Department of OB/GYN Pathology, Armed Forces Institute of Pathology.

21. Dr. Donald E. Sweet, Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology.

22. Dr. James A. Vogel, Director, Exercise Physiology Division, U.S. Army Research Institute of Environmental Medicine.

23. Dr. Florabel G. Mullick, Associat Director, Group D. Center for Advanced Pathology, Armed Forces Institute of Pathology.

24. Dr. Leslie H. Sobin, Associate Director for Scientific Publications, Armed Forces Institute of Pathology.

25. Dr. Liselotte Hochholzer, Chairman, Department of Pulmonary and Mediastonal Pathology, Armed Forces Institute of Pathology.

26. Dr. Sharon A. Weiss, Chairman, Department of Soft Tissue Pathology, Armed Forces Institute of Pathology.

The members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Major General Leon E. Salomon, Deputy Chief of Staff for Readiness, Headquarters, U.S. Army Materiel Command.

2. Major General Paul L. Greenberg, Deputy Chief of Staff for Ammunition, Headquarters, U.S. Army Materiel Command.

3. Brigadier General Larry R. Capps, Deputy Commander, U.S. Army Missile Command.

4. Brigadier General Joseph Raffiani, Jr., Deputy Commander for Armament and Munitions, U.S. Army Armament, Munitions and Chemical Command.

5. Dr. Richard Chait, Chief Scientist, Headquarters, U.S. Army Materiel Command.
6. Mr. Edward J. Korte, Command Counsel, Headquarters, U.S. Army Materiel Command.
7. Mr. Robert O. Weidenmuller, Assistant Deputy Chief of Staff for Cost Analysis, Headquarters, U.S. Army Materiel Command.
8. Dr. Thomas E. Davidson, Technical Director for Armament, U.S. Army Armament, Munitions and Chemical Command.
9. Mr. Marvin L. Hanks, Chief Counsel, U.S. Army Armament, Munitions and Chemical Command.
10. Mr. Lawarence D. Johnson, Director, Benet Weapons Laboratory, U.S. Army Armament, Munitions and Chemical Command.
11. Dr. Marion Z. Thompson, Deputy for Industrial Preparedness and Installation, U.S. Army Armament, Munitions and Chemical Command.
12. Mr. Thomas L. House, Technical Director, U.S. Army Aviation Systems Command.
13. Mr. David M. McEneany, Director of Engineering, U.S. Army Aviation Systems Command.
14. Mr. Donald W. Schmitz, Deputy for Procurement and Production, U.S. Army Aviation Systems Command.
15. Mr. Anthony V. Campi, Director, Research Development and Engineering Center, U.S. Army Communications-Electronics Command.
16. Mr. Victor J. Ferlise, Chief Counsel, U.S. Army Communications-Electronics Command.
17. Mr. Joseph J. Pucilowski, Jr., Director, Product Assurance and Test, U.S. Army Communications-Electronics Command.
18. Mr. David E. Bahr, Deputy for Command Operations, U.S. Army Depot Systems Command.
19. Mr. Thomas R. Dudney, Deputy for Supply, Maintenance and Transportation, U.S. Army Depot Systems Command.
20. Mr. Bruce M. Fonoroff, Assistant Deputy Chief of Staff for Technology Planning and Management, U.S. Army Laboratory Command.
21. Mr. Jerry L. Reed, Director, Harry Diamond Laboratories, U.S. Army Laboratory Command.
22. Dr. Edward S. Wright, Director, U.S. Army Materials and Technology Laboratory, U.S. Army Laboratory Command.
23. Mr. Rex B. Powell, Director for Advanced Sensors, U.S. Army Missile Command.
24. Mr. Alfred D. Reeder, Director for Procurement, U.S. Army Missile Command.
25. Dr. Walter W. Wharton, Director Propulsion Directorate, U.S. Army Missile Command.
26. Mr. Albert A. Dawes, Chief Counsel, U.S. Army Tank-Automotive Command.
27. Mr. Henry B. Jones, Director for Procurement and Production, U.S. Army Tank-Automotive Command.
28. Mr. Douglas Munro, Associate Director of Systems, U.S. Army Tank-Automotive Command.
29. Mr. Wayne Wheelock, Associate Director for Technology, U.S. Army Tank-Automotive Command.
30. Mr. James C. Kelton, Technical Director, Combat System Test Activity, U.S. Army Test and Evaluation Command.
31. Mr. Harry J. Peters, Technical Director, U.S. Army Test and Evaluation Command.
32. Dr. Robert W. Lewis, Technical Director, Natick Research, Development and Engineering Center, U.S. Army Troop Support Command.
33. Mr. Harold L. Mabrey, Director for Procurement and Production, U.S. Army Troop Support Command.
34. Mr. Morris J. Zusman, Technical Director, Belvoir Research, Development and Engineering Center, U.S. Army Troop Support Command.
35. Mr. John J. McCarthy, Chief, Logistics and Readiness Analysis Division, U.S. Army Materiel Systems Analysis Activity.
36. Mr. Arend H. Reid, Chief Combat Support Division, U.S. Army Materiel Systems Analysis Activity.

Robert C. Zenda,

Personnel Management Specialist, Senior Executive Service Office.

[FR Doc. 89-17232 Filed 7-20-89; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Wilmington Harbor Turns and Bends Project, New Hanover and Brunswick Counties, NC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The proposed project would consist of widening six turns and bends along the existing 38-foot-deep by 400-foot-wide Wilmington Harbor navigational channel in the Cape Fear River. The widths of the turns and bends would be increased by 75 to 175 feet for a total width ranging from 475 to 575 feet (to a depth of 38 feet plus overdepth). The purpose of these improvements would be to provide adequate widths in the turns and bends for ships, up to a length of 950 feet and a beam of 106 feet, to maneuver at a speed greater than with the existing project conditions. Vessels will be able to gain an average of 15 minutes each time they navigate the channel.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Mr. Frank Yelverton; Environmental Resources Branch; U.S. Army Engineer District, Wilmington; Post Office Box 1890; Wilmington, North Carolina 28402-1890; telephone: (919) 251-4640.

SUPPLEMENTARY INFORMATION: The DEIS is being prepared as a part of the feasibility study for the Wilmington Harbor Turns and Bends and the feasibility study is being conducted under authority of Section 107 of the River and Harbor Act of 1960, as amended. The feasibility study is being cost shared between the Corps of Engineers and the State of North Carolina. The proposed six turns and bends are within a 14-mile reach of the Cape Fear River, located approximately midway between the ocean bar at the mouth of the river and Wilmington, North Carolina. Preliminary analysis indicates that the most economical and environmentally sound method of dredging during construction and maintenance would be by bucket and barge with ocean disposal. Disposal of the dredged material by bucket and barge would be in the U.S. Environmental Protection Agency designated ocean dredged material disposal site beginning approximately 3 miles south of the mouth of the Cape Fear River. Alternative dredging and disposal methods, including beach disposal, and renourishment of colonial waterbird nesting islands will be discussed in the DEIS. Blasting may be required in areas that contain rock.

All private parties and Federal, State, and local agencies having an interest in the study are hereby notified of the study and are invited to comment at this time. Also, a scoping letter requesting input to the study will be sent to all known interested parties on July 11, 1989, and comments are requested by August 11, 1989. No formal scoping meetings are planned at this time, but based on the responses received, scoping meetings may be held with specific agencies or individuals as required. All comments received as a result of this notice of intent and the

scoping letter will be considered in preparation of the DEIS.

Significant issues to be analyzed in the DEIS include: (1) Economic benefits of improvements, (2) acceptability of sediments for ocean disposal, (3) alternative dredging and disposal methods, (4) impacts to fishes and benthic resources, and (5) impacts to cultural resources.

The lead agency for this project is the Wilmington District, Corps of Engineers. Cooperating agency status has not been assigned to, or requested by, any other agency.

The DEIS is being prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended, and will address the relationship of the proposed action to all other applicable Federal and State laws and Executive Orders.

The DEIS is currently scheduled to be available in October 1990.

Dated: July 6, 1989.

Paul W. Woodbury,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 89-17233 Filed 7-20-89; 8:45 am]

BILLING CODE 3710-GN-M

Department of the Navy

Public Hearings and Availability of the Draft Environmental Impact Statement for Electronic Installations in the Western Pacific

Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500-1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a DRAFT Environmental Impact Statement (DEIS) for proposed electronic installations in the western pacific. The DEIS has been distributed to various federal, state and local agencies, local elected officials, interest groups, the media and local libraries. A limited number of copies of the DEIS to fill single copy requests are available from the Commanding Officer, Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860.

Public hearings to inform the public of the DEIS findings and to solicit comments will be held on:

16 August 1989
2:00 pm in the Governor's Conference Room, Saipan, CNMI,

16 August 1989
7:00 pm at the Garapan Elementary School, Saipan, CNMI,

17 August 1989
1:00 pm in the Mayor's Office, San Jose Village, Tinian, CNMI,

18 August 1989
2:00 pm in the Governor's Conference Room, Guam, Marianas Islands,

18 August 1989
7:00 pm in the Governor's Conference Room, Guam, Marianas Islands.

These hearings will be conducted by the U.S. Navy. All interested parties are invited and urged to be present or represented at these hearings. This includes representatives of federal and non-federal agencies; commercial, business, and civic groups; ecological and environmental groups, fish and wildlife organizations; concerned citizens and other interested groups. All parties will be afforded full opportunity to express their views; however, in order to allow all present an opportunity to speak, statements will be limited to five (5) minutes. If longer statements are to be presented, they should be delivered in writing either at the hearing or mailed to the Commanding Officer, Pacific Division, Naval Facilities Engineering Command, and summarized at the public hearing. All written statements must be postmarked by September 5, 1989 to become part of the official record.

Oral statements will be heard and transcribed by a stenographer, to assure accuracy of the record all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this study. Equal weight shall be given to both oral and written statements.

The public hearings will be reported verbatim. Copies of the transcript of the proceedings may be purchased at the cost of reproduction and will be available three weeks from the date of the hearings. In addition, copies of the transcript will be made available for public review during normal working hours at Pacific Division, Naval Facilities Engineering Command.

As discussed in the DEIS, the Navy proposes to construct and operate up to three electronic installations, which are Relocatable Over-the-Horizon Radar (ROTHR) systems, on Tinian, Commonwealth of Northern Marianas Islands, and on Guam, Marianas Islands. Each installation would include antenna towers and arrays, ground screens and support facilities sited on each island. Transmitter facilities would be located on Tinian, receiver and operational control center facilities would be located on Guam.

The proposed installations would be constructed over a period of years with the first to be funded in FY 89. Construction of the other two ROTHR systems would depend on Congressional approval and funding. Each ROTHR system is a stand-alone project and would operate independently. Collocation of the systems is not an operational necessity; however, collocation would permit sharing of some facilities.

Each transmitter would consist of 34 vertical antenna towers, including the sounder antenna, and 24 vertical support poles. Maximum height above ground level would be 125 feet, total length of the antenna array would be 265.5 feet. Each transmitter system could produce up to 200 kilowatts of power, which will be radiated only in the direction of its orientation. The antenna array and ground screen would be fenced with a wire fence on four sides. The fenced area, called the radiation hazard area or exclusion fence area, would extend a maximum of 1,058 feet in front and 200 feet behind the antenna array. The fence would be posted with signs warning of radiation hazard from the antenna array. Beyond this fence, there would be no hazard from radio frequency radiation from the transmitter. The transmitter would be operated by civilian contractor personnel on a 24-hours per day, 7 days per week basis. No military personnel will be permanently located at the transmitter site. A total of approximately 62 civilian personnel will be required to operate the three transmitters, if collocated.

Each receiver would consist of 372 pairs of aluminum monopole antennas (a total of 744 poles), each about 18 feet tall and 6 inches in diameter. These pairs would be sited about 23 feet apart. Total length of the receiver antenna array would be about 8,600 feet; width of the receiver antenna array would be about 800 feet. Each receiver would require an operation control center consisting of operational vans, equipment shelters, and other support facilities. The receivers would be operated by military and civilian contractor personnel on a 24-hours per day, 7-days-per-week basis. A total of 216 military and 69 civilian personnel would be required to operate three receivers.

Surveillance of critical areas is required to detect aircraft and ships coming from eastern Asia. To meet this operational siting requirement, ROTHR systems must be sited in the Marianas Islands. In addition, technical siting requirements necessitate that the transmitter and receiver be separated by 50 to 100 miles to permit their concurrent operation. A site of about 100 acres is necessary for the transmitter and about 200 acres for the receiver; however, the

transmitter can be accommodated on a site of 58 acres and the receiver on a site of 172 acres.

Based on these two primary criteria, a number of islands were evaluated for development of ROTHR systems, including island combinations involving Guam, Tinian, Rota, Saipan, and Anatahan. Saipan and Anatahan do not possess sufficient land areas for ROTHR development. The convenant between the U.S. Government and the Commonwealth of Northern Marianas Islands requires military facilities be sited on the military lease area of Tinian, if at all possible, before considering acquisition of rights to use of other areas. Thus, only sites on Guam and Tinian were considered.

Other active and passive surveillance systems were considered prior to initiation of development of the ROTHR system, including radar satellite systems and aircraft surveillance. Current technology will not permit the development of a radar satellite which can be launched into stationary orbit where it could continuously monitor areas of interest. Aircraft surveillance would not provide the same coverage as the proposed ROTHR system; moreover, the land area required to base sufficient surveillance aircraft would be much greater than the area required for the proposed ROTHR systems.

The DEIS provides a comprehensive analysis of primary issues identified during the scoping process, including endangered or threatened species, air pollution, historic resources, and the effect of high frequency radiation generated by the transmitters on the environment and human health.

The U.S. Fish and Wildlife Service intends to designate portions of Guam as critical habitat for four species of endangered birds. The Navy would initiate a Memorandum of Agreement with the U.S. Fish and Wildlife Service to minimize impacts to this habitat should proposed receiver sites on Guam be included in the critical habitat area.

Transmitters would require continuous on-site generation of electrical power. Calculations of controlled air pollution emissions indicate operation of all three transmitters would create sufficient pollutants to be considered a major stationary source according to CNMI Air Quality Regulations, thus requiring a permit from the CNMI Department of Public Health and Environmental Services.

One transmitter and some support facilities would be located in the North Field National Historic Landmark, which is listed on the National Register of Historic Places. The Navy would initiate a Memorandum of Agreement with the CNMI Historic Preservation Officer and the President's Advisory Council on Historic Preservation to identify measures to protect this historic site.

A series of detailed studies evaluating hazards from radio frequency radiation were prepared by the Navy. Results of these studies indicate no restrictions of access outside the fenced exclusionary zone would be necessary.

Questions regarding this notice may be directed to Mr. Gordon Ishikawa at (808) 471-3088.

Date: July 18, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-17153 Filed 7-20-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Amendment of notice of open meeting.

SUMMARY: This amends the notice of an open meeting of the Mathematics and Technical Methodology Standing Committees of the National Assessment Governing Board published on Tuesday, June 27, 1989 in Vol. 54, No. 122 at page 27048. This notice reschedules the meeting originally scheduled for July 11, 1989.

Date: July 24, 1989.

Time: 11:00 a.m.

Location: U.S. Department of Education National Assessment Governing Board Suite 4060, Mary E. Switzer Building, 330 C Street, SW., Washington, DC. 20202-7583

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Staff Director, National Assessment Governing Board, U.S. Department of Education, Suite 4060, Mary E. Switzer Building, 330 C Street, SW., Washington, DC 20202-7583. Telephone: (202) 732-1824.

SUPPLEMENTARY INFORMATION: Due to technical telecommunications problems, the telephone conference originally scheduled for July 11, 1989 was not completed. The meeting of the Mathematics and Technical Methodology Standing Committee of the National Assessment Governing Board via teleconference is rescheduled for Monday July 24, 1989 from 11:00 until completion of business. The agenda remains the same..

Bruno V. Manno,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89-17218 Filed 7-20-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Public Hearing To Solicit Views From Public Officials and the General Public on the Development of a National Energy Strategy

AGENCY: Office of the Secretary, DOE.

ACTION: Notice of Meetings to invite public officials and the general public to provide comments on the development of a National Energy Strategy.

SUMMARY: The Department of Energy will conduct a series of public hearings throughout the country soliciting comments from interested parties on a wide range of energy issues and recommended solutions.

In order to develop a comprehensive National Energy Strategy which properly balances the concerns of all segments of our society, the Department seeks to broaden its knowledge and garner consensus among frequently competing interests. Specifically, the Department seeks comments on how we can best achieve ample supplies of competitively priced energy in an environmentally sensitive manner.

It is the intent of the Department to conduct an initial series of public hearings in different parts of the country beginning in early August and ending in early September. The Department wants to understand each region's unique energy needs and constraints.

Dates and Procedures: The first public hearing is scheduled for August 1, 1989 at the J.W. Marriott in 1331 Pennsylvania Ave., NW., Washington, DC. Persons wishing to submit testimony to DOE in conjuction with this hearing should forward written comments to Ruth Burns, Office of Policy, Planning and Analysis, Department of Energy, Forrestal Building, Room 7H-034, 1000 Independence Avenue SW., Washington, DC 20585.

Individuals interested in testifying at this hearing should contact Ruth Burns, Office of Policy, Planning and Analysis, Department of Energy at (202) 586-4767 no later than 4:00 p.m., Friday, July 28, 1989.

Additional hearings will be held throughout the country during the months of August and September. Specific times, dates, and places will be subsequently scheduled and announced. All testimony received will be compiled and made available to the public.

Focus: 1. Assessing the relationship between energy use in the American economy and quality of life for the American citizen;

2. Assuring adequate energy supplies;

3. Insuring energy production and energy use are compatible with the environment;

4. Developing technology export opportunities for our domestic energy industries;

5. Educating the energy experts of tomorrow by stressing the inportance of science and math for all Americans.

FOR FURTHER INFORMATION: For further information, please write or call Mr. William H. Hatch, Office of Policy, Planning and Analysis Department of Energy, Forrestal Building, Room 7H-034, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-4767.

Linda G. Stuntz,

Deputy Under Secretary, Office of Policy, Planning and Analysis, U.S. Department of Energy.

[FR Doc. 89-17314 Filed 7-19-89; 5:02 pm]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award Grant to the Symagery Productions, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award based on an unsolicited application under Grant Number DE-FG01-89CE15424 to Symagery Productions, Inc. (SPI) to assist in the development of the invention, "An Automated Process for Garment Manufacture."

Scope: This Grant will aid in providing funding for a well integrated plan to perform several studies, including manufacturing cost studies, garment specification analyses and overall business feasibility studies to serve as a basis for design of machine.

The purpose of this project will be the development and testing of an automated process for garment manufacture, which should result in substantial reductions (up to 80%) in the energy and labor cost elements for domestically produced garments. The anticipated objective is a fully automated system for garment manufacture which will manufacture from the bolt of material to a finished garment without human intervention.

Eligibility: Based on receipt of an unsolicited application, eligibility of this award is being limited to SPI, a private company with high qualifications in this specialized field of technology. The President of SPI, Brett Stern, is the principal investigator, inventor of the technology and the owner of the patent "which lies at the heart of the technology and is the only party legally entitled and motivated to develop this technology." SPI will subcontract work to the Textile Engineering Department of the Georgia Institute of Technology for their expertise with the technology. It has been determined that this project has high technical merit, representing an innovative and novel idea which has a strong possibility of allowing for future reductions in the nation's energy consumption.

The term of this grant shall be eighteen months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Lisa Tillman, MA-453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 89-17161 Filed 7-20-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2548-024, et al]

Hydroelectric Applications (Lyons Falls Hydro Electric, Inc., et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. Type of Application: Amendment of License.

b. Project No.: 2548-024.

c. Date Filed: April 24, 1989.

d. Applicant: Lyons Falls Hydroelectric, Inc.

e. Name of Project: Lyons Falls Hydroelectric Project.

f. Location: On the Moose River and the Black River in Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Applicant Contact: Mr. Allen S. Rodgers, Vice President, Lyons Falls Hydroelectric, Inc., P.O. Box 790, Walpole, NH 03608, (603) 756-4307.

i. FERC Contact: Ken Fearon, (202) 376-9789.

j. Comment Date: August 6, 1989.

k. Description of Amendment: The amendment of license proposes the removal of the new powerhouse, 5.8-MW generating unit, and appurtenant facilities originally planned for the Lyons Falls development, and the removal of the new 390-kw and 550-kw generating units and appurtenant facilities originally planned for the Kosterville development, from the license. The licensee states that the planned development is no longer economically feasible due to increased project construction costs and diminished project revenues. The licensee also plans to rehabilitate the existing project structures to extend the service life of the project.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. Type of Application: Transfer of License.

b. Project No.: 2594-002.

c. Date Filed: May 15, 1989.

d. Applicant: Montana Light & Power Company (Transferor) and Champion International Corporation (Transferee).

e. Name of Project: Lake Creek Project.

f. Location: On Lake Creek in Lincoln County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Transferee: Amy S. Koch, Chadbourne & Parke, 1101 Vermont Avenue NW., Washington, DC 20005 (202) 289-3000.

i. FERC Contact: Nanzo T. Coley (202) 376-9416.

j. Comment Date: August 7, 1989.

k. Purpose of Proposed Action: On December 16, 1981, a major license was issued to the transferor to operate and maintain the lake Creek Project. It is proposed to transfer the license to the transferee. The transfer will not result in any changes to the existing project. The transfer is requested because in 1985, St. Regis Corporation, of which Montana Light & Power Company was a subsidiary, was purchased by the transferee, and in January 1988, Montana Light & Power Company merged with the transferee.

1. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Transfer of license.

b. Project No.: 2794-003.

c. Date filed: April 24, 1989.

d. Applicant: Jack W. Pickell (Transferor) and Silver King, Inc. (Transferee).

e. Name of Project: Warren Project.

f. Location: On Warren Creek, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Transferor: Mr. Jack W. Pickell, Box 1, Warren, ID 83671. Transferee: Mr. Bill Hunt, Silver King, Inc., P.O. Box 52, Warren, ID 83671.

i. FERC Contact: Michael Spencer at (202) 376–1669.

j. Comment Date: August 7, 1989.

k. Description of Proposed Action: On August 16, 1979, a license was issued to Jack W. Pickell for the construction, operation, and maintenance of the Warren project. It is proposed to transfer the license to Silver King, Inc. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

4 a. Type of Application: Transfer of License.

b. Project No.: 4113–008.

c. Date filed: April 12, 1989.

d. Applicant: Long Lake Energy Corporation and Oswego Hydro Partners, L.P.

e. Name of Project: Phoenix Project.

f. Location: On the Oswego River in Oswego and Onondaga Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Sandy Hartman, Long Lake Energy Corporation, 420 Lexington Ave., Suite 540, New York, NY 10170, (212) 986–0440.

i. FERC Contact: Robert Bell (202) 376–9237.

j. Comment Date: August 17, 1989.

k. Description of Project: On March 28, 1986, a license was issued to Long Lake Energy Corp. (licensee), to construct, operate, and maintain the Phoenix Project No. 4113. The licensee intends to transfer the license to Oswego Hydro Partners L.P. (transferee), which will purchase, construct, and operate the project. The transferee agrees to accept the terms and conditions of the license as if it were the original licensee. The transfer is requested to facilitate the financing and construction of the project.

l. This notice also consists of the following standard paragraphs: B and C.

5 a. Type of Application: Transfer of License.

b. Project No.: 4574–010.

c. Date filed: May 15, 1989.

d. Applicant: Gail W. Marshall (Transferor) and Wildcat Hydro Associates, Ltd. (Transferee).

e. Name of Project: Three Lynx Creek.

f. Location: In Mt. Hood National Forest, on Three Lynx Creek, a tributary of the Clackamas River, in Clackamas County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Transferor: Mr. Gail W. Marshall, 5004 Southeast 44th Avenue, Portland, OR 97206. Transferee: Mr. Bruce A. Forcum, Wildcat Hydro Associates, Ltd., 1530 S.W. Taylor, Portland, OR 97205, (503) 292–9834.

i. FERC Contact: Michael Spencer at (202) 376–1669.

j. Comment Date: August 7, 1989.

k. Description of Proposed Action: On May 22, 1987, a minor license was issued to Gail W. Marshall for the Construction, operation, and maintenance of the Three Lynx Creek project. It is proposed to transfer the license to Wildcat Hydro Associated, Ltd. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. This notice also consists of the following standard paragraphs: B and C.

6 a. Type of Application: Revisions to the Application for Major License.

b. Project No.: 5841–001.

c. Date Filed: April 17, 1989.

d. Applicant: County of Sierra.

e. Name of Project: North Yuba River Water Power Project.

f. Location: On the North Yuba River within the Sierra National Forest near Downieville in Sierra County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 781(a)–825(r).

h. Applicant Contact: Mr. Daniel F. Gallery, 926 Jay Building, Suite 505, Sacramento, CA 95814, (916) 444–2880.

i. FERC Contact: Ms. Julie Bernt, (202) 376–1936.

j. Comment Date: August 14, 1989.

k. Description of Project: The modified project would consist of: (1) A 6-foot-high, 80-foot-long concrete diversion structure; (2) a 3,200-foot-long, 58-inch-diameter low pressure conduit; (3) a 11,500-foot-long, 54-inch-diameter steel penstock; (4) a powerhouse containing one generating unit with an installed capacity of 7,500 kW; (5) a 45-foot-long tailrace; (6) a 1.8-mile-long transmission line; and (7) appurtenant facilities. This revision proposes a new penstock route along Highway 49 right-of-way including burying a portion of the penstock along or within portions of Highway 49. The applicant also proposes the relocation of the powerhouse to the west bank of the North Yuba River and upstream of the original site at an elevation of approximately 4,630 feet msl in order to avoid a pipeline river crossing. The average annual energy production is estimated to be 16 million kWh.

l. Purpose of Project: The power produced will be sold to the Pacific Gas and Electric Company.

m. This notice also consists of the following standard paragraphs: B, C and D1.

7 a. Type of Application: Transfer of License.

b. Project No.: 5867–011.

c. Date Filed: April 12, 1989.

d. Applicant: Long Lake Energy Corporation and Alice Falls Hydro Partners L.P.

e. Name of Project: Alice Falls Project.

f. Location: On the AuSable River in Clinton and Essex Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contacts: Mr. Sanford L. Hartman, Long Lake Energy Corporation, 420 Lexington Avenue, Suite 540, New York, NY 10170, (212) 986–0440. Ms. Amy S. Koch, Chadbourne & Parke, 1101 Vermont Avenue NW., Suite 900, Washington, DC 20005 (202) 289–3000.

i. FERC Contact: Steven H. Rossi, (202) 376–9814.

j. Comment Date: August 21, 1989.

k. Description of Transfer: On April 12, 1989, Long Lake Energy Corporation (licensee) and Alice Falls Hydro Partners L.P. (transferee) filed a joint application for transfer of a major license for the Alice Falls Project No. 5867.

The purpose of the proposed transfer of license is to facilitate the financing of the project. No construction has started to date.

The proposed transfer would not result in any changes in the operation of the project. All engineering, design, and feasibility studies performed would be transferred to the transferee. The transferee states that it would comply with all the terms and conditions of the license.

l. This notice also consists of the following standard paragraphs: B and C.

8 a. Type of Application: Surrender of License.

b. Project No.: 5989–009.

c. Date Filed: April 10, 1989.

d. Applicant: City of Jersey City, NJ.

e. Name of Project: Boonton Reservoir.

f. Location: On the Rockaway River in Morris County, New Jersey.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. Applicant Contact: Keh-Jong Liu, P.E., P.P., Water Engineering, 60 Collard Street, Jersey City, New Jersey 07306 (201) 547–4414.

i. FERC Contact: Mary Nowak (202) 376–9634.

j. Comment Date: August 21, 1989.

k. Description of Project: The license for this project was issued on July 18, 1985, for an installed capacity of 1,150 kilowatts. The licensee states that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

l. This notice also consists of the following standard paragraphs: B and C.

9 a. Type of Application: Surrender of License.

b. Project No.: 8245–003.

c. Date Filed: May 17, 1989.

d. Applicant: Bellows-Tower Hydro, Inc.

e. Name of Project: Forge Dam Hydro Project.

f. Location: On the Chateaugay River in Clinton and Franklin Counties, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Frank O. Christie, Ballard Mill, S. William Street, Malone, NY 12953 (518) 483–2198.

i. FERC Contact: Ed Lee (202) 376–5786.

j. Comment Date: August 21, 1989.

k. Description of Project: The license for this project was issued on August 4, 1987, for an installed capacity of 300 kW. The licensee states that it was determined that the project would be economically infeasible. No construction has commenced at the project site.

l. This notice also consists of the following standard paragraphs: B and C.

10 a. Type of Application: Conduit Exemption.

b. Project No.: 10688–000.

c. Date Filed: November 4, 1988.

d. Applicant: Massachusetts Water Resources Authority, Waterworks Division.

e. Name of Project: Cosgrove Intake and Power Plant Project.

f. Location: On the Cosgrove Aqueduct at the Wachusett Reservoir in Worcester County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. William A. Brutsch, Massachusetts Water Resources Authority, Waterworks Division, 100 First Avenue, Charlestown Navy Yard, Boston, MA 02129 (617) 242–6000.

i. FERC Contact: Steven H. Rossi, (202) 376–9814.

j. Comment Date: August 11, 1989.

k. Description of Project: The existing operating project consists of: (1) Two turbine-generator units each rated at 1,700 kW for a total installed capacity of 3,400 kW; and (2) appurtenant facilities. The project generates an average of 23,500 MWh annually. The project is owned by the Metropolitan District Commission. The project is operated and maintained by the applicant.

l. Purpose of Project: Project power would continue to be sold to the New England Power Company and Boston Edison Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

11 a. Type of Application: Minor License.

b. Project No.: 10773–000.

c. Date Filed: April 17, 1989.

d. Applicant: Alaska Aquaculture, Inc.

e. Name of Project: Burnett River Hatchery.

f. Location: Within the Tongars National Forest on the Burnett River in the First Judicial District of Alaska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Tod A. Jones, Alaska Aquaculture, Inc., P.O. Box 1288, Wrangell, AK 99929 (907) 874–2250.

i. FERC Contact: Mr. William Roy-Harrison (202) 376–9830.

j. Comment Date: September 1, 1989.

k. Description of Project: The proposed project would consist of a primary and a secondary system at the Burnett River fish hatchery.

The primary system comprising: (1) A new 2-foot-high dam across the mouth of Burnett Lake; (2) the existing Burnett Lake with a surface area of 165 acres; (3) a 28-inch-diameter intake pipe extending 600 feet into Burnett Lake; (4) a 28-inch-diameter, 3,000-foot-long penstock; (5) a powerhouse containing a generating unit with a rated capacity of 250 kW; (6) a 480-volt line supplying power on site; and (7) appurtenant facilities.

The secondary system comprising: (1) Two existing pipes extending out of the Burnett Lake, one 200 feet and the other 600 feet long, both leading into; (2) an existing 12-inch-diameter, 3,540-foot-long penstock; (3) an existing powerhouse containing a generating unit with a rated capacity of 80-kW; (4) a 480-volt line supplying power on site; and (5) appurtenant facilities.

The applicant estimates an average annual energy generation of 2,745,000 kWh under a total rated capacity of 330 kW.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

a. Type of Application: Preliminary Permit.

b. Project No.: 10775–000.

c. Date filed: May 8, 1989.

d. Applicant: May Creek, Inc.

e. Name of Project: May Creek.

f. Location: On Lake Isabel in the Mt. Baker—Snoqualmie National Forest near the town of Goldbar in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Applicant Contact: Mr. Gary P. Marcus, May Creek, Inc., 1710 Willow Creek Circle, Suite 37, Eugene, OR 97402 (503) 683–5200.

i. FERC Contact: Michael Spencer at (202) 376–1669.

j. Comment Date: August 28, 1989.

k. Description of Project: The proposed project would consist of: (1) a submerged, screened pipe intake on the bottom of Lake Isabel; (2) a 12,100-foot-long, 36-inch-diameter steel penstock; (3) a powerhouse containing a generator with a capacity of 4,890 kW and an average annual generation of 28,592 Mwh; and (4) a 0.7-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $135,000.

l. Purpose of Project: Project power would be sold to Puget Sound Power and Light Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

a. Type of Application: Declaration of Intention.

b. Project No.: EL89–37–000.

c. Date Filed: May 15, 1989.

d. Applicant: Peter M. Dorey.

e. Name of Project: Gristmill Brook Project (ME).

f. Location: Gristmill Brook, Town of Bridgton, Cumberland County, Maine.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Applicant Contact: Peter M. Dorey, Route 2, Box 652–A, Bridgton, ME 04009–9550 (207) 647–8072.

i. FERC Contact: Hank Ecton, (202) 376–9073.

j. Comment Date: August 3, 1989.

k. Description of Project: The proposed Gristmill Brook Project would consist of: (1) A reservoir with a storage

of 965-acre feet; (2) an existing 8-foot-high, 165-foot-long stone-and-earthen dam; (3) a proposed 4-foot-diameter, 500-foot-long penstock; (4) a proposed 16-foot by 20-foot powerhouse, containing a 12-inch Mitchell-Banki turbine, producing approximately 21 kilowatts; (5) a 30-foot-wide, 250-foot-long tailrace; (6) a proposed 125-foot-long transmission line; and (7) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. Purpose of Project: Applicant intends to use the energy produced on-site and to sell excess energy to the Central Maine Power Company.

m. This notice also consists of the following standard paragraphs: B, C, and D2.

Standard Paragraphs

A3. Development—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203-RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in Section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not respond to the Commission within the time set for filing, it will be

presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Agency Comments—The Commission requests that the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game Agency(ies), for the purposes set forth in Section 408 of the Energy Security Act of 1980, file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: July 17, 1989, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17093 Filed 7-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-44-004]

Florida Gas Transmission Co.; Filing

July 17, 1989.

Take notice that on July 11, 1989, Florida Gas Transmission Company (FGT) filed Substitute Sheet No. 57R to its FERC Gas Tariff, First Revised Volume No. 1, to be effective June 1, 1989.

FGT states that on June 30, 1989, it filed Substitute Sheet No. 57R which omitted a portion of the pagination caption. FGT states that the tariff sheet in this instant filing includes the full pagination caption, and is otherwise identical to the sheet filed on June 30, 1989.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before July 24, 1989. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17094 Filed 7-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-162-003]

Ringwood Gathering Co.; Filing

July 17, 1989.

Take notice that on July 12, 1989, Ringwood Gathering Company (Ringwood) filed Second Revised Sheet No. 4-A and Second Revised Sheet No. 4-B to its FERC Gas Tariff, to be effective April 1, 1989.

Ringwood states that, pursuant to the Commission's May 31, 1989 order, this filing supplements its June 15, 1989 compliance filing.

Ringwood states that a copy of this filing has been served on the official service list and interested state regulatory commissions and jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before July 24, 1989. 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. 89-17096 Filed 7-20-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP89-47-000]

Sandstone Resources, Inc. v. Columbia Gas Transmission Corp.; Complaint

July 17, 1989

On June 22, 1989, Sandstone Resources, Inc. (Sandstone) filed a complaint againt Columbia Gas Transmission Corporation (Columbia) pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Sandstone, acting as agent and attorney-in-fact on behalf of various producers who sell gas to Columbia, requests the Commission to determine that certain gas conditioning costs incurred by a natural gas producer to meet the gas purchaser's contract specifications and to prevent damage to meters and pipelines constitute "production-related costs" under 18 CFR 271.1104(c)(7).

Sandstone asserts that Columbia has refused to process claims for reimbursement of costs incurred to separate and remove water and other liquids from the natural gas stream after it leaves the wellhead even though such expenses are "production-related costs" under 18 CFR 271.1104(c)(7). Sandstone also asserts that almost all natural gas requires some conditioning after it leaves the wellhead and before it enters a pipeline to remove liquid impurities, such as brine and liquid hydrocarbons, from the gas stream to prevent corrosion and damage to sales meters and pipelines. According to Sandstone, Columbia's contracts expressly acknowledge that a natural gas guage cannot measure gas flow if liquid or other impurities are present. Sandstone states that it is seeking to recover only those costs that are expressly allowed by contract and by 18 CFR 271.1104(d)(3)(A), *i.e.*, operation and maintenance expenses, disposal costs, lost opportunity costs based on average annual net plant investment, and average annual depreciation expense.

The Production-Related Costs Board (Board) was established to resolve disputes regarding the appropriate allowance that a first seller is authorized to collect under § 271.1104 for production-related costs. Since the complaint involves a question

concerning entitlement to production-related costs under § 271.1104 of the Commission's regulations, the complaint will be referred to the Board for resolution.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Columbia must file an answer to Sandstone's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Columbia shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the **Federal Register.** 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. 89-17095 Filed 7-20-89; 8:45 am]

BILLING CODE 6717-01-M

Tennessee Gas Pipeline Co.;

[Docket No. RP88-228-023]

July 17, 1989.

By letter order dated June 30, 1989, the Diretor of OPPR accepted certain tariff sheets filed by Tennessee on May 31, 1989 in order to conform its FERC Gas Tariff to the terms of the Interim Stipulation and Agreement approved by the Commission on May 24, 1989 in the referenced proceeding. Tennessee also requested authority to withdraw certain tariff sheets filed January 17, 1989 in Docket Nos. CP87-103, *et al.* which were to be effective February 1, 1989. The June 30th letter order directed Tennessee to refile to supersede those sheets rather than withdraw them.

Tennessee requested that the Commission waive the refiling requirement or, alternatively, deem that the sheets in effect prior to the sheets to be withdrawn have been refiled by its July 10th filing.

Tennessee states that copies of the filing have been mailed to all parties in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 24, 1989. 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. 89-17097 Filed 7-20-89; 8:45 am]

BILLING CODE 6717-01-M

TransAmerican Natural Gas Corp.; Petition Requesting Approval of Refund Plan

[Docket No. GP89-44-000]

July 18, 1989.

On June 9, 1989, TransAmerican Natural Gas Corporation (TransAmerican) filed a petition requesting approval of a refund plan. In *TransAmerican Natural Gas Corporation,* 41 FERC ¶ 62,206 (1987), the Director of the Office of Pipeline and Producer Regulation denied TransAmerican's petition for adjustment requesting relief from the Btu refund obligations of Order Nos. 399, 399-A, and 399-B (FERC Statutes and Regulations [Regulations Preambles 1982-1985], ¶¶ 30,597, 30,612, and 30,651).

TransAmerican states that on January 26, 1983, GHR Energy Corp., predecessor of TransAmerican, filed a petition for relief under Chapter 11 of the United States Bankruptcy Code. TransAmerican further states that it is operating under a Confirmed Amended and Restated Negotiated Chapter 11 Plan of Reorganization, and that the confirmation was effective October 19, 1987.

TransAmerican requests that the Commission issue an order approving its refund plan and finding that: (1) All Btu refund amounts owed by TransAmerican to Valero Transmission Company are pre-petition and therefore subject to the jurisdiction of the Bankruptcy Court; (2) all pre-petition Btu refund amounts owed by TransAmerican to El Paso Natural Gas Company (El Paso) are also subject to the jurisdiction of the Bankruptcy Court and the post-petition Btu refund amounts owed by TransAmerican to El Paso have been properly calculated by TransAmerican and paid in the amount of $27,518.62; and (3) all pre-petition Btu refund amounts owed by TransAmerican to United States Transmission Company (United Texas) as also subject to the jurdisdiction of the Bankruptcy Court and that post-petition refunds are properly resolved under an April 19, 1985 letter agreement and contract between TransAmerican and United Texas.

Any person desiring to be heard or to make any protest should file a protest or petition to intervene in accordance with the requirements of Rules 211 or 214 of the Commission's rules of practice and procedure (18 CFR 385.211 or 385.214). All such filings should be made not later than 30 days following publication of this notice in the **Federal Register** and should be addressed to Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426. Protests will be considered by the Commission in determining the action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with Rule 214.

Lois D. Cashell,

Secretary.

[FR Doc. 89-17098 Filed 7-20-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3619-5]

Notification of Indefinite Suspension of Determination To Prohibit, Deny, or Restrict the Specification of an Area for Use as a Disposal Site; Santa Ysabel Creek, San Diego County, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of indefinite suspension of proposed section 404(c) proceedings pending additional studies.

SUMMARY: On December 29, 1987, EPA announced the initiation of proceedings under section 404(c) of the Clean Water Act (CWA) in the **Federal Register** (52 FR 49082), describing its proposed determination to prohibit, deny, or restrict the discharge of dredged or fill material for construction of Pamo Dam by the San Diego County Water Authority (SDCWA), because the project would likely result in

unacceptable adverse impacts to wildlife. In reaching this conclusion, EPA found that the project failed to comply with Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR 230), also known as EPA's 404(b)(1) Guidelines. The **Federal Register** notification also postponed the public hearing on the matter pending receipt of an independent analysis by the City of San Diego, the landowner of the proposed reservoir and mitigation sites, of project alternatives, cost, and mitigation. EPA anticipated reviewing the results of the City of San Diego's analysis of the Pamo Dam Project as part of EPA's 404(c) evaluation.

Proceedings to Date: In August 1988, the SDCWA Board of Directors through its General Manager requested that the U.S. Army Corps of Engineers, Los Angeles District, suspend the SDCWA's request for a section 404 permit. The SDCWA stated that a suspension would allow it to further evaluate the environmental impacts and proposed mitigation plan for the Pamo Dam Project and investigate additional water supply alternatives. In September 1988, in response to this request, the Corps of Engineers withdrew the SDCWA's permit application and advised that a new application will be required should the SDCWA decide to pursue the Pamo Dam Project, or any similar project in the future.

In October 1988, EPA received and reviewed an August 1988 final report prepared by independent consultants for the City of San Diego on Pamo Dam alternatives, costs and mitigation. This report substantiated many of EPA's previously stated concerns regarding the Pamo Dam Project. The SDCWA, through an independent contractor, is currently conducting an "Optimal Storage Study" to, in part, identify water storage alternatives within its service area.

Purpose of Public Notice: This serves as a notice of indefinite suspension of section 404(c) proceedings for the Pamo Dam Project pending completion and review of the SDCWA's independent analysis discussed above under *Proceedings to Date.* This suspension will allow EPA to fully consider the findings of the SDCWA's study prior to taking any further action under section 404(c) of the CWA.

Public Hearing: A separate public notice will be published in the **Federal Register** to announce any changes in this indefinite suspension of the 404(c) proceedings and to announce the date, location and procedures of any public hearing. Such notification of a public hearing will also be published in local newspapers.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yocom or Robert Leidy, Wetlands, Oceans and Estuaries Branch (W-7-2), 215 Fremont Street, San Francisco, California 94105, (415) 974-7970.

Daniel W. McGovern,

Regional Administrator.

[FR Doc. 89-17138 Filed 7-20-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3619-8]

Intent To Prepare an Environmental Impact Statement (EIS) on the Proposed Monticello-B-2 Area Surface Lignite Mine in Titus County, TX

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Issuance of a new source National Pollutant Discharge Elimination System (NPDES) permit to the Texas Utilities Mining Company (TUMCO) for a proposed expansion (referred to as the B-2 Area) of the existing Monticello Surface Lignite Mine.

Purpose: EPA has determined that the issuance of an NPDES permit to the TUMCO to operate the proposed B-2 Area Lignite Mine represents a major Federal Action that may significantly affect the quality of the human environment. Therefore, an EIS will be prepared to assess the potential environmental consequences of EPA's permit action.

For Further Information or To Be Placed on the Project Mailing List Contact: Mr. Norm Thomas; Chief, Federal Activities Branch; U.S. EPA, Region VI (E-FF); 1445 Ross Avenue; Dallas, Texas 75202-2733. Telephone: (Commercial) 214-655-2260 or (FTS) 255-2260.

SUMMARY: TUMCO proposes two expansions of the existing 20,000 acre Monticello Surface Lignite Mine. The first of these expansions is an additional 25,000 acres near Leesburg, Texas. EPA and TUMCO have entered into a Memorandum of Understanding (MOU) for a third-party EIS on the proposed Monticello-Leesburg Mine area. The second proposed expansion (i.e. the B-2 area, approximately 17,000 acres located north of Mount Pleasant, Texas) is covered by a separate MOU for this EIS.

Alternatives: Alternatives available to EPA are to issue the NPDES permit for the project; to issue the NPDES permit for the project with certain modifications to minimize adverse impacts; or to deny the permit.

Scoping: EPA encourages agency and public participation in the decision-making process on this proposed permit action. Federal, State and local agencies and the public are invited to participate in the process for determining the scope of issues to be addressed and for identifying the major issues related to the proposed action. A public meeting to receive input to this scoping process will be held on Thursday, August 17, 1989, at 7:00 p.m. in the Commissioner's Courtroom of the County Courthouse in Mount Pleasant, Texas.

Estimated Date of Draft EIS Release: February, 1990.

Responsible Official: Robert E. Layton Jr., P.E. Regional Administrator.

Dated: July 17, 1989.

Richard Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-17164 Filed 7-20-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3619-6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed July 10, 1989 Through July 14, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890190, Draft, FHW, ME, Topsham-Brunswick Bypass Construction, I-95/196 Interchange to Rt-1, Funding, 404 Permit and Section 9 Permit, Sagadahoc and Cumberland Counties, ME, Due: September 8, 1989, Contact: Robert Beaudry (207) 622-8486.

EIS No. 890191, Draft, FHW, MI, MI-45 Reconstruction, West of 68th Avenue to east of 24th Avenue, Funding and 404 Permit, Ottawa County, MI, Due: September 4, 1989, Contact: James Kirschensteiner (517) 377-1851.

EIS No. 890192, Draft, USN, GU, TT, Relocatable Over-the-Horizon Radar (ROTHR)/Electronic Installations in the Western Pacific, Construction and Operation, Tinian, Commonwealth of the Northern Mariana Islands and Guam, Due: September 4, 1989, Contact: E.C. Rushing (808) 471-3088.

EIS No. 890193, Final, AFS, AK, Big Islands Management Area Analysis, Implementation and Special Use Permit, Chugach National Forest Land and Resource Management Plan, Hawkins, Hinchinbrook, Montague, Green, Little Green and Wooded Islands and The Needle, Prince William Sound, AK, Due: August 21, 1989, Contact: Cecil R. Kuhn (907) 271-2558.

EIS No. 890194, FSuppl, AFS, MT, Deerlodge National Forest Noxious Weed Control Program, Implementation, Use of Herbicide within the Rock Creek Drainage and Other Areas, Deerlodge, Jefferson, Granite, Powell, Madison and Silver Bow Counties, MT, Due: August 21, 1989, Contact: Dave Ruppert (406) 496-3368.

Amended Notices

EIS No. 890007, DSuppl, AFS, CO, Routt National Forest Land and Resource Management Plan, Incorporation of the Dersch Report, Implementation, Routt, Garfield, Grand, Moffat, Rio Blanco, Jackson and Summit Counties, CO, Due: April 17, 1989, Contact: Reese Pope (303) 879-1722.

EIS No. 890145, DSuppl, AFS, AK, Alaska Pulp Long-Term Timber Sale/Road Construction, Phase II 1981-86 and 1986-89 Operating Plan Amendments, Meed-Bay, Freshwater-Whitestone, Corner Bay, and Kuia Island Analysis Areas, Tongass National Forest, AK, Due: July 24, 1989, Contact: James Pierce (907) 586-8871.

Published in the **Federal Register** 6-9-89—Review period extended.

Dated: July 18, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-17162 Filed 7-20-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3619-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 3, 1989 through July 7, 1989 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 7, 1989 (54 FR 15006).

DRAFT EISs

ERP No. D-FHW-D40240-PA, Rating LO, I-81 Connector/LR-1067, Section A01 Construction, US 11/Harrisburg Exchange to I-81 on the North, Funding and 404 Permit, Cumberland County, PA.

Summary. EPA concurs with the selection of Alternative 8B as the preferred alternative. The draft EIS thoroughly discussed the environmental impacts of the alternatives and adequately addressed the necessary mitigation measures.

ERP No. D-FHW-E50085-00, Rating EC2, US 62/68/Ohio River Bridge Construction, Mason County, KY to Brown County, OH, Funding, US Coast Guard Bridge Permit and COE Section 404 Permit, Mason Co., KY and Brown Co., OH.

Summary. EPA has concerns regarding wetland losses, channel relocation and lack of a detailed mitigation plan to offset these losses.

ERP No. D-FHW-H40139-MO, Rating EC2, Rt-115 Extension, I-70 to MO-94 and Rt-115/I-70 Interchange Construction, Funding and 404 Permits, St. Charles City and St. Peters City, St. Charles County, MO.

Summary. EPA requested that noise levels be conducted on completion of this highway project to determine how the actual noise levels compare with the projected levels, and that baseline ambient air quality samples be taken in the proposed construction area along the I-70 corridor. The final EIS should include a thorough discussion of the effects of highway construction on demographics and increased commercial/industrial development.

ERP No. D-UAF-J11004-MT, Rating EC2, Malstrom AFB, Deployment of the Second KC-135R Air Refueling Squadron, 301st Air Refueling Wing, City of Great Falls, Cascade County, MT.

Summary. EPA recommended commitments to the mitigation of impacts. Additional explanation is needed for the elimination of all alternatives except "no action". Ground water characteristic should be assessed and potential impact documented, regardless of the current use. The criteria used to assess the affected environment should be consistently applied to the analysis of environmental consequences for all resources categories.

Final EISs

ERP No. F-AFS-L65115-OR, Fremont National Forest, Land and Resource Management Plan, Implementation, Lake and Klamath Counties, OR.

Summary. EPA has no objections to the project as described in this document.

ERP No. F-AFS-L65129-AK, 1989-94 Ketchikan Pulp Long-Term Timber Sale Management Plan, Implementation, Tongass National Forest, Prince of Wales Island, AK.

Summary. Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F-AFS-L65129-OR, Shady Beach Fire Recovery Project, Beach Mountain to Slapjack Butte, Implementation, Rigdon Ranger District, Williamette National Forest, Lane County, OR.

Summary. EPA has no objections to the project as described in this document.

ERP No. F-BLM-K60065-CA, Death Valley and Joshua Tree National Monuments Boundary Adjustments, Transfer of Land Between the Bureau of Land Management and the National Park Service, California Desert District, Inyo and Riverside Counties, CA.

Summary. Review of the final EIS was not deemed necessary.

Dated: July 18, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-17163 Filed 7-20-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1787]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

July 17, 1989.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor International Transcription Service (202-857-3800). Oppositions to these petitions must be filed [Insert date of 16 days after FR pub date]. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Milan, Metter & Swainsboro, Georgia) Number of petitions filed: 1

Subject: Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, Competing Applicants, and Other Participants to the

Comparative Renewal Process and to the Prevention of Abuse of the Renewal Process. (BC Docket No. 81-742) Number of Petitions filed: 3

Subject: Access to Telecommunications Equipment & Services by the Hearing Impaired and Other Disabled Persons. (CC Docket No. 87-124) Number of petitions filed: 1

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (West Point and Blair, Nebraska) (MM Docket No. 88-493, RM's 6431 & 6445) Number of petitions filed: 2

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-17084 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM docket No.
A. Cabrini College; Radnor Township, PA.	BPED-860725MH	89-309
B. Villanova University in the State of Pennsylvania; Villanova, PA.	BPED-870402KA	
C. Bux-Mont Educational Radio Association; Sellersville, PA.	BPED-870514MN	
D. Trustees of the University of Pennsylvania; Philadelphia, PA.	BPED-870515OE	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applicants have been designated for a hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 Fed. Reg. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. 307(b)—Noncommercial Educational, A, B, C, D
2. Contingent Comparative, A, B, C, D
3. Ultimate, A, B, C, D

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in the Appendix to this Notice. A copy of the complete HDO in this proceeding is available in the FCC Dockets branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW. Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 89-17081 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for three new FM stations and one new AM station:

Applicant, city, and state	File No.	MM docket No.
A. Pleasant Hope Broadcasting; Pleasant Hope, MO.	BPH-871209MB	89-312
B. Roy H. Williams, III and Elizabeth Williams, d/b/a Williams Partnership; Pleasant Hope, MO.	BPH-871210MA	
C. Charles T. Williams; Pleasant Hope, MO.	BPH-871210MB	
D. Missouri Broadcast Limited Partnership; Pleasant Hope, MO.	BPH-871210MC	
E. Koyle Broadcasting Corporation; Pleasant Hope, MO.	BPH-871210MD	
F. Minorities Broadcasting Company of Missouri, Inc.; Pleasant Hope, MO.	BPH-871210ME	
G. Multicom Broadcasting; Pleasant Hope, MO.	BPH-871210MF	
H. Trifecta Communications, a general partnership; Pleasant Hope, MO.	BPH-871210MG	
I. FR Broadcasting, Inc.; Pleasant Hope, MO.	BPH-871210MH	

Issue Heading and Applicants

1. See Appendix, D
2. See Appendix, D
3. See Appendix, D
4. See Appendix, D
5. Financial Qualifications, H
6. Misrepresentation, H
7. Comparative, A-I
8. Ultimate, A-I

II.

Applicant, city, and state	File No.	MM docket No.
A. East Carolina Radio Associates Limited Partnership, New Bern, NC.	BPH-871008MB	89-310
B. Mike Conner, d/b/a Conner Broadcasting, New Bern, NC.	BPH-871008ME	

Issue Heading and Applicants

1. See Appendix, A
2. See Appendix, A
3. See Appendix, A
4. See Appendix, A
5. Air Hazard, A, B
6. Comparative, A, B
7. Ultimate, A, B

III.

Applicant, city, and state	File No.	MM docket No.
A. Marc A. ALbert; Syracuse, NY.	BPH-870918MC	89-311
B. Taylor Communications of Syracuse, Inc.; Syracuse, NY.	BPH-870918ML	
C. Salt City Communications, Inc.; Syracuse, NY.	BPH-870918MN	
D. Huston Telecom, Inc.; Syracuse, NY.	BPH-870918MX	
E. D.J.'s Broadcasting Co.; Syracuse, NY.	BPH-870918MY	

Issue Heading and Applicants

1. & 2. Real Party-in-Interest, D
3. 1.65 and Misrepresentation, D
4. Qualifications, D
5. City Coverage, E
6. Air Hazard, A, B, C, D, E
7. Comparative, A, B, C, D, E
8. Ultimate, A, B, C, D, E

IV.

Applicant, city, and state	File No.	MM docket No.
A. Contemporary Media, Inc.; Terre Haute, IN.	BP-870331BX	89-313
B. Nu-View Associates, Inc.; Battle Ground, IN.	BP-871029AE	

Issue Heading and Applicants

1. Ownership, B
2. Misrepresentation, B
3. 307(b)—Modification, All applicants
4. Contingent comparative, All applicants
5. Ultimate, All applicants

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix I (Pleasant Hope, Missouri)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of D (MBLP).
2. To determine whether D's (MBLP's) organizational structure is a sham.
3. To determine whether D (MBLP) violated Section 1.65 of the Commission's Rules, and/or lacked candor, by failing to timely report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issues pending.
4. To determine, from the evidence adduced pursuant to Issues 1 through 3 above, whether D (MBLP) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix II (New Bern, North Carolina)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of A (ECR).
2. To determine whether A's (ECR's) organizational structure is a sham.
3. To determine whether A (ECR) violated Section 1.65 of the Commission's Rules, and/or lacked candor, by failing to report the designation of character issues against other applicants in which one or more of its partners has an ownership interest and/or the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issues pending.
4. To determine, from the evidence adduced pursuant to Issues 1 through 3 above, whether A (ECR) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix III (Syracuse, New York)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of D (Huston).
2. To determine whether D's (Huston) organizational structure is a sham.
3. To determine whether D (Huston) violated § 1.65 of the Commission's Rules, and/or lacked candor, by failing to report: (1) The designation of character issues against other applicants in which one or more of its partners has an ownership interest; (2) the dismissal of such ownership interest and/or the dismissal of such applications with unresolved character issues pending; and (3) the interest held by one or more of its partners in applications pending before the Commission.

[FR Doc. 89-17082 Filed 7-20-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-834-DR]

Amendment to Notice of a Major Disaster Declaration; Kentucky

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA-834-DR), dated June 30, 1989, and related determinations.

DATED: July 12, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that the incident period for this disaster is amended, as follows: June 15, 1989, through and including July 6, 1989.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89-17133 Filed 7-20-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-834-DR]

Amendment to Notice of a Major Disaster Declaration; Kentucky

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA-834-DR), dated June 30, 1989, and related determinations.

DATED: July 13, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

The notice of a major disaster for the Commonwealth of Kentucky, dated June 30, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 30, 1989:

The counties of Breathitt and Owsley for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89-17134 Filed 7-20-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-829-DR]

Amendment to Notice of a Major Disaster Declaration; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-829-DR), dated May 20, 1989, and related determinations.

DATE: July 13, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

The notice of a major disaster for the State of Louisiana, dated May 20, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaraton of May 20, 1989:

The parishes of Jackson and Webster for Individual Assistance and public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89-17135 Filed 7-20-89; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010829-011.

Title: Eurocorde Discussion Agreement.

Parties:

("Conference Parties")
North Europe-USA Rate Agreement
USA-North Europe Rate Agreement
("Independent Carrier Parties")
Evergreen Marine Corp. (Taiwan), Ltd.
American Transport Lines, Ltd.
Mediterranean Shipping Co.
Orient Overseas Container Line (UK) Ltd.
South Atlantic Cargo Shipping, NV
Lykes Bros. Steamship Co., Inc.
Polish Ocean Lines
Independent Container Line Limited
Topgallant Lines, Inc.

Synopsis: The proposed modification would authorize the Independent Carrier Parties to meet, discuss, negotiate, clarify differences, and to reach consensus with the Conference Parties. This authorization would expire on December 31, 1989.

Agreement No.: 207-011144-004.

Title: Australia-New Zealand Direct Line Service Agreement.

Parties:

PAD Line Overseas S.A.
Australia-New Zealand Container Line S.A.
Societe Navale et Commerciale
Delmas-Vieljeux
Compagnie Generale Maritime

Synopsis: The proposed amendment would substitute Pacific Container S.A., for PAD Line Overseas S.A. as a party to the Agreement. It would also delete Compagnie Generale Maritime as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: July 17, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89-17083 Filed 7-20-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-16]

Actions to Address Adverse Conditions Affecting United States Carriers That Do Not Exist for Foreign Carriers in the United States/Taiwan Trade; Notice and Order of Investigation

Upon publication of this Order in the **Federal Register** the Federal Maritime Commission ("Commission" or "FMC") initiates an investigation under the Foreign Shipping Practices Act of 1988 ("FSPA" or "1988 Act"), 46 U.S.C. app. section 1710a, of shipping conditions in the United States/Taiwan trade ("Trade").[1] This investigation seeks to determine whether Taiwan laws, rules, regulations, policies or practices result in the existence of conditions which adversely affect the operations of United States carriers and which do not exist for Taiwan carriers in the United States.

This investigation focuses on certain "doing business" restrictions which appear to affect adversely the intermodal operations of United States carriers in Taiwan. These include restrictions on off-dock container terminal licensing, shipping agency licensing, and trucking licensing as well as restrictions affecting chassis registration and the domestic use of containers.[2]

The Foreign Shipping Practices Act authorizes the Commission to investigate adverse conditions affecting a United States carrier in the United States oceanborne trade. Section 10002(b) states:

(b) Authority to Conduct Investigations—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that—

(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

The FSPA expressly applies not only to the port-to-port carriage of cargo but also to services ancillary to port-to-port transportation services. Section 10002(a)(4) defines such "maritime-related services" as follows:

(4) "maritime-related services" means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf * * *.

The 1988 Act thus has broad application to any restrictions which impede the access of United States carriers to cargo. Land-based restrictions that would make a U.S. carrier less capable of competing with foreign carriers are clearly within the scope of the FSPA.

The Foreign Shipping Practices Act also provides for action against foreign carriers to correct adverse shipping conditions. Section 10002(e) provides:

[1] The Commission has issued a Final Rule implementing the Foreign Shipping Practices Act. See Part 588—Actions to Address Adverse Conditions Affecting U.S.-flag Carriers That Do Not Exist For Foreign Carriers in the United States, 24 S.R.R. 1631 (March 16, 1989), 54 FR 11529 (March 21, 1989). This proceeding is governed by that Final Rule. Section 588.5(a), 46 CFR 588.5(a), states:

An investigation shall be considered to have been initiated for the purposes of the time limits imposed by the Foreign Shipping Practices Act of 1988 upon the publication in the Federal Register of the Commission's notice of investigation, which shall announce the initiation of the proceeding upon either the Commission's own motion or the filing of a petition.

[2] The Commission has already noted its concern with other impediments and restrictions in the Trade which appear to hamper the operations of U.S. carriers. The late delivery of gantry cranes at the Port of Kaohsiung and the lengthy period of time taken to repair damaged berth facilities at Kaohsiung were made the subject of a letter of June 20, 1989 to Taiwan authorities. Investigation of these matters is not called for at this time because progress toward removal of these impediments and restrictions appears to be underway.

The Commission notes two other shipping matters in the Trade which cause concern. These are berthing arrangements at the Port of Keelung, which appear to discriminate in favor of Taiwan carriers and to disadvantage U.S. carriers, and the prohibition against carriers using tandem trailers, otherwise known as "doubles," on Taiwan highways. The Commission opted not to include those matters in this proceeding but anticipates that efforts will be made toward a satisfactory resolution.

(e) Action Against Foreign Carriers.—(1) Whenever, after notice and opportunity for comment or hearing, the Commission determines that the conditions specified in subsection (b) of this section exist, the Commission shall take such action as it considers necessary and appropriate against any foreign carrier that is a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions.

Section 10002(a)(2) of the FSPA defines "foreign carrier" as follows:

"foreign carrier" means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States.

In this proceeding, two Taiwan carriers, Evergreen International (USA) Corporation ("Evergreen") and Yang Ming Line ("Yang Ming"), are named as respondents under the authority of section 10002(e) on the basis of their ownership and control by Taiwan persons and the documentation of their vessels under the laws of Taiwan.

Sections 10002(e)(1) (A), (B) and (C) of the 1988 Act authorize sanctions against foreign carriers, including limitation of sailings, tariff suspension, suspension of rights to operate under agreements, and a fee of up to $1,000,000 per voyage. In addition, section 10002(f) authorizes the Commission to request other government agencies to take certain actions including denial of port clearance, denial of entry to a U.S. port, and detention at a U.S. port. The investigation will consider what sanctions might be applied or remedial action taken should adverse conditions be found to exist.

Finally, the 1988 Act is intended to protect and to provide relief to United States carriers whose operations are affected adversely. Two United States carriers serving the Trade, American President Lines, Ltd. ("APL") and Sea-Land Service, Inc. ("Sea-Land"), appear to be affected adversely. Accordingly, APL and Sea-Land are named as United States carrier parties in this proceeding.

Background

The Commission first initiated an inquiry into shipping conditions in the Trade by an order issued pursuant to section 15 ("Section 15 Order") of the Shipping Act of 1984, 46 U.S.C. app. section 1714. *See* "Inquiry Into Laws, Regulations and Policies of Taiwan Affecting Shipping in the United States/Taiwan Trade", 24 S.R.R. 101 (April 15, 1987). Responses to that order identified a number of restrictions that allegedly had an adverse impact on the intermodal operations of U.S. carriers in Taiwan.

Based on these responses, the Commission issued a Notice of Proposed Rulemaking ("Proposed Rule") pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 ("Section 19"), 46 U.S.C. app. section 876(1)(b). *See* Docket No. 87-25, "Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Taiwan Trade", 52 FR 46505 (December 8, 1987). The Proposed Rule addressed the two issues which were then most urgent: (1) Restrictions on the ownership and operation of dockside equipment and facilities; and (2) impediments to the ability of U.S. carriers to obtain licenses to operate on-dock container terminals. Discussions involving the affected parties led to a resolution of these two issues and the Commission therefore discontinued that proceeding. *See* "Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Taiwan Trade", 24 S.R.R. 866 (March 2, 1988).

However, the Commission indicated in its order discontinuing the proceeding that it would continue to closely monitor the Trade and take further appropriate action where warranted by conditions in the Trade. 24 S.R.R. at 869. The Commission subsequently served a supplemental section 15 order ("Supplemental Section 15 Order") which sought updated information on shipping conditions in the Trade. *See* "Inquiry Into Laws, Regulations and Policies of Taiwan Affecting Shipping in the United States/Taiwan Trade", 24 S.R.R. 1045 (June 22, 1988). Responses to the Supplemental Section 15 Order identified certain other restrictions which allegedly continue to hamper the ability of U.S. carriers to conduct their intermodal operations in Taiwan.

Discussion

Although there has been progress on some issues in the Trade, notably on the issues of on-dock container terminals and ownership of dockside equipment as noted above, the following areas remain subject to restrictions which impede the operations of U.S. carriers.

I. Off-Dock Container Terminal Operations

Article 6 of the "Shipping Enterprise Act" of Taiwan provides as follows:

Persons and juristic persons whose nationality is other than that of the Republic of China shall not be permitted to establish any organization for the purpose of doing business as a shipping agency or sea cargo forwarder or of operating container terminals; provided, however, if the foreign government of these persons reciprocally accords the same rights to persons or juristic persons of the Republic of China and that an approval has been granted by the Ministry of Communications, the above restriction shall not apply.

Further, Article 6 of Taiwan's "Regulations Governing Operations of Container Terminal," which requires approval of an application to operate a container terminal by the Ministry of Communciations ("MOC"), states:

In processing the above application, the local maritime authority shall scrutinize whether it conforms to the provisions of Article 6 of the Shipping Enterprises Act and review whether two-thirds or more of the capital stock of the company is to be held by ROC citizens and the board chairman and two-thirds or more of directors are to be ROC citizens.

These regulations allegedly have been administered in such a way as to prevent a U.S. carrier from conducting off-dock container terminal operations through its own branch office or subsidiary company and to limit U.S. carrier ownership participation in a local company to a one-third interest and allow only one-third of the directors to be non-Taiwan citizens.

Information provided in section 15 order responses indicates that the barriers to establishing an off-dock container terminal are increased by the requirement that an off-dock container terminal operation have at least 33,000 square meters of land. Lease of land appears to be prohibited. Moreover, purchase of land by a branch of a U.S. carrier or its foreign subsidiary requires approval of both local and central authorities.

The Taiwan statutory and regulatory scheme thus appears to make the establishment of an inland container terminal prohibitive from a practical business point of view given the high price of land and the limits on ownership and control. Under the current system, a U.S. carrier would be required to make a substantial investment in a facility with no controlling interest either initially or through increased ownership participation.

The effect of this system seems therefore to reduce the efficiency and economy of the intermodal operations of United States carriers by imposing significant barriers to the operation of inland terminals. The regulations may also affect U.S. carriers competitively insofar as the inability to maintain a presence in inland operations may deny the opportunity to compete for cargo.

Conversely, it appears that Taiwan carriers are not subject to similar restrictions upon their U.S. operations under the laws of the United States. The Commission knows of no restrictions on the ability of Taiwan carriers to operate

off-dock container terminals either through a subsidiary company or through a branch office in the United States, or to be free to purchase or lease land, to increase their ownership participation, and to determine the amount of land to be leased. Thus there do not appear to be the same barriers to the establishment of an inland container terminal under U.S. law.

II. Inland Trucking Operations

United States carriers also appear to be subject to various restrictions applied to their trucking operations in Taiwan that prevent them from competing on an equal basis and achieving greater economies in their operations.

A. Trucking Licensing

Article 35 of the Taiwan Highway Law states:

> Foreign nationals are not allowed to engage in the investment and operation of public automobile transportation within the territory of the Republic of China.

The law prohibits U.S. carriers from obtaining a license to provide trucking services to Taiwan.

During the April 6–7, 1987 maritime discussions between the American Institute in Taiwan ("AIT") and the Coordination Council for North American Affairs ("CCNAA"), CCNAA indicated that it would consider AIT's suggestion that the law be amended to allow foreign carriers to operate inland trucking services. However, it appears that no progress has been made toward legislative changes which would extend to U.S. carriers the opportunity to operate inland trucking services in Taiwan.

The ability to operate one's own trucking service could be an integral link in modern intermodal transportation services. This ability would appear to allow ocean carriers to achieve economies and to operate more efficiently. Moreover, inland trucking operations may give a carrier a greater visibility and presence in terms of competing for broader segments of cargo. Finally, the mere entitlement to operate one's own trucking business may mean that a carrier is no longer captive of local trucking companies and might obtain trucking services at more competitive prices. U.S. carriers indicate that trucking services represent their largest single operating cost in Taiwan. Moreover, it appears that U.S. carriers are more reliant on inland trucking services to the Port of Kaohsiung because of congestion at the Port of Keelung. While it is difficult to quantify the benefits of operating an in-house trucking service, it appears that U.S. carriers are disadvantaged and their operations made less efficient and economical by the prohibition on being licensed to operate their own trucking services.

Taiwan carriers operating in the United States do not appear to be subject to this disadvantage. The Commission understands that Taiwan carriers are not prohibited by U.S. law from conducting their own trucking operations in the U.S. if they wish. They are also free to obtain trucking services from any operator in the U.S. Therefore, it appears that Article 35 of the Taiwan Highway Law subjects U.S. carriers in Taiwan to adverse conditions which Taiwan carriers do not face in the United States.

B. Chassis Registration

Taiwan automobile registration authorities have prohibited U.S. carriers from registering truck chassis in their own names without reference to any local trucking companies, and have insisted that chassis must be registered in the name of the respective trucking companies that operate them. U.S. carriers have asked the MOC to permit registration of the chassis for operation in the name of the U.S. carriers as owners. Although there has recently been some progress on this issue and there are indications that this prohibition may be removed, to date the restriction remains in place.

Such a restriction would make it difficult for U.S. carriers to change trucking companies and thereby have an opportunity to improve the efficiency and economy of their operations. The restriction appears to inhibit competition in the market for trucking services and tends to tie U.S. carriers to a particular trucking company. The restriction thus may raise inland trucking costs and limit the degree of control carriers may have over trucking operations, thereby hampering the competitiveness and profitability of U.S. carriers.

The Commission is aware of no similar restrictions for chassis registration for Taiwan carriers in the United States. U.S. law does not appear to impose such restrictions on chassis registration.

C. Repositioning of Containers

Containers undergoing repositioning in Taiwan are subject to customs regulations which limit their use during repositioning. Articles 14 and 23 of the Taiwan "Regulations Governing Administration of Containers by the Customs" provide as follows:

Article 14

> If the containers after having been loaded for export and inspected and sealed by the customs need to be reopened for further loading, separation or repackaging, the carrier or its agent shall apply for a special permit with the customs or obtain approval documents therefrom for processing such operations under the inspection of officials at the export warehouse or other designated area located in the container yard.
>
> The customs may authorize the owner of container yard to dispatch persons for handling such operations and the customs may dispatch officials for inspection and investigation.

Article 23

> The import and export of empty container [sic] will not be subject to the inspection of import and export licenses, however, the carrier or its agent shall fill out a list of the empty containers for import and the movement status of the containers thereof or fill out a list of the empty containers for export and list the quantities of empty containers for import and export for application with the customs for a special permit. Upon loading of such empty containers, the carrier or its agent shall designate sufficient persons specially for opening such empty containers for inspection by the customs officials. Upon completion of loading, the persons as designated above shall sign a list showing the actual loading quantities and numbers of containers for investigation by the customs.

These regulations can be interpreted in a manner which prohibits U.S. carriers from the general use of containers while in Taiwan and subjects containers to significant restuffing restrictions. Moreover, these restrictions on U.S. carriers appear not to apply to Taiwan-flag carriers. U.S. carriers have requested the MOC for a ruling which would permit them to lease or interchange empty containers being repositioned to local trucking companies for use in hauling domestic cargo but have not received a response.

These policies thus could prevent U.S. carriers from offsetting their repositioning costs by hauling domestic cargo. The cost of repositioning empty containers for U.S. carriers appears significant due to the limitations at port facilities at the Port of Keelung which necessitates the hauling of containers from Keelung in the north to Kaohsiung in the south.

The Commission believes that Taiwan-flag carriers are not subject to any similar restrictions on their operations in the United States. Thus Taiwan carriers in the United States who reposition their containers from the East to West coasts appear to be generally permitted to carry domestic cargo.

III. Shipping Agency Operations

Pursuant to the Agreed Minutes of the April 6–7, 1987 maritime discussions between AIT and CCNAA, U.S. carriers are eligible to apply for a license to conduct shipping agency operations in Taiwan. Local authorities, however, appear to have imposed unrealistic information requirements which have defeated or discouraged U.S. carrier applications. The Keelung Harbor Bureau returned a U.S. carrier application and demanded the following additional information before processing the application: (1) The names of the shipping companies to be represented; (2) the ship routes of such companies; (3) the number of sailings; and (4) income expenditure forecasts. The effect of these demands is to require U.S. carriers to obtain commitments from customers before receiving even preliminary approval to establish a shipping agency.

To the extent these requirements have prevented U.S. carriers form conducting shipping agency operations in Taiwan, such carriers are denied collateral business opportunities which would integrate with their shipping operations in Taiwan. Again U.S. carriers' efficiency and profitability may be impeded because of their inability to earn additional revenue and offset the costs of assets and overhead devoted to U.S. carrier operations in Taiwan.

The Commission knows of no similar requirements for Taiwan carriers in the U.S. Taiwan carriers do not appear to be prohibited from operating shipping agency services in the U.S. nor do there appear to be application and approval processes which burden applicants with unreasonable requirements.

Conclusion

The restrictions on the shipping operations of U.S. carriers in Taiwan which are placed in issue in this proceeding have been the subject of attention for some time. Despite expectations raised with respect to certain of the issues in maritime discussions, there appears to have been little significant progress. Thus with respect to truck licensing, Taiwan authorities had provided assurances during the April 6–7, 1987 maritime discussions that legislative changes in the Highway Law would be sought. To date, however, no such action has been taken. Similarly, there have been recent indications that the chassis registration restrictions would be removed but no action has been taken as of this date. On the other issues of container use and shipping agency and off-dock container licensing, administrative policies appear to raise significant barriers to participation by U.S. carriers. Investigation of each of these issues is warranted.

Proceedings under the Foreign Shipping Practices Act are conducted within the framework of statutorily-imposed deadlines. Once initiated, the Commission must complete an investigation and render a decision within 120 days unless certain factors warrant a 90-day extension. The investigation will therefore be structured in terms of two rounds of simultaneous submissions by all parties. Thus there will be an initial filing and a reply filing. Moreover, the proceeding will be conducted on the basis of written submissions only without oral hearings and without discovery. Any motions filed will not alter the deadlines established in the procedural schedule. The Commission may, in its discretion, not rule on such motions until its final order.

Any persons seeking to intervene must file their submission in accordance with the procedural schedule. Moreover, any person interested in participating as an intervenor should file a notice of intention to intervene with the Commission's Secretary and serve such notice on all parties. The purpose of this notice is to ensure that intervenors will be served by all participating parties. The filing of a notice of intention to intervene, however, does not obligate a party to subsequently file a written submission.

Now therefore, pursuant to section 10002(b) of the Foreign Shipping Practices Act of 1988, the Commission hereby conditions adversely affecting U.S. carriers exist in Taiwan that do not exist for Taiwan carriers in the United States/Taiwan trade and if such adverse conditions are found to exist, what shall be determined to be an appropriate remedy or remedies. More specifically this investigation focuses on the following issues:

(1) Whether Taiwan laws, rules, regulations, policies, or practices prevent United States carriers from conducting off-dock container terminal operations in Taiwan and adversely affect the operations of United States carriers, and whether such restrictions do not exist for Taiwan carriers in the United States;

(2) Whether Taiwan laws, rules, regulations, policies, or practices prevent United States carriers from conducting trucking operations in Taiwan, including licensing, chassis registration, and use of containers, and adversely affect the operations of United States carriers, and whether such restrictions do not exist for Taiwan carriers in the United States; and

(3) Whether Taiwan laws, rules, regulations, policies, or practices prevent United States carriers from conducting shipping agency operations in Taiwan, including obtaining a shipping agency license, and adversely affect the operations of United States carriers, and whether such restrictions do not exist for Taiwan carriers in the United States.

It is further ordered, That Evergreen International (USA) Corporation and Yang Ming Line are each named Respondents in this proceeding;

It is further ordered, That American President Lines, Ltd. and Sea-Land Service, Inc. are each named United States Carrier Parties in this proceeding;

It is further ordered, That the Commission's Bureau of Hearing Counsel is made a party to this proceeding;

It is further ordered, That any person interested in participating in this proceeding shall file a notice of intention to participate as an intervenor with the Commission's Secretary by August 10, 1989;

It is further ordered, That any interested person may participate in this proceeding in accordance with the filing schedule set forth below;

It is further ordered, That this proceeding is limited to the submission of affidavits of fact and memoranda of law;

It is further ordered, That this Notice and Order of Investigation be published in the **Federal Register**, and that a copy thereof be served upon Respondents;

It is further ordered, That this proceeding shall be conducted in accordance with the Commission's Rules in 46 CFR Part 588;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, as well as being mailed directly to all parties of record;

It is further ordered, That all initial affidavits and memoranda of law shall be filed no later than August 30, 1989;

It is further ordered, That all reply affidavits and memoranda of law shall be filed no later than September 19, 1989; and

Finally, it is ordered, That pursuant to the terms of the Foreign Shipping Practices Act and the Commission's Rules, the final decision of the Commission in this proceeding shall be issued by November 17, 1989.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

Service List for Docket No. 89-16

Mr. Timothy J. Rhein, President, American President Lines, Ltd., 1800 Harrison Street, Oakland, CA 94612.

Mr. Alex Mandl, Chairman and Chief Executive Officer, Sea-Land Service, Inc., P.O. Box 800, Iselin, NJ 08830.

Mr. Richard Huang, President, Evergreen International (USA) Corporation, One Evertrust Plaza, Jersey City, NJ 07302.

Yang Ming Line, c/o Mr. James Liu, President, Solar International Shipping Agency, Inc., Two World Trade Center, Suite 2260, New York, NY 10048.

Mr. Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

[FR Doc. 89-17144 Filed 7-20-89; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Consortium of Federal, Academic, and Industry Logistics Experts

Notice is hereby given that the Consortium of Federal, Academic, and Industry Logistics Experts will meet August 16, 1989, from 10:00 am to 12:00 noon in Crystal Mall Building 4, Room 1129, Arlington, Virginia. Notice is required by the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the implementing regulation, 41 CFR Part 101-6.

The purpose of the meeting is to provide a forum for discussion of logistics issues. The agenda for the meeting will include an update of fiscal year 1989 agenda topics, a report on NASA Disposal System, Material Safety Data Sheets, Freight Transportation Management Practices (FSS), plus a presentation by Dr. V.C. Sequin, James Madison University.

The meeting will be open to the public.

For further information contact Mr. William B. Foote, Assistant Commissioner for Customer Service and Marketing, GSA/FSS, Washington, DC 20406, telephone (703) 557-7970.

Dated: July 13, 1989.

Donald C.J. Gray,

Commissioner, Federal Supply Service, GSA.

[FR Doc. 89-17148 Filed 7-20-89; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Program Announcement No. 945]

Studies of Non-AIDS Human Retroviruses in Endemic Areas

Introduction: The Centers for Disease Control (CDC) announces that applications are being accepted for cooperative agreements to conduct epidemiologic research of non-AIDS human retroviruses (human T lymphotropic virus types I and II—HTLV-I/II) in endemic areas.

Authority: This program is authorized under sections 301(a) and 317(k)(3) of the Public Health Service Act (42 U.S.C. 241 and 247b), as amended. Regulations are set forth in 42 CFR Part 52, entitled "Grants for Research Projects."

Eligible Applicants: Eligible applicants are official public health agencies of State and local governments, including the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Marianna Islands, the Republic of Palau, and the Virgin Islands, and other public, nonprofit, and for-profit organizations. Foreign applicants are encouraged to apply; however, they must meet the requirements outlined in the area entitled Recipient Activities and be governed by the policies and procedures in accordance with Grants Administration Manual part 709. Applicants for this project must have access to general populations that have been shown to have significant seroprevalence rates (at least 3-5%) for HTLV-I/II.

Availability of Funds: Approximately $100,000 will be available in Fiscal Year 1989 to fund one or two cooperative agreements. It is expected that the cooperative agreement(s) will begin on or about September 30, 1989, for a 12-month budget period within a 1 to 3 year project period.

These funds may be used for the costs associated with interviewing and performing appropriate physical examinations on individuals to be sampled in the target population, and for obtaining, processing, storing, and transporting blood specimens obtained from these individuals. Under Section 317 of the Public Health Service Act as amended, direct assistance may be requested by State agencies in lieu of cash. Funds may not be used to support programs unrelated to the requirements of the project.

Purpose: The purpose of this program is 1) to provide assistance in investigating the prevalence of and risk factors for HTLV-I/II infection and the incidence/prevalence of HTLV-I/II-associated diseases in well-defined general populations in which the virus(es) appear to be endemic; 2) to conduct specific studies concerning modes of transmission of HTLV-I/II, and 3) to characterize the endemic viruses by special studies in the laboratory.

Program Requirements

1. Recipient Activities

a. Identify a general population in which HTLV-I/II infection is endemic (seroprevalence at least 3-5%).

b. Have access to the target population and demonstrate the ability to recruit study subjects for research.

c. Develop a protocol to study the epidemiology of HTLV-I/II infection in the target population. Attention will be given to adequate and appropriate sampling of the target population; development of an interview/questionnaire/physical examination to collect demographic and epidemiologic information and to ascertain the presence of HTLV-I/II-associated diseases; and to the collection, processing, storing, and transporting of appropriate blood specimens. For special studies concerning modes of transmission of HTLV-I/II, attention will be given to formulation of study hypotheses and appropriate study design.

Projects funded through this cooperative agreement that involve collection of information from ten or more individuals will be subject to review under the Paperwork Reduction Act.

d. Identify the appropriate resources needed to implement the study.

e. Collaborate with the CDC Project Officer in data analysis and publication of results.

2. Centers for Disease Control Activities

a. Provide current scientific information regarding HTLV-I/II infection, and disease associations.

b. Through site visits, provide consultation and technical assistance in the planning, implementation, and evaluation of the epidemiologic studies.

c. Perform laboratory studies, including serology for HTLV-I/II, polymerase chain reaction (PCR) and virus isolation.

d. Provide assistance in data management/analysis and collaborate in publication of results.

Evaluation Criteria: Review of the applications will be conducted in accordance with PHS Grants Administration Manual part 134, Objective Review of Grant Applications. Applications will be reviewed and evaluated based on the information submitted which specifically describes the applicant's abilities to meet the criteria below:

1. The uniqueness of the study population and the extent to which the applicant has documented that HTLV-I/II is endemic in that population. (25%)

2. The extent to which the applicant has the organizational structure, administrative support, and accessibility to an adequate target population. (15%)

3. The technical quality of the proposal including scientific quality/soundness of the study protocol; overall quality of the plan for conducting the proposed activities; the extent to which the methods, strategies, and activities proposed are operationally and financially feasible; and the degree to which objectives are presented that are consistent with the purposes of the project and are specific, attainable, measurable, and time-phased. (45%)

4. The qualifications and experience of the personnel who will carry out the proposed activities. (15%)

5. The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds. (Not scored)

E.O. 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.283.

Applications Submission and Deadline

The original and two copies of the application (PHS Form 5161-1 Revised 3/89) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 415, Atlanta, GA 30305, on or before August 21, 1989.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or,

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, and an application package may be obtained from Donna Rushin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 415, Atlanta, GA 30305 (404) 842-6799 or FTS 236-6799.

Please refer to Announcement Number 945 when requesting information and submitting any application on the Request for Assistance.

Technical assistance may be obtained from Jonathan E. Kaplan, M.D., Retrovirus Diseases Branch, Division of Viral Diseases, Center for Infectious Diseases, Centers for Disease Control, Bldg 6, Rm 127, Atlanta, GA 30333, (404) 639-1338 or FTS 236-1338.

Dated: July 14, 1989.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 89-17109 Filed 7-20-89; 8:45 am]

BILLING CODE 4160-18-M

[Announcement No. 944]

Availability of Funds for Fiscal Year 1989 Cooperative Agreements To Support State Pregnancy Nutrition Surveillance

Introduction

The Centers for Disease Control (CDC) announces that cooperative agreement applications are to be accepted from eligible applicants for implementing the enhanced Pregnancy Nutrition Surveillance System (PNSS). The development and implementation of this strategy will enable the States, with assistance from CDC, to monitor trends in pregnancy risks and outcomes in the low-income subpopulation.

Authority

This program is authorized under Section 317(k)(3) and section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended.

Eligible Applicants

Because the intent of this cooperative agreement is to develop State capacity to conduct program-based pregnancy nutrition surveillance, eligible applicants are restricted to the official public health agencies of States, the District of Columbia, federally-recognized Indian tribes, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau that have not received prior funding for this project. No other applications will be accepted.

Availability of Funds

Approximately $345,000 is available in Fiscal Year 1989 to fund up to 10 awards. It is expected that the average award will be $35,000, ranging from $30,000 to $50,000. Funding estimates may vary and are subject to change. It is expected that the awards will begin on or about September 30, 1989, and will be made for a 12-month budget period within a 2-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

CDC proposes to assist States in developing program-based pregnancy surveillance through the enhanced Pregnancy Nutrition Surveillance System (PNSS). PNSS will support new State efforts to initiate this enhanced system. Nutritional and behavioral risk factor data will be collected on women enrolled in the Special Supplemental Food Program for Women, Infants, and Children (WIC), Maternal and Child Health Programs (MCH), and in other publicly supported prenatal care programs. PNSS data can provide States with prevalence estimates of nutritional and behavioral risk factors as well as alert States to any health care access problems among the populations served. Programs can utilize PNSS data to evaluate the effectiveness of interventions designed to reduce specific risk factors among high-risk, low-income women. Additionally, through linkage of PNSS records with birth certificates and other vital data, it may be possible to evaluate both the coverage and targeting of those programs designed to serve high-risk, low-income women and their infants. CDC will cooperate with States in carrying out these surveillance activities. In addition, the Office of Maternal and Child Health, Health

Resources and Services Administration, will collaborate with CDC and the States in facilitating the effective utilization of these data for prenatal program development and evaluation.

It is anticipated that PNSS will become an ongoing State surveillance system, with an increased number of States participating over time. Eventual coverage would include all States and territories.

The purposes of these Cooperative Agreements are to:

1. Promote the development and use of standardized pregnancy surveillance methods in support of State MCH and WIC program efforts to reduce pregnancy-related health risks and adverse pregnancy outcomes.

2. Assist States in monitoring trends in the prevalence of prenatal and early infancy risk factors, which are major predictors of low birthweight and infant mortality, and in linking these risk factors to the incidence of adverse pregnancy outcomes.

3. Provide information needed by the States to assess coverage, targeting, and effectiveness of prenatal and early infancy programs; to redirect health care services accordingly; and to evaluate the extent to which service redirections result in improved health outcomes.

Program Requirements

A. Recipient Activities

1. Identify and describe public health programs, such as WIC, that have the capability of providing statewide data on pregnant and postpartum women.

2. Develop, in collaboration with CDC, a data collection system for PNSS, including the flow, editing, analysis, and application of data and the design and field test of a data collection tool in appropriate programs.

3. In accordance with guidelines to be provided by CDC, collect clinical and program data on risk factors associated with poor pregnancy outcome among high-risk population (e.g., tobacco use, weight gain, socioeconomic indicators, trimester of first prenatal visit, alcohol use, etc.).

4. Plan and implement procedures for assuring the completeness and quality of the data, including personnel training and data editing.

5. Coordinate the surveillance system with various organizational units in the agency to assure consistency and comparability in the data that is collected.

6. With technical assistance and/or provision of software from CDC, produce a clean, edited tape for analysis that includes the specified maternal and postpartum data.

7. Develop and implement a plan for the analysis and use of surveillance data in appropriate prevention and intervention programs to reduce the prevalence of risk factors associated with low birthweight outcomes.

8. Prepare and disseminate surveillance information, in collaboration with CDC, through presentation and publication in appropriate forums.

9. Propose an evaluation strategy and collaborate with CDC to assess the effectiveness and efficiency of the surveillance system to monitor the health risks of the high-risk prenatal population.

10. Describe potential plans, or the feasibility and capability, for linking of the prenatal information with birth certificates and the general plan for using such information.

B. CDC Activities

1. Collaborate in the design of standardized data items, definitions, procedures, and methods to collect the desired surveillance information. Projects funded through this cooperative agreement that involve collection of information from ten or more individuals will be subject to review under the Paperwork Reduction Act.

2. Provide training in the appropriate skills to develop, manage, and implement the surveillance project.

3. Coordinate all facets of project activities with participating States and with appropriate CDC staff and consultants.

4. Provide technical support for data processing or assist State participants in developing appropriate data-processing capabilities.

5. Assist States to analyze, interpret, and utilize the surveillance data to improve the coverage, targeting, and effectiveness of State interventions toward reducing pregnancy-related health risks.

6. Collaborate with the recipients in preparing and presenting program-relevant surveillance findings to appropriate State and national audiences.

7. Collaborate with the recipient to evaluate the effectiveness and efficiency of the surveillance system to monitor and intervene upon the health risks of high-risk prenatal populations.

Evaluation Criteria

Review of the applications for the Pregnancy Nutrition Surveillance System will be evaluated and priorities for funding based on the following factors and point system:

A. Project Design (60 points)

1. The applicant's understanding of what surveillance data will be needed and how they will be used in evaluating and planning pregnancy risk-reduction activities.

2. The adequacy of describing characteristics of the target population, participating programs and clinics, and, if relevant, the existing or planned health information data collection system into which PNSS will be incorporated (e.g., WIC certification data system).

3. The adequacy of procedures for selecting the target population, the extent to which information will be collected on the initial prenatal and subsequent postpartum visit, and the ability to consolidate information collected into a single record for analysis.

4. The availability of Statewide data, such as 100 percent of all clinics of the WIC Program and, where feasible, including multiple program sources of data (e.g., WIC, prenatal clinics, Medicaid).

5. The specificity with which the roles and responsibilities of participating units of the State health department are described in relationship to: Project management; design of instruments; data collection, analysis, interpretation and dissemination; and enlisting the support of local health departments/agencies.

6. The adequacy of proposed data management procedures to assure data quality (e.g., ensuring data completeness, training of personnel, validating the quality of data, data entry, and editing).

7. The adequacy of procedures for designing, implementing, and debugging the surveillance system. This includes the feasibility of the proposed time schedule for designing, pretesting, and evaluating the surveillance system within the first year.

8. The adequacy of the applicant's plans to analyze the data on a timely basis and to share the data with CDC for providing national estimates.

9. The adequacy of the applicant's plans to apply surveillance findings to the planning and evaluation of intervention activities.

10. The appropriateness of goals and objectives as well as timeliness stated in the overall plan.

11. The appropriateness of the proposed budget to the stated activities.

B. Capability (25 points)

1. The extent and appropriations of previous efforts to monitor health risks

of prenatal, pediatric and other high risk populations which utilized similar systems and data collection methods, such as the Pregnancy Risk Assessment Monitoring System (PRAMS), the Pediatric Nutrition Surveillance System (PedNSS), or other Statewide surveillance systems.

2. The evidence of strong working relationships with the organizational entities involved with this project.

3. The experience of the proposed project staff in developing and implementing similar surveillance systems, as well as in analyzing data and using findings in evaluating and planning program activities.

4. The qualifications and time allocations of key staff and the availability of equipment and facilities to be used during the project.

C. Commitment (10 points)

1. An organizational alignment conducive to accomplishing the stated objectives, including written commitments from the appropriate organizational entities responsible for MCH and WIC activities, State vital records, State data processing, and other organizational units that would be expected to support activities related to the surveillance system.

2. Evidence of intent to expand and refine the system and to assume the costs of the program in the future.

D. Potential for Public Health Impact (5 points)

1. Evidence that the State has a high rate of nutrition and behavioral health risks associated with low birthweight and infant mortality.

2. Evidence of State health department plans to improve the outcome of pregnancy through intervention programs to reduce risk factors occurring during pregnancy, and of the State health department's ability to develop, implement, evaluate, and use surveillance activities to support effective program interventions.

E.O. 12372 Review

Applications are not subject to review as governed by Executive Order 12372, entitled "Intergovernmental Review of Federal Programs."

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.283.

Application Submission and Deadline

The original and two copies of the application must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305 on or before July 28, 1989.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely application.

2. Late Application: Applications that do not meet the criteria in 1. a or b above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, and an application package may be obtained from Carole J. Tully, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, (404) 842-6511 or FTS 236-6511.

Please refer to Announcement Number 944 when requesting information and submitting an application.

Technical assistance may be obtained from Colette Zyrkowski, Division of Nutrition, Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control, Mail Stop A-42, 1600 Clifton Road, NE., Atlanta, Georgia 30333, (404) 639-3075 or FTS 236-3075.

Dated: July 17, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89-17108 Filed 7-20-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89N-0305]

Animal Drug Export; Tilmicosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: TheFood and Drug Administration (FDA) is announcing that Elanco Products Co., Division of Eli Lilly & Co., has filed an application requesting approval for export to Canada of the animal drug tilmicosin.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any furture inquiries concerning the export of animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Beverly E. Bartolomeo, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2855.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Elanco Products Co., Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, has filed an application requesting approval for export to Canada of the animal drug tilmicosin. The drug is intended for the treatment of bovine respiratory disease caused by organisms sensitive to tilmicosin.

The application was received and filed in the Center for Veterinary Medicine on July 10, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions

may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by July 31, 1989, and to provide an additional copy of the submission directly to the countact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: July 17, 1989.

Robert C. Livingston,

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

[FR Doc. 89-17115 Filed 7-20-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89P-0222]

Liquid Eggs Deviating From the Standard of Identity; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Crystal Foods, Inc., to market test experimental packs of liquid eggs, designated as "ultrapasteurized liquid whole eggs" and "ultrapasteurized liquid whole eggs with citric acid," products that are not provided for by the U.S. standard of identity for liquid eggs (21 CFR 160.115). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0324.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Crystal Foods, Inc., 6465 Wayzata Blvd., Minneapolis, MN 55426.

The permit covers interstate marketing tests of liquid whole eggs and liquid whole eggs with citric acid. The test products deviate from the U.S. standard of identify in § 160.115 (21 CFR 160.115) because they are processed by a special procedure that involves increased heat treatment combined with aseptic processing and packaging. The purpose of the special process is to (1) render the eggs products free of *Salmonella* and *Listeria monocytogenes*, (2) substantially reduce the number of spoilage bacteria in the liquid whole eggs and liquid whole eggs with citric acid, (3) prevent postprocess contamination of the products, and (4) obtain a shelf life greater than four weeks under refrigeration. Citric acid is added at a level of 0.15 percent to preserve color.

The products will be identified as "ultrapasteurized liquid whole eggs" or "ultrapasteurized liquid whole eggs with citric acid." The package labeling will declare the term "keep refrigerated" and will include a "use by date" statement to indicate extended shelf life under refrigeration.

The permit provides for the temporary marketing of a total of 200 million pounds of the egg products to be packaged in 2.2-and 5-pound-size packages. The test products will be produced and packaged at Crystal Foods, Inc., Gaylord, MN 55334, and will be distributed throughout the continental United States.

Each of the ingredients used in the food will be stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than October 19, 1989.

Dated: July 14, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-17116 Filed 7-20-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0227]

Health Omnibus Extension Act; Establishment of Clinical Trial Data Bank

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of a Data Bank of information on clinical trials related to Human Immunodeficiency Virus (HIV), the etiological agent for Acquired Immune Deficiency Syndrome (AIDS). This Data Bank was established pursuant to the Health Omnibus Programs Extension Act of 1988, enacted on November 4, 1988, which requires that sponsors of clinical trials submit information to the Data Bank when a trial to test efficacy begins. FDA is also announcing its interpretation of when a trial to test efficacy begins for the purpose of determining when a sponsor must submit certain information to the Data Bank. Sponsors may also voluntarily submit information to the Data Bank earlier in the clinical development process. The information in this Data Bank became available to the public through this computerized system on July 17, 1989.

DATE: The Data Bank was established on July 17, 1989.

ADDRESSES: For the submission of information for the Data Bank contact: Janet B. Arrowsmith, FDA AIDS Coordination Staff, Food and Drug Administration (HFB-5), 5600 Fishers Lane, Rockville, MD 20857; 301-443-0104.

To access the information in the Data Bank by telephone: 1-800-TRIALS-A (1-800-874-2572).

For information on accessing the information in the Data Bank by computer, or to request an application packet, telephone the MEDLARS Management Section at the National Library of Medicine (NLM), at 1-800-638-8480, or 1-301-496-6193 in Maryland. For current users of NLM's computer system, no additional application is needed; access the data base by entering: File AIDSTRIALS.

FOR FURTHER INFORMATION CONTACT: *Regarding the collection of information for the Data Bank:* Janet B. Arrowsmith, FDA AIDS Coordination Staff (HFB-5), Food and Drug Administration, Rm. 12A-40, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0104.

For information regarding this notice: Andrea Chamblee, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION:

Introduction

The Health Omnibus Programs Extension Act of 1988 (the Act) Pub. L. 100-607) was enacted on November 4 1988. The new Act contains amendments to the Public Health

Service (PHS) Act. New section 2317 of the PHS Act specifies that the Secretary of Health and Human Services shall establish a program of information services to disseminate information on research, treatment, and prevention of HIV. The program is to be coordinated and integrated among the agencies in the Department of Health and Human Services. The Act provides that certain information on AIDS-related clinical trials be made available to the public through a Data Bank of information on clinical trials with respect to infection with HIV, the etiologic agent for AIDS (42 U.S.C. 300cc-17(d)). The Data Bank is a central resource providing current information on clinical trials to persons infected with HIV, health care providers, researchers, and other members of the public. In particular, the Data Bank contains a list of clinical trials of experimental treatments for AIDS and related illnesses, a description of the purpose of the experimental drug protocol, eligibility criteria for patients, and the location of clinical trial sites. The Data Bank will be available through a free telephone hotline with trained operators responding to callers (1-800-TRIALS-A). This Data Bank expands upon information regarding Federally-sponsored AIDS-related clinical trials made available by the National Institutes of Health's Institute for Allergy and Infectious Diseases (NIAID). Later this summer, the information will also be available through a directly accessible online data base on the NLM computer system. This service is a PHS project sponsored by FDA and NIAID, in cooperation with the Centers for Disease Control.

Prior to passage of this new legislation, information about investigational drugs was considered confidential unless the sponsor of the drug agreed to disclosure of the information (21 CFR 312.130(a) and 601.50). The new Act requires the release of specified information regarding HIV-related clinical trials conducted under FDA's investigational new drug (IND) regulations (21 CFR Part 312), including information about trials begun before enactment of the new Act.

Access to the Data Bank

The information in the Data Bank became available to the public through this computerized system on July 17, 1989. Experienced health information specialists, contacted at the toll-free number, can provide callers with free information on AIDS and AIDS-related clinical trials currently underway. The information used by the information specialists is updated every week. Callers can receive this information immediately over the telephone; or, upon request, callers can also obtain a free printout of a custom search of the clinical trials data base. The printout will be mailed in an envelope marked only with a return post office box, city, and state.

The information in the Data Bank will also be available as the Aids Clinical Trials data base (called AIDSTRIALS) to subscribers of the NLM computer system later this summer. The charge for the use of this system, provided in cooperation with NLM, will range from approximately $17 to $25 per hour, depending on the time of day. The system will be available 24 hours per day, 7 days per week except for a brief daily maintenance period. Users will be able to access the system with a terminal or a computer with a modem. The search results may be obtained directly by use of a printer attached to the terminal or computer, or by requesting that the search results be mailed to them. The printout will be delivered in an envelope marked with NLM's return address. For information about the NLM system, or to obtain an application with an access code, call NLM's MEDLARS Management Section at 1-800-638-8480, or 1-301-496-6193 in Maryland.

Obligations of IND Sponsors

On March 1, 1989, and April 24, 1989, FDA sent letters to sponsors who hold applications (IND's) for products related to the prevention and treatment of HIV infection. The letters informed sponsors of the requirement that they submit specific information concerning these clinical trials to the Data Bank. FDA is issuing this notice in part to advise those who did not receive either of these letters, such as potential sponsors of AIDS-related clinical trials, of the requirements of the new Act. These two letters are available for public inspection between the hours of 9 a.m. and 4 p.m. at the Dockets Management Branch, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20852.

The new Act requires that sponsors submit information to the Data Bank on the purpose of each experimental protocol to be listed in the registry, the eligibility criteria and the location of clinical trial sites. The information must be forwarded to the Data Bank within 21 days after the start of a trial to test efficacy. FDA is encouraging sponsors to voluntarily submit information to the Data Bank earlier in the clinical development process. Both the information released voluntarily and the information required by the new Act should be submitted to the FDA AIDS Coordination Staff at the address above. A copy of the information should be submitted to the sponsor's IND file at the same time.

The Data Bank will include the following information: the name of the drug; the name and address of the sponsor; a contact person and telephone number; the protocol title; the purpose of the protocol; the eligibility criteria; the trial sites; and whether the trial is currently enrolling patients. In addition, if a sponsor chooses to release additional information such as the trial's duration, need for inpatient hospitalization, and expected patient accrual, such additional information may be accommodated by the Data Bank. Sponsors may also release the name, address, and telephone number of the investigators at each of the trial sites.

The new Act also specifies that the Data Bank include information regarding HIV-related treatments available under an IND application for a treatment use. If a sponsor consents, the Data Bank shall include additional information on the results of clinical trials of such treatments, including information concerning toxicities or adverse effects associated with the use or administration of such treatments. FDA will discuss the information to be included in the Data Bank with the sponsor at the time of treatment IND approval.

FDA has recently reviewed all protocols of clinical trials for AIDS-related illnesses to determine which protocols meet the criteria for a trial for efficacy. For each identified AIDS-related protocol, FDA requested the sponsor to identify an employee (an FDA AIDS liaison) as liaison to the FDA AIDS Coordination Staff. The sponsor should also designate an employee (either the FDA AIDS liaison or another employee) to respond to inquiries from the public (such as consumers, health care providers, and researchers) regarding the information included in the Data Bank.

Definition of an Efficacy Trial

The sponsor may consent to list information in the Data Bank on clinical trials conducted under an AIDS-related IND by contacting the FDA AIDS Coordination Staff at the address above. When a sponsor has not consented to list a particular trial, the information on that trial must nevertheless be listed with FDA determines a trial to test efficacy has begun. Because not all trials conducted pursuant to 21 CFR Part 312 are trials to test efficacy, FDA has developed a statement of policy for guidance in determining which trials are

"efficacy trials" under the Health Omnibus Programs Extension Act.

FDA will consider a trial to be a trial to test efficacy if the trial is not on clinical hold and is:

1. A trial identified in an End-of-Phase I Conference, as defined in 21 CFR 312.82(b) (see 53 FR 41516; October 21, 1988) or in an End-of-Phase 2 Conference (21 CFR 312.47(b)(1)) as one whose design is such that it could be considered adequate and well controlled, and which, alone or in conjunction with other studies or data, may be used in support of product approval, or

2. a. A trial in which the end points for analysis are ones that are generally accepted as demonstrating effectiveness, and that may be sufficient to demonstrate clinical benefit, alone or in conjunction with data from other sources, and

b. The trial is one whose design is such that it could be considered adequate and well controlled, and

c. The trial is one that initially appears to be of a sufficient size to support a claim of efficacy.

The determination to list a trial in the Data Base is not a guarantee that the trial design will be considered adequate to support approval of a drug, nor does the determination reflect any judgment on the adequacy of the conduct, analysis, or outcome of the study.

Dated: July 15, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-17117 Filed 7-20-89; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Institute; Amended Meeting

Notice is hereby given to amend the meeting notice for the meeting of the National Committee to Review Current Procedures for Approval of New Drugs for Cancer and AIDS which was published in the Federal Register (52 FR 11447) on March 20, 1989.

The meeting of September 13 originally scheduled in Wilson Hall, Building 1, will now be held in Conference Room E, 3rd Floor, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m.

Dr. Elliott H. Stonehill, Assistant Director, National Cancer Institute, 9000 Rockville Pike, Building 31, Room 11A29, National Institutes of Health, Bethesda, Maryland 20892 (301/496-1148) will provide agenda details, transcripts or summaries of the meetings and rosters of the Committee members upon request.

Dated: July 13, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-17085 Filed 7-20-89; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of Board of Scientific Counselors, Division of Cancer Prevention and Control

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, October 12-13, 1989, Building 31, "C" Wing, 6th Floor, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public on October 12 from 8:30 a.m. to recess and on October 13 from 8:30 a.m. to adjournment to discuss administrative details and for the discussion and review of concepts and programs within the Division. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892-3100 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Other information pertaining to this meeting can be obtained from the Executive Secretary, Linda M. Bremerman, National Cancer Institute, Executive Plaza-North, Room 318, National Institutes of Health, Bethesda, Maryland 20892 (301-496-8526), upon request.

Dated: July 13, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-17086 Filed 7-20-89; 8:45 am]

BILLING CODE 4140-01-M

Office of Human Development Services

Agency Information Collection Under the Office of Management and Budget OMB Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for an information collection approval for individualized habilitation plans for developmentally disabled individuals under the Developmental Disabilities Assistance and Bill of Rights Act.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to Justin Kopca, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, Room 3208, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Individualized Habilitation Plan

OMB No: 0980-0139

Description: Section 123 of the Developmental Disabilities Assistance and Bill of Rights Act states that the Secretary shall require, as a condition of receiving a State grant under Part B of the Act, that the State must have in effect for each person with developmental disabilities who receives services under the Act, a habilitation plan.

Annual Number of Respondents: 60,000

Annual Frequency: 1

Average Burden Hours Per Response: 8

Total Burden Hours: 480,000

Dated: July 17, 1989.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 89-17123 Filed 7-20-89; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on Friday, July 7, 1989.

(Call Reports Clearance Officer on 202-245-2100 for copies of package)

1. Good Manufacturing Practice Regulations for Medicated Feeds—0910-0152—Medicated feeds are given to food producing animals for disease prevention, treatment, and to improve productive performance. Compliance with Good Manufacturing Practices (GMP's) provides assurance that feeds will be safe, effective, and not cause unsafe residues in the edible products of treated animals. *Respondents:* Farms, businesses or other for-profit, small businesses or organizations. *Number of Respondents:* 28,500; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 18.18 hours; *Estimated Annual Burden:* 518,165 hours.

2. Reporting and Recordkeeping Requirements for Low-Acid and Acidified Canned Food Processors, 21 CFR Parts 108, 113, and 114—0910-0036—Under the Food, Drug and Cosmetic Act, FDA is charged with prevention of interstate distribution of food which is potentially hazardous to the public health. The information to be recorded is essential to provide assurance that every container of low-acid and acidified food receives a process which renders the food safe from micro-organisms of public health concerns. *Respondents:* Businesses or other for-profit, small businesses or organizations.

	Number of respondents	Number of hours per response	Number of responses per respondent
Notification of spoilage process deviation/contamination 21 CFR 108.25(d) & (e)	42	.25	3
Maintenance of Records 21 CFR 108, 113, 114	4,196	250	1

Estimated Annual Burden.....1,049,032 hours

Note: Information collection burden for process filing under 21 CFR 108.35(c)(2)(ii) is separately approved under OMB No. 0910-0037.

3. Birth Defects and/or Adverse Reproductive Outcome Surveillance—0920-0010—CDC uses this surveillance of adverse pregnancy outcomes as an important tool in learning about the causes of congenital malformations and other neonatal conditions, in assessing the role played by suspected agents, and in evaluating the effectiveness of control programs for those defects and diseases for which preventive techniques are available. *Respondents:* Individuals or households. *Number of Respondents:* 1,785; *Number of Responses per Respondent:* 1.22; *Average Burden per Response:* .81 hours; *Estimated Annual Burden:* 1,769 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-17154 Filed 7-20-89; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-030-09-4322-02]

Carson City District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice of meeting.

SUMMARY: The Carson City District Grazing Advisory Board will meet at 10:00 a.m. on Thursday, September 14, 1989 at the Carson City District Office Conference Room, 1535 Hot Springs Road, Ste #300, Carson City, Nevada.

The primary topics will be the FY 1989 Rangeland Improvement Projects, Allotment Management Plans, status of the Land Use Plans and proposed military land withdrawals.

FOR FURTHER INFORMATION CONTACT: Andy Anderson, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Ste #300, Carson City, Nevada, 89706 (702) 885-6141.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral or file written statments for the board's consideration.

James W. Elliott,

District Manager, Carson City District.

[FR Doc. 17149 Filed 7-20-89; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Endangered Species; Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-738210

Applicant: Zoo Atlanta, Atlanta, GA.

The applicant requests a permit to import one male captive-born black rhinoceros (*Diceros bicornis*) from Zoo Dvur Kralove in Czechoslovakia for the purposes of propagation and exhibition. Zoo Atlanta possesses one female black rhinoceros.

PRT-738193

Applicant: Tracy Aviary, Salt Lake City, UT.

The applicant requests a permit to import one pair of captive-born white eared pheasants (*Crossoptilon crossoptilon*) from Harry Hardy, South View Aviaries, Burnaby, B.C. Canada, for the purposes of enhancement of propagation and survival of the species through breeding and educational display.

PRT-739431

Applicant: Chicago Zoological Park, Brookfield, IL.

The applicant requests a permit to import blood samples taken from capitive-held specimens of spider monkeys (*Ateles geoffroyi frontatus*) and (*A.G. panamensis*) from Central and South American Zoos for the purpose of scientific research.

PRT-737125

Applicant: John Sutterlin, Auburn, WA.

The applicant requests a permit to import seven capitive-born white eared pheasants (*Crossoptilon crossoptilon*) from Harry Hardy, South View Aviaries, Burnaby, B.C. Canada, for the purpose of enhancement of propagation.

PRT-739484

Applicant: Cincinnati Zoo, Cincinnati, OH.

The applicant requests a permit to import two captive-born male Temminck's golden cats) *Felis temmincki*) from the Royal Melbourne Zoological Gardens, Australia for the purposes of exhibition, education, propagation, and research.

PRT-739005.

Applicant: Duke University Primate Center, Durham, NC.

The applicant requests a permit to import 1 male and 2 female wild caught blue-eyed lemurs (*Lemur macaco*

flavifrons) for the purpose of propagation. The animals will be taken from an area threatened by slash and burn agriculture near the village of Antanandava, Madagascar.

PRT-739641

Applicant: Duke University Primate Center, Durkam, NC.

The applicant requests a permit to import 2 male and 1 female wild caught red-bellied lemurs (*Lemur rubriventer*) for the purpose of propagation. The animals will be taken from areas in Madagascar where their habitat has been disturbed.

PRT-739316

Applicant: Sparks Nugget Inc., Sparks, NV.

The applicant requests a permit to purchase in interstate commerce one female captive-bred Asian elephant (*Elephas maximus*) born 13 December 1988, from Roman P. Schmitt, Inc., Tampa, FL, for the purposes of exhibition and conservation education.

PRT-738971

Applicant: Siegfried & Roy Enterprises, Las Vegas, NV.

The applicant requests a permit to import from Japan and reexport a total of five male and one female captive-born white tigers (*Panthera tigris*) born in Japan to white tigers owned by Siegfried & Roy. The tigers will be imported and reexported several times during their lifetimes for the purpose of enhancement of the survival of the species through conservation education. This amends a previous notice of receipt of application PRT-738971 to export 3 male tigers.

PRT-739706

Applicant: Roger Bringas, Hollwood, CA.

The applicant request a permit to import 5 female and 5 male captive-born scarlet-chested parakeets (*Neophema splendida*) and 5 female and 5 male captive-born turquoise parakeets (*Neophema pulchella*) from Mr. Roger De Coppel, Belgium and Mr. Emil Antonin, West Germany for breeding purposes.

PRT-739682

Applicant: New York Blood Center, New York, NY.

The applicant requests a permit to import blood and tissue biopsy samples taken from chimpanzees (*Pan troglodytes*) being held at the Liberian Institute for Biomedical Research, Robertsfield, Liberia, for purposes of scientific research

PRT-739665

Applicant: National Zoological Park, Washington, DC.

The applicant requests a permit to import two captive-born male golden lion tamarins (*Leontopithecus rosalia*) from the Twycross Zoo, East Midland Zoological Society, Atherstone, Warwickshire, England, and reexport the tamarins to Brazil for reintroduction purposes.

PRT-739656

Applicant: Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to import two male white tigers (*Panthera tigris*) from Germany, where they were born to applicant's tigers currently touring that country. The tigers will be imported and then subsequently exported and reimported for purposes of display and breeding.

PRT-739360

Applicant: Exotic Animals, Tarzana, CA.

The applicant requests a permit to export one captive-born female white tiger (*Panthera tigris*) cub to the Bahamas for educational purposes in a magic act. During the day the tiger will be housed at the Ardastra Gardens and Zoo, Nassau, Bahamas.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.), Room 432, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203-3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: July 18, 1989.

R.K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-17155 Filed 7-20-89; 8:45 am]

BILLING CODE 4310-55-M

Availability of Draft Recovery Plans for the Colorado Squawfish, Humpback Chub, and Bonytail Chub for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of draft recovery plans for the Colorado squawfish (*Ptychocheilus lucius*), humpback chub (*Gilacypha*), and bonytail chub (*Gila elegans*). These endangered fish species occur in the Colorado River system. The Service solicits review and comment from the public on these draft plans.

DATE: Comments on the draft recovery plans must be received on or before September 19, 1989 to receive consideration by the Service.

ADDRESS: Persons wishing to review the draft recovery plans may obtain copies by contacting: Chief, Division of Endangered Species and Environmental Contaminants (Mail Stop 60153), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, 303/236-7398 or (FTS) 776-7398. Written comments and materials regarding the plans should be addressed to: Chief, Division of Endangered Species and Environmental Contaminants, at the mailing address given above. Comments and materials received will be made available on request for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service's Regional Office located at 134 Union Boulevard, Suite 405, Lakewood, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Endangered Species and Environmental Contaminants, at the mailing address shown above, 303/236-7398 or (FTS) 776-7398.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems 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, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) 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 a public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The original recovery plan for the Colorado squawfish was approved on March 16, 1978. The original recovery plan for the humpback chub was approved on August 22, 1979, and revised on May 15, 1984. The original recovery plan for the bonytail chub was approved on May 16, 1984. These documents were updated recently by the Colorado River Fishes Recovery Team. Drafts were sent out for technical review by species experts and revised accordingly. The humpback chub and bonytail chub plans were also reviewed by State and Federal agencies, and revised accordingly.

Recovery efforts for the Colorado squawfish will focus on maintaining naturally self-sustaining populations in the Upper Colorado River Basin in major portions of the Green, Yampa, White, and Colorado Rivers; ensuring the threat of siginficant habitat fragmentation is removed; and legally protecting essential habitats, primary migration routes, required streamflows, and necessary water quality. Recovery efforts for the humpback chub will be directed toward protecting or restoring five viable, self-sustaining populations in sections of the Little Colorado, Colorado, Yampa, and Green Rivers, and protecting these populations' habitat. Recovery efforts for the bonytail chub will concentrate first on preventing extinction in the wild, then afterwards on high priority recovery sites which may include the Green, Yampa, Colorado, and San Juan Rivers, and Lake Mohave.

Implementation of the recovery tasks identified in the recovery plans will depend upon the commitment and capability of public and private entities with the authority and resources to help these species. The Department of the Interior, Western Area Power Administration, the States of Colorado, Utah, and Wyoming, conservation organizations, and water development groups are presently committing $2.3 million/year to a 15-year "Recovery Implementation Program" that will be the primary vehicle for implementing recovery tasks for these endangered big-river fishes of the Upper Colorado River Basin. A similar cooperative interagency plan is being drafted for the endangered big-river fishes of the Lower Basin. When completed, it will be the primary mechanism for implementing the recovery plans in the Lower Basin.

Public Comments Solicited

The Service solicits written comments on the recovery plans described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 14, 1989.

Galen L. Buterbaugh,

Regional Director.

[FR Doc. 89-17110 Filed 7-20-89; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1; Sub 198X]

Chicago & North Western Transportation Co., Abandonment Exemption in Brown, Watonwan, and Cottonwood Counties, MN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Chicago and North Western Transportation Company of 11.2 miles of rail line in Brown, Watonwan, and Cottonwood Counties, MN, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 22, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by July 31, 1989, petitions to stay must be filed by August 7, 1989, and petitions for reconsideration must be filed by August 17, 1989. Requests for a public use condition must be filed by July 31, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-1 (Sub-No. 198X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

and

(2) Petitioner's representative: Mack H. Shumate, Jr., Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD service at (202) 275-1721.)

Decided: July 14, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-17143 Filed 7-20-89; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88-95]

Russell J. Leonard; Notice of Hearing

Notice is hereby given that on September 12, 1988, the Drug Enforcement Administration, Department of Justice, issued to Russell J. Leonard, M.D., Sewanee, Tennessee, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AL8420109, and deny any pending applications for renewal.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in

this matter will be held on Tuesday, July 18, 1989, commencing at 10:00 a.m., at the United States District Court, 800 United States Courthouse, 801 Broadway, Courtroom 874, Nashville, Tennessee.

Dated: July 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-17118 Filed 7-20-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-96]

Sewanee Pharmacy; Notice of Hearing

Notice is hereby given that on September 14, 1988, the Drug Enforcement Administration, Department of Justice, issued to Sewanee Pharmacy, Sewanee, Tennessee, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, BSO473518, and deny any pending applications for renewal.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing have been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, July 18, 1989, commencing at 10:00 a.m., at the United States District Court, 800 United States Courthouse, 801 Broadway, Courtroom 874, Nashville, Tennessee.

Dated: July 12, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-17119 Filed 7-20-89; 8:45 am]

BILLING CODE 4410-09-M

Myong S. Yi, M.D.; Revocation of Registration

On June 5, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Myong S. Yi, M.D. of 581 Northrop, Las Vegas, Nevada 89119, proposing to revoke his DEA Certificate of Registration, AM1617806, and to deny any pending applications for the renewal of such registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Yi's lack of authorization to handle controlled substances in the State of Nevada. 21 U.S.C. 824(a)(3).

The Order to Show Cause was sent to Dr. Yi by registered mail and was returned to DEA unclaimed with a notation that Dr. Yi had moved and left no forwarding address. Both DEA and the Nevada State Division of Investigation made numerous attempts to locate Dr. Yi, and have determined that his whereabouts are unknown. It is quite evident that Dr. Yi is no longer practicing medicine at the address listed on his DEA Certificate of Registration. The Administrator concludes that considerable effort has been made to serve Dr. Yi with the Order to Show Cause without success. Consequently, the Administrator now enters his final order in this matter based on the investigative file.

The Administrator finds that by order dated October 28, 1988, the Nevada State Board of Medical Examiners revoked Dr. Yi's license to practice medicine in the State of Nevada, thereby terminating his authority to prescribe, dispense, administer or otherwise handle controlled substances in the State of Nevada. The Administrator concludes that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 823(f). The Administrator and his predecessors have consistently so held. See, *Clifford E. Bigott, D.M.D.*, Docket No. 88-24, 53 FR 28711 (1988); *Howard J. Reuben, M.D.*, 52 FR 8375 (1987); *Ramon Pla, M.D.*, Docket No. 86-54, 51 FR 41168 (1986); and cases cited therein.

Having considered the facts and circumstances in this matter, the Administrator concludes that Dr. Yi's DEA Certificate of Registration should be revoked due to his lack of authorization to handle controlled substances in the State of Nevada. Accordingly, the Administrator of the Drug Enforcement Administrator, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that DEA Certificate of Registration, AM1617806, previously issued to Myong S. Yi, M.D., be, and it hereby is, revoked. The Administrator further orders that all pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective July 21, 1989.

John C. Lawn,

Administrator,

Dated: July 13, 1989.

[FR Doc. 89-17120 Filed 7-20-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/

ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration

Alien Labor Certification State Agency Transmittal of Application and Processing Record

1205-0182; ETA 4748; one per application.

State or local governments; Federal agencies or employees; 64,000 respondents; 19,200 total hours; 18 minutes per response; 1 form. The ETA 4748 is used by State and local employment service offices, and DOL regional offices, to facilitate case control and processing, assist in certification determinations and provide data for program MIS.

Interstate Claims Bypass Data Exchange

1205-0189, weekly; Monthly.

State or local governments; 53 respondents; 748 total hours; 16 minutes per response; no forms. The Interstate Claims Bypass Data Exchange provides for the exchange of interstate claims counts and claimant characteristics among the States. This data is necessary to the operation of the Interstate Benefit Program and is needed for the ETA 5-39, ETA 5-159 and ES 203 reports. This exchange does not involve the collection of any new data.

Signed at Washington, DC this 17th day of July, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89-17126 Filed 7-20-89; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

Job Corps Advisory Committee; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary has determined that renewal of the Job Corps Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department.

The Committee will advise the Assistant Secretary of Labor for Employment and Training on such matters as improvements to the Job Corps performance management system and to the programmatic areas it encompasses. Secondarily, it is to advise the Department on matters pertaining to the Job Corps program performance standards. The Committee's scope of activity is consideration of and recommendations concerning all matters involved in the operation of Job Corps training centers and other closely related activities including outreach, screening, and placement functions.

The Committee shall consist of 13 members: 8 contractors who operate Job Corps Centers to represent the viewpoint of such contractors, 2 Federal Government members (one each from the Departments of Agriculture and the Interior, which also operate Job Corps Centers), 1 member of a local Private Industry Council, (PIC) to represent the viewpoint of PICs, 1 representative from a building trades training organization to represent the viewpoint of such organizations, and 1 former Job Corps participant to represent the program's trainees.

Other than the two Federal Government members, the members shall not be compensated and shall not be deemed to be employees of the United States.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the establishment of the Job Corps Advisory Committee. Such comments should be addressed to: Mr. Peter E. Rell, Director, Office of Job Corps, U.S. Department of Labor, ETA, 200 Constitution Ave., NW., Room N-4510, Washington, DC 20210. Telephone: (202) 535-0550.

Signed at Washington, DC, this 17th day of July 1989.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 89-17127 Filed 7-20-89; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Meeting

The National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee

Date and Time: August 11, 1989 from 1:00 pm to 10:00 pm; August 12, 1989 from 9:00 am to 3:00 pm

Place: Engineering Center, Room CR 1-42, The University of Colorado, Boulder, Colorado.

Type of Meeting: Open

Contact Person: Karl A. Erb, Program Director for Nuclear Physics, National Science Foundation, Washington, DC 20550, (202) 357-7993

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of the Energy on scientific priorities within the field of basic nuclear science research.

Agenda: Consideration of Long Range Plan Scientific Priorities; Presentation of Charge to NSAC concerning RHIC construction within the context of the continuing DOE Program; Response to Charge

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-17009 Filed 7-20-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of Vermont Yankee Nuclear Power Station located in Windham County, Vermont.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would change the Technical Specifications to eliminate the present requirements to test the remaining train(s) of the ECCS and SLC systems repeatedly on a daily basis when one train has a component out of service. The licensee proposes that the ECCS and the SLC systems be deemed operable when the remaining train is tested within 24 hours and on a monthly basis thereafter, rather than on a daily basis. The licensee's application for amendment is dated December 7, 1987, with clarifying information provided July 15, 1988, and June 8, 1989.

The Need for the Proposed Action

The proposed change will contribute to an increase in the ECCS and SLC system reliability and thereby enhance safety, while reducing unnecessary wear on equipment.

Environment Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications. The proposed revision would allow the licensee to eliminate the present requirements to test the remaining train(s) of ECCS and SLC systems daily when one train has a component out of service. The licensee submitted a probablistic analysis which quantified the unavailability of the subject systems, comparing the currently required test frequency with the proposed test frequency. Under the proposed test frequency, the predicted unavailability of the systems was reduced by at least a factor of 3. The staff has reviewed the licensee's analysis and has determined that it is valid and conservative. The staff concludes that this change will enhance SLC and ECCS system reliability and, therefore, does not adversely affect operation or increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, nor should there be any increase in the allowable individual or cumulative occupational radiation exposure as a result of this proposal. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact not already considered in the NRC-approved Final Environmental Statement (FES) July 1972.

With regard to potential nonradiological impacts, the proposed change involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on January 26, 1988 (53 FR 2114).

In response to the notice of opportunity for hearing, two petitioners (the State of Vermont and the Commonwealth of Massachusetts) filed requests for a hearing and petitions to intervene. Subsequently, however, the two Intervenors and the Applicant filed a joint motion to withdraw the contention and to dismiss the proceeding.

The Atomic Safety and Licensing Board appointed to deal with the proceeding issued a Memorandum and Order dismissing the proceeding on May 23, 1989. No other request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and could result in reduced ECCS and SLS system reliability and unnecessary equipment wear.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station dated July 1972.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environment assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated December 7, 1987 and clarifying letters dated July 15, 1988 and June 8, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Local Public Document Room, Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Dated at Rockville, Maryland, this 17th day of July 1989.

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Director, Project Directorate I-3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-17156 Filed 7-20-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Maintenance Practices and Procedures; Meeting

The ACRS Subcommittee on Maintenance Practices and Procedures will hold a meeting on August 8, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, August 8, 1989—8:30 a.m. until 1:00 p.m.

The Subcommittee will review policy statement and draft regulatory guide.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone: 301/492-7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting

are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: July 17, 1989.

Gary R. Quittschreiber,

Chief Project Review Branch No. 2.

[FR Doc. 89-17165 Filed 7-20-89; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 832; Docket No. C89-3]

Complaint of Advo-System, Inc.; Order on Filing of Complaint of Advo-System, Inc.

Issued July 17, 1989.

On July 10, 1989, Advo-System, Inc. (Advo) filed a complaint pursuant to 39 U.S.C. 3662 alleging that the current classification and rates for bulk third-class regular rate local saturation mail (described by Advo at pp. 11-12 of the Complaint) do not conform to Postal Reorganization Act policies because they do not adequately reflect the low-cost and price-sensitive demand characteristics of this mail. Concurrently, Advo filed a separate but related petition for initiation of a mail classification proceeding to consider new subclasses of third-class bulk rate mail. Advo requests a Commission determination that its complaint is justified, institution of proceedings in conformity with section 3624 of the Act and issuance of a decision recommending to the Governors of the Postal Service the creation of a new subclass within third-class mail for local saturation mail, either addressed or unaddressed. In addition, Advo says the Commission should authorize and establish procedures for consideration of contract rates and take such further action as may be necessary to provide appropriate relief, including the initiation of a mail classification proceeding and a rulemaking proceeding to amend the Commission's rules of practice and procedure. Complaint at 1 and 13-14.

Basis of the complaint. Advo states that the basis of its complaint is that the existing third-class classification and rate schedules do not properly reflect "the significant cost and demand differences that exist between and among the component parts of the third-class mailstream." *Id.* at 2. In support of its position, Advo presents recent postal cost and revenue data which it says demonstrate the unfairness of the existing classification and rates, as between carrier route bulk rate regular (BRR) mail and other BRR mail (the combined categories of five-digit and basic-rate or "all other" mail), asserts that carrier route mail produces the entire BRR subclass contribution to institutional costs and further claims that a disproportionate share of the carrier route contribution comes from allegedly low-cost price-sensitive local saturation mail.

Advo says that local saturation mail differs from other mail in the BRR subclass (both non-carrier route mail and some carrier route mail) in terms of cost-causing operational needs (such as transportation and number of handlings) and intrinsic competitive market and demand characteristics. It says:

> As elements of a single subclass, these cost and demand differences are averaged together for purposes of establishing rates. The result is inequitable and economically inefficient pricing that overcharges the lowest-cost, most price-senstive segments of the third-class mailstream and underprices the higher-cost portions of BRR mail. Accordingly, the current classification and rates for this mail violate the policies established in section 101(d), 3621, 3622(b) and 3623(c)(1) of the Postal Reorganization Act to establish fair and equitable mail classifications and rates.

Id. at 5.

Advo says the inequity of "averaged-cost pricing" is illustrated by the large cost differential that is not reflected in presort discounts and that deficiencies in the worksharing discount approach mean that the low-cost attributes of local saturation mailings cannot adequately be reflected in additional discounts of that type. *Id.* at 6-7.

Based on these assertions and data and its interpretation of the Commission's discussion of the Donnelley *et al.* carrier route subclass proposal in Docket No. R87-1, Advo claims that its local saturation subclass proposal is an appropriate (non-exclusive) remedy and satisfies the Commission's subclass criteria.

In light of Commission rule 84 (39 CFR § 3001.84), which allows thirty days for the answer to the complaint, the Postal Service's answer to the complaint is due by August 9, 1989. *It is ordered:*

(1) The Postal Service's answer to the Complaint of Advo-System, Inc. is to be filed by August 9, 1989.

(2) Stephen A. Gold, Director of the Office of the Consumer Advocate, is appointed to represent the interests of the general public.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 89-17103 Filed 7-20-89; 8:45 am]

BILLING CODE 7715-01-M

[Docket No. MC89-1]

Advo Local Saturation Subclass Proposal; Filing of Petition of Advo-System, Inc. for Initiation of Mail Classification Proceeding to Consider New Subclasses of Third-Class Bulk Rate Mail

Issued July 17, 1989.

Notice is hereby given that on July 10, 1989, Advo-System Inc. (Advo), pursuant to § 3623 of title 39, United States Code, filed a petition with the Postal Rate Commission requesting that the Commission institute a mail classification proceeding to consider establishment of a subclass of third-class bulk rate mail for local saturation mail. The petition was filed concurrently with a Complaint of Advo-System, Inc., which has been assigned Docket No. C89-3 and is the subject of a separate Commission Notice and Order.[1]

In its petition for a mail classification proceeding, Advo specifically requests the Commission to consider and recommend (1) a subclass for addressed saturation mail, or (2) a subclass for unaddressed saturation mail. It notes that the relief it seeks is limited to the establishment of a new subclass for this mail and that the rates that would attach to the subclass could be determined in a subsequent rate proceeding.[2]

Advo's petition describes proposed eligibility criteria for both subclass alternatives; asserts (referencing its accompanying Complaint) that establishment of a new subclass for local saturation mail is consistent with the criteria of the Postal Reorganization Act and is necessary for closer alignment of classifications and rates with the cost and demand characteristics of this mail; and identifies certain additional advantages of its unaddressed subclass alternative.

A service list will be prepared for this docket. Persons wishing to be included on it should contact Charles L. Clapp, Secretary of the Commission, 1333 H Street, NW., Suite 300, Washington, DC, 20268-0001.

[1] Advo served its petition and complaint on the Docket No. R87-1 service list.

[2] Advo states that its petition and the subclass proposal included therein, which is also a remedy set forth in its complaint, are not dependent upon a finding that the existing classification and rates do not conform to the policies of the Postal Reorganization Act. Instead, Advo maintains that the issue in the instant docket is whether the proposed subclass satisfies the statutory criteria for subclass treatment.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 89-17104 Filed 7-20-89; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27030; File No. SR-Phlx-89-11]

Self-Regulatory Organization; Philadelphia Stock Exchange, Inc., Order Approving Proposed Rule Change Relating To Responsibility of Specialists To Display Best Bids and Officers

On March 23, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Phlx Options Floor Procedure Advice ("OFPA") A-1 relating to the responsibility of specialists to display the best bids and offers.

The proposed rule change was noticed in Securities Exchange Act Release No. 26900 (June 7, 1989), 54 FR 25525 (June 15, 1989). No comments were received on the proposed rule change.

Currently, pursuant to Phlx OFPA A-1, a specialist shall use due diligence to ascertain that the best bid and offer for an option on his book is displayed. A specialist also shall use due diligence to ascertain that the best bid and offer in the trading crowd is displayed, but only when requested to do so.

The proposed amendment to OFPA A-1 will require a specialist to use due diligence to ensure, rather than ascertain, that the best available bid and offer is displayed for those option series in which he is assigned. Pursuant to the proposed rule change, bids and offers are deemed available for display purposes when they are bids and offers for the specialist's own account, bids and offers on the book, and bids and offers established in the trading crowd.

The Phlx states that the proposed rule change is designed to promote fair competition among brokers and dealers and the practicability of brokers executing investors' orders in the best market by clarifying the responsibility of Exchange specialists to display the best bids and offers available on the floor, regardless of whether those bids and offers are from a member in the crowd, an order on the book, or for the specialist's own proprietary account. The Phlx also suggests that the proposed rule change will protect investors and promote the public interest by assuring that best bid and offer quotations are displayed on the options and foreign currency options floor, regardless of the source.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder. More specifically, providing that a specialist shall use due diligence to ensure that the best available bid and offer is displayed for those option series in which he is assigned, whether such bids and offers are for the specialist's own account, on the book, or established in the trading crowd, will facilitate the protection of options investors and promote the public interest by serving to ensure that investors' orders are executed at the best possible quoted price. In addition, inclusion of crowd orders in the display of the best bid and offer will provide more information to market participants off the trading floor, thereby facilitating fair and orderly options trading. Finally, obligating Exchange specialists to use due diligence to ensure, rather than ascertain, that the best available bid and offer is displayed is consistent with the specialists' marketmaking obligations under Section 11(b) of the Act.[3]

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

Dated: July 13, 1989.

[FR Doc. 89-17091 Filed 7-20-89; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] 15 U.S.C. 78k(b) (1982).

[4] 15 U.S.C. 78s(b)(2) (1982).

[5] 17 CFR 200.30-3(a)(12) (1988).

[Rel. No. 34-27033; File No. SR-Phlx-89-03]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Enhancement of AUTOM

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 26, 1989, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange 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 Philadelphia Stock Exchange ("PHLX" or the "Exchange"), pursuant to Rule 19b-4, hereby submits as a proposed rule change a procedure to enhance the Exchange's Automated Opitions Market ("AUTOM") system, which is an electronic delivery system of small options orders to the PHLX trading floor, by installing an automatic execution feature on a pilot basis until June 30, 1990. Also, the Exchange proposes to make day limit orders eligible for delivery through the system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments if received on the proposed rule change. The text of these statements may be examined at the places specified in Items IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, or the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

On March 31, 1988, the Commission filed an order granting accelerated approval of SR-PHLX-88-10, a proposed rule change establihsing AUTOM on a pilot basis for market orders [1] of up to 5 contracts, all exercise prices in the near month, for 12 PHLX equity options until June 30, 1988.

On June 30, 1988, the Commission approved SR-PHLX-88-22 and authorized an expansion of AUTOM to 37 PHLX equity options and an

[1] A market order is an order to buy or sell a stated amount of a security at the most advantageous price obtainable after the order is represented in the trading crowd.

extension of the pilot through December 31, 1988.

On December 13, 1988, the Commission approved SR-PHLX-88-33 to make orders in all exercise prices for all expiration months for the 37 options approved for the pilot eligible to be handled by AUTOM and to increase eligible order size for AUTOM to 10 contracts. At the same time, the Commission approved an extension of the pilot until June 30, 1989.

On February 3, 1989, the Commission approved SR-PHLX-89-01 to extend the AUTOM pilot until December 31, 1989 and to expand the pilot to include an additional 25 equity options, increasing to 62 the number of equity options that would be permitted to be traded in the AUTOM pilot.

Manual AUTOM Execution Procedures

A member organization wishing to use the AUTOM system must designate an AUTOM floor representative on the options floor, which representative is responsible for reviewing all AUTOM activity for accuracy and completeness.

Currently, all eligible orders delivered electronically to the options floor of the Exchange through AUTOM are executed manually. Every eligible order electronically delivered to the options floor through AUTOM is printed in hard copy form at the floor representative booth of the delivering member organization and show to the trading crowd on a display screen with buy/sell information omitted.[2] Simultaneously, the order is printed in hard copy form at the specialist post. The order is executed manually in accordance with the rules of the Exchange, like any other order, with interaction between all interests, including the specialist, limit order book and the trading crowd. Upon execution of the order, the contra-side(s) prepares a ticket evidencing participation in the transaction. The hard copy of the AUTOM order which is printed at the specialist post is matched with the contra-side buy/sell ticket(s) and essential trade information (*i.e.*, number of contracts, symobl, price, buyer/seller) and clearing information is entered into the Exchange's CENTRAMART system [3] for comparison and settlement purposes, which entry immediately generates a hard copy floor confirmation to the floor represenatives for the buyer and seller and also generates a report to the Options Price Reporting Authority ("OPRA"). A report of such execution is electronically returned to the delivering member organization. Finally, a report of the execution is immediately printed in hard copy form at the floor representative booth of delivering member organizations.

The AUTOM floor representative, having received a copy of the incoming order, a copy of the Exchange floor confirmation and a copy of the execution report which was sent to the member organization which delivered the order, matches the informaiton for accuracy. If the information is incorrect or deficient in any way, it is corrected.

The contra-side of the transaction matches the information contained on the contra-side ticket with the Exchange floor confirmation for accuracy. If the information is incorrect or deficient in any way, it is corrected.

Shortly after the close of trading, every member which transacted business in options during the course of the day receives a complete summary of all transactions affected as well as a record of any changes made to such information during the course of the day. All transactions are checked for accuracy by the AUTOM floor representative and contra-side against the terms of the order. If the information is incorrect or deficient in any way, it is corrected. When the check-out process has been completed, all transaction information is transmitted to the Options Clearning Corporation ("OCC") for clearance and settlement.

Automatic AUTOM Execution Procedures

The Exchange now proposes to further enhance the AUTOM system by installing an automatic execution feature for certain eligible market and marketable limit orders [4] as well as making day limit orders [5] eligible for delivery through the system. It is proposed that such automatic execution feature operate on a pilot basis for 12 PHLX equity options until June 30, 1990.

Automatic execution will apply to market orders and marketable limit orders of up to 10 contracts in at the money options, the next strike price higher and the next strike price lower (*i.e.*, three strike prices, all expirations). All other eligible market orders, marketable limit orders and day limit orders delivered to the Exchange through the AUTOM system will be executed manually.

Only single orders of up to 10 contracts will be eligible for delivery and automatic execution through the AUTOM system. For example, a retail user of the AUTOM system may not break up a 20 contract order into 2 orders for the purpose of attempting to make such order eligible for delivery through the system.

Only customer (*i.e.*, agency) orders will be eligible for automatic execution. Orders identified as "firm" or "market maker" and those identified as required to yield priority, parity and precedence pursuant to SEC rules are not eligible for automatic execution through the AUTOM system.

Market orders received by the specialist through the AUTOM system before 9:25 AM shall participate in the opening and shall be manually executed at the price of the opening sale. Market orders received by the specialist after 9:25 AM and prior to the opening sale shall participate in the opening and shall be manually executed at the price of the opening sale, provided such opening sale shall take place at a time which would reasonably include such orders; otherwise they shall be executed upon completion of opening rotation.[6]

Limit orders received by the specialist through the AUTOM system before 9:25 AM shall participate in the opening and shall be manually executed at the price of the opening sale if they are so entitled based upon price and the size of the bid which is accepted or size of the offer which is taken establishing the opening price. Limit orders received by the specialist after 9:25 AM and prior to the opening sale shall participate in the opening and shall be manually executed at the price of the opening sale if they are so entitled based upon price and the size of the bid which is accepted or size of the offer which is taken establishing the opening price, provided such opening sale shall take place at a time which would reasonably include such

[2] For example, an order to buy 4 XYZ AA at the market is displayed as 4 XYZ AA MKT.

[3] CENTRAMART is the Exchange system used for quote dissemination, trade reporting and clearing information.

[4] A marketable limit order is an order to buy or sell a stated amount of a security as a specified price, if obtainable, after the order is represented in the trading crowd, entered at a time when the market is trading at or better than the specified price.

[5] A day limit order is an order to buy or sell a stated amount of a security at a specified price. A day limit order expires at the end of the day on which it is entered if it is not executed.

[6] A trading rotation is a procedure initiated by the Exchange in order to aid in producing a fair and orderly market in a particular option. It generally consists of a series of brief time periods during each of which bids, offers and transactions may be made only with respect to a single, specified series of the option for which it was initiated. During a trading rotation (which typically takes several minutes to conduct, but may at times take a substantially longer period), customer orders already on the trading floor may be executed, but it may be difficult or impossible for new customer orders to be executed or for pending customer orders to be executed.

orders; otherwise they shall be executed upon completion of opening rotation.

All AUTOM orders received prior to the opening will be printed and displayed at floor locations as previously described. When manually executed during rotation, such executions are printed, confirmed on the floor and reported to OPRA as previously described.

Orders eligible for automatic execution receive a guaranteed execution at the market quote. In the case of an automatic execution, the specialist is the contra-side of all trades although he must ensure participation of bids and offers on the limit book and in the trading crowd which are entitled to executions under the Exchange's rules of priority, parity and precedence.

Upon the completion of rotation, markets (*i.e.*, bids and offers) will be reviewed by the specialist and updated as necessary after which the automatic execution feature of the AUTOM system will be engaged. Thereafter, market orders and marketable limit orders which were delivered through the AUTOM system during the rotation process but were not entitled to be executed at the opening will be executed automatically, if entitled, based upon the displayed bid and offer. Similarly, orders subsequently received which are eligible for automatic execution will be executed based upon the displayed bid and offer. Away from the market day limit orders subsequently received will be entrusted to the specialist for execution on a manual basis.

When the automatic execution feature is engaged, an imcoming eligible market order will: be printed in hard copy form at the floor representative booth of the delivering member organization; be shown on the trading crowd display screen with buy/sell information omitted; be printed in hard copy form at the specialist post; automatically be priced at the displayed bid or offer, as appropriate; automatically be executed at the assigned price with the specialist being contra-side; automatically be reported to OPRA; immediately generate a hard copy floor confirmation to the floor representative of the delivering firm; and, automatically be reported back to the delivering member organization. An incoming eligible marketable limit order priced at the offer, if an order to buy, or priced at the bid, if an order to sell, will be handled in the same fashion.

Upon execution of the order, the contra-side prepares a ticket evidencing participating in the transaction. The hard copy of the AUTOM order which is printed at the specialist post is matched with the contra-side buy/sell ticket(s) and essential trade information is entered into the Exchange's CENTRAMART system for comparision and settlement purposes, which entry immediately generates a hard copy floor confirmation to the floor representative for the buyer and seller and also generates a report to OPRA. A report of such execution is electronically returned to the delivering member organization. Finally, a report of the execution is printed in hard copy form at the AUTOM floor representative's booth of the delivering member organization.

The trade checking process for automatic executions is the same as those previously described.

The automatic execution feature of the AUTOM system will remain in continuous operation during the trading day absent operational failure, trading halts, or trading suspensions in underlying securities, and would be disengaged only in the interest of maintaining a fair and orderly market and investor protection. If a situation arose that necessitated disengaging the automatic execution feature in a specific options class, two floor officials would have to concur. Before the automatic execution feature could be disengaged floorwide during a trading day, the Exchange's Emergency Committee [7] would have to determine that such action was necessary to maintain fair and orderly markets or protect investors. Similarly, before a decision could be made not to activate the automatic execution feature in a given options class two floor officials would have to concur that such action was appropriate to ensure fair and orderly markets and investor protection; before a decision could be made not to activate the automatic execution feature floorwide, the Emergency Committee would have to concur that such action was appropriate to ensure fair and orderly markets and investor protection.

The Exchange believes expansion of the AUTOM system to include certain limit orders and an automatic execution feature will permit it to offer a level of service prospective users will require, while remaining competitive with other markets.[8]

[7] The Emergency Committee consists of the Exchange's Chairman, President, and Chairmen of the Floor Procedure, Options and Foreign Currency Options Committees.

[8] For example, the Chicago Board Options Exchange ("CBOE") and American Stock Exchange ("AMEX") have small order execution systems for options.

The Exchange has received insignificant order flow through AUTOM and it does not foresee any significant taxing of the Exchange's computer systems if the Commission approves the expansion of the pilot as proposed herein.

Because the purpose of the development and implementation of AUTOM is to improve the efficiency of execution of transactions in PHLX equity options through the use of new data processing and communications techniques, the proposed rule change is consistent with Section 11A(a)(1)(B) and (C)(i) of the Securities Exchange Act of 1934 ("Act"). In addition, the proposal fosters "fair competition * * * among exchange markets" consistent with Section 11A(a)(1)(C)(ii) of the Act in that other options exchanges currently have in place Commission approved automatic execution features in their small options order delivery systems. The proposal is also consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from 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 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 11, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 13, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-17092 Filed 7-20-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 14, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No.: 46391

Date Filed: July 10, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 7, 1989

Description: Application of Trans-Jamaican Airlines, Limited pursuant to section 402 of the Act and Subpart Q of the Rules of Practice applies for a foreign air carrier permit to enable it to engage in scheduled and charter foreign air transportation of persons, property and mail as follows:

(a) From Jamaica via intermediate points in Haiti and the Dominican Republic to San Juan, Puerto Rico.

(b) Such off-route charter authority as may be permitted under Part 212 of the Department's Economic Regulations.

Docket No.: 46392

Date Filed: July 10, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 7, 1989

Description: Application of Challenge Air Cargo, Inc. pursuant to section 401 of the Act and Subpart Q of the Rules of Practice applies for amendment of its certificate of public convenience and necessity to authorize it to engage in the foreign scheduled air transportation of property and mail between points in the United States, or any territory or possession of the United States, and any point or points in the following additional countries:

France
Trinidad and Tobago
Ecuador
Paraguay
Luxembourg
Bolivia
Dominican Republic
Suriname
Uruguay
Haiti
United Kingdom
Jamaica
Shannon, Ireland
Norway
The Netherlands
Belgium
Federal Republic of Germany
Grenada
Guyana
Barbados
St. Maarten/St. Martin
Guadaloupe
Martinique
Switzerland
Spain
Sweden
Denmark

Docket No.: 46393

Date Filed: July 14, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 11, 1989

Description: Application of Discovery Airways, Inc. pursuant to section 401 of the Act and Subpart Q of the Rules of Practice request that it be found fit, willing and able to provide service between the islands of the State of Hawaii.

Docket No.: 45288

Dated Filed: July 14, 1989

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 11, 1989

Description: Third Amended Application of Servicios De Transportes Aereos Fueguinos, S.A. pursuant to section 402 of the Act and Subpart Q of the Rules of Practice requests a foreign air carrier permit to operate non-scheduled, including charter, property and mail in air service between Miami, Florida and points in Argentina, with Asuncion, Paraguay as an intermediate point, for not more than three (3) frequencies per week.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-17139 Filed 7-20-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 89-055]

Study of the Use of Vessel Tonnage in U.S. Laws and Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meetings and request for comments.

SUMMARY: The Coast Guard is conducting public meetings and requesting comments as part of a Congressionally mandated study. The purpose of the study is to assess the impacts should Congress decide to eliminate the present regulatory tonnage measurement option for vessels of 79 feet or more in length and to require tonnages determined under the International Convention for the Tonnage Measurement of Ships, 1969, (Tonnage Convention) to be used in applying all Federal laws and regulations based on vessel tonnage. In addition, the study is to determine what changes would be needed throughout tonnage laws and regulations to minimize adverse impact on the maritime industry in the event Tonnage Convention measurement is required for all regulatory applications. Information received at the public meetings or during the comment period will be used in preparing recommendations on this subject for Congress.

DATES: Public meetings will be held at the following locales:

Cleveland, Ohio: Tuesday, August 22, 1989, 10:00 a.m. to 5:00 p.m., Anthony Celebrese Federal Bldg., Auditorium (31st floor), 1240 E. 9th St., Cleveland, Ohio

Miami, Florida: Thursday, August 31, 1989, 10:00 a.m. to 5:00 p.m., Marriott

Hotel and Marina, 1633 N. Bayshore Drive, Miami, Florida (Tel: (305) 374-3900))

San Diego, California: Tuesday, September 12, 1989, 10:00 a.m. to 5:00 p.m.; Ramada Inn-Old Town, 2435 Jefferson St., San Diego, CA. (Tel: (619) 260-8500))

Seattle, Washington: Thursday, September 14, 1989, 10:00 a.m. to 5:00 p.m.; Seattle Airport Hilton, 17620 Pacific Hwy. S., Seattle, WA. (Tel: (206) 244-4800))

Boston, Massachusetts: Tuesday, September 19, 1989, 10:00 a.m. to 5:00 p.m., All Hands Club, U.S. Coast Guard Support Center, 427 Commercial Street, Boston, MA. (no parking available)

New Orleans, Louisiana: Tuesday, September 26, 1989, 10:00 a.m. to 5:00 p.m.; Holiday Inn-French Quarter, 124 Royal St., New Orleans, LA. (Tel: (504) 529-7211))

Persons who are unable to attend one of the above public meetings or who otherwise choose to submit their comments in writing should submit their written comments on or before October 27, 1989.

ADDRESSES: Written comments should be mailed to the Tonnage Survey Branch (G-MVI-5), Room 1316, U.S. Coast Guard Headquarters, 2100 Second St., Washington, DC 20593-0001, (202) 267-2992. Comments should identify this notice (CGD 89-055) and the sector of the maritime community that the person making the comments represents. Between the hours of 8:00 a.m. and 3:00 p.m. Monday through Friday, except holidays, written comments may be hand-delivered to, and are available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph T. Lewis, Chief, Tonnage Survey Branch (G-MVI-5), Office of Marine Safety, Security and Environmental Protection, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-2992, between 7:30 a.m. and 3:45 p.m. EST Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Background

(1) *Use of Tonnage.* Since 1864, U.S. vessels have been "admeasured" to determine their tonnage capacities under a system devised by George Moorsom, a British naval architect. The Moorsom system was a significant improvement over the many different systems used around the world. It became the international standard for ship measurement. It provided for a gross tonnage and a net tonnage calculated in "tons" of 100 cubic feet. Gross tonnage was intended to reflect a measure of a vessel's size; net tonnage was intended to reflect a vessel's earning capacity. Gross tonnage has been used extensively for triggering various domestic and international laws and regulations which have thresholds based on vessel tonnage. Net tonnage has been used, among other things, as a base for collecting tonnage taxes on vessels entering from abroad and for establishing pilot fees and drydocking charges.

(2) *Factors affecting tonnage accuracy.* The 1864 Moorsom system was designed around 19th century sailing vessel technology. Because of subsequent advances in ship design, propulsion systems, and construction materials, the Moorsom system's rules were subjected to frequent modification. These adjustments had a negative impact on the accuracy of tonnage. For instance, there is no limitation in the 1864 law on the size of hull frames and floors. This enables designers to reduce substantially the measurable volume within the hull by selectively increasing frame sizes, while retaining the utility of the space. Other means employed to reduce tonnage include the construction of shelter deck vessels (in which between-deck areas are not included in tonnage because of an opening in a vessel's uppermost deck) and the use of "tonnage openings" (that legally may be secured) in deck structures. Water ballast spaces and passenger spaces above a vessel's upper deck are other methods used legally to reduce tonnage.

(3) *Early attempts at uniformity.* Within fifty years of the Moorsom system's inception, it became apparent that this once universally applied system had become so variously interpreted by so many nations that gross and net tonnages derived under that system could not be accepted as reasonable gauges of a vessel's size or earning capacity. The need for a universally applied and meaningful tonnage measurement system was recognized by the League of Nations in the 1920's. Their recommendations culminated in an international measurement system under the 1947 Oslo Convention. The United States, then the major shipping influence, declined to join that system because of that convention's inflexible amendment structure. The "Oslo Rules" took root only in a small number of European nations.

(4) *1969 Tonnage Convention.* In 1963, the Intergovernmental Maritime Consultative Organization (now called the International Maritime Organization) undertook to establish an internationally accepted tonnage measurement system for vessels engaging on international voyages. The result was the adoption of the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage Convention), which is a much simpler, yet more reliable, system. The Tonnage Convention entered into force internationally on July 18, 1982. The United States ratified the Convention in November 1982 and it took effect for U.S. vessels on May 5, 1983. Its rules require measuring the molded volumes of a vessel's hull and its structures. These volumes are then modified by a coefficient that takes into account normal vessel framing and ballasting (among other things) to establish a gross tonnage. Net tonnage is based on cargo and passenger space volumes. The much simpler Tonnage Convention system enables a ship designer to estimate accurately a vessel's Convention tonnage while calculating its stability data. Since 1983, the Coast Guard has applied the 1969 Convention Measurement System to new U.S. vessels of 79 feet and longer engaged on a foreign voyage.

(5) *Experience gained from Convention measurement.* Experience gained since the 1983 application of Convention Measurement to vessels 79 feet or more engaged on a foreign voyage indicated to Congress that this new system could be equally effective for measuring vessels operating domestically and that the need to measure a vessel under distinctly different systems could be eliminated. The problem is in reconciling the tonnage thresholds now found in U.S. laws and regulations with the far more accurate (hence, often higher) tonnages obtained under Tonnage Convention rules.

(6) *Pub. L. 99-509.* The tonnage legislation included in Pub. L. 99-509 (October 26, 1986) addressed the problem of reconciling Convention tonnage with regulatory laws by instituting the first phase of converting to the Convention system as a basis for implementing tonnage-based laws domestically. It required that all new vessels 79 feet and longer (except for vessels of war and Great Lakes vessels) be Convention measured, authorized the Coast Guard to require Convention measurement to be used for the application of domestic laws (with specific exceptions), and provided that all tonnage based laws that become effective after July 18, 1994, should use Convention measurement for applicability determinations. This law did not impose additional regulatory

requirements on existing domestic vessels. In addition, Pub. L. 99–509 required the Coast Guard to conduct a study of the impact of a conversion to the Convention system for the application of all tonnage-based laws and regulations. In conducting the study, the Coast Guard was directed to consult with the private sector likely to be affected by U.S. laws based on tonnage.

(7) *The study.* Pub. L. 99–509 was designed to set in motion a process to determine the extent to which a total conversion to the Convention system domestically would result in additional requirements and costs to the domestic industry. In part by means of the Coast Guard study and recommendations required by section 5103(g) of Pub. L. 99–509, this process was intended to enable Congress to make informed judgments at a future date on the proper timing and extent of converting more completely to the Convention System.

An interim report, entitled "Study of the Use of Vessel Tonnage in U.S. Laws and Regulations—Interim Progress Report," was submitted to Congress in 1988. A copy of this report is available at the address under **FOR FURTHER INFORMATION CONTACT** in this notice. This report indicated that the study will be accomplished in five phases. Phases I through III are complete and include the development of a computer program that identifies tonnage related requirements in laws, regulations, conventions, and treaties and that is capable of grouping these requirements by vessel class. Also, a data base has been established to compare Convention tonnages for vessels in differing services with their tonnages under the Standard and Dual Measurement Systems in 46 CFR 69.03 and 69.15, respectively. Phase IV of the study involves gathering information and recommendations from government and private sector interests involved with vessel tonnage assignments. Input from government interests has been received and is presently being evaluated by the Coast Guard. To complete phase IV, input from the private sector is now being solicited. Phase V will identify problem areas, examine potential solutions, include recommendations, and produce a final study for submission to Congress.

Scope of the Public Meetings and Comments

To maximize and encourage input from the private sector, the Coast Guard is holding six public meetings in locales selected for regional diversity and maritime interest. In addition, the Coast Guard is soliciting written comments from those unable to attend one of the meetings or those who otherwise prefer to submit their comments in writing.

The scope of the six public meetings and the comments submitted is limited to subject matter relating to the Coast Guard study being conducted under section 5103(g) of Pub. L. 99–509. That section directs the Secretary of Transportation (Coast Guard) to submit to Congress by July 19, 1990, a study of—

(1) The impact of using Convention tonnage when applying U.S. laws based on tonnage, including an analysis of the number and types of vessels that would become subject to additional laws or to more stringent requirements because of the use of Convention tonnage; and

(2) The extent to which the tonnage thresholds in U.S. laws based on tonnage would have to be raised so that additional vessels would not become subject to those laws if Convention tonnage is used.

After consideration of the comments received at the six public meetings and those received by the Coast Guard in writing, the Coast Guard is required to submit to Congress, together with the study, a recommendation of the levels to which the tonnage thresholds in U.S. laws based on tonnage should be raised if a complete conversion to the Conversion System is made.

Suggested Topics and Questions for Discussion at Public Meetings and in Written Comments

In addition to establishing the Convention System as the primary measurement system for vessels 79 feet or more in length, Pub. L. 99–509 also allows vessel owners the option of having their vessels measured also under the regulatory measurement systems (Standard or Dual Measurement Systems) for the purpose of applying laws and regulations based on vessel tonnage. In providing this option, Congress intended to avoid subjecting additional vessels to these laws and regulations or increasing the regulatory burden on these vessels currently regulated. Congress also recognized that a more complete conversion to the Convention System should be considered because multiple systems lead to confusion and unnecessary design and construction costs. For example, if the optional regulatory measurement systems, which allow vessels to be designed around various exclusions to reduce their tonnage, were eliminated, vessel owners would be free to focus their design efforts on structural strength, accessibility, and watertight integrity, rather than on design schemes intended solely to reduce tonnage. In turn, the design, construction, and operating costs relating to tonnage reduction schemes would be eliminated.

However, if Congress were to convert completely to the Convention System for all vessels of 79 feet or more in length (vessels under 79 feet would be measured under the Simplified system), Congress intends that such a conversion should have minimal adverse affect on vessel owners. This means that all Federal laws and regulations which use vessel tonnage as a threshold may have to be amended to raise the threshold level or to use a parameter other than tonnage, as a threshold. Determining the impacts of this conversion and the resulting changes needed to Federal laws and regulations based on tonnage is the reason for this study and for the six public meetings.

Preliminary review of the data compiled to date indicates that more than 100 provisions in Federal laws and over 800 provisions in Federal regulations use vessel tonnage as a regulating parameter. The threshold levels used vary greatly. For instance, 33 different gross tonnage levels and 7 net tonnage levels are used. Within Coast Guard regulations alone, thresholds of 50, 100, 150, 200, 300, 400, 500, 1,000 and 1,600 gross tons are used.

Preliminary information also suggests that the vessels most affected by tonnage laws and regulations appear to be small passenger vessels, oil and mineral industry vessels, and fishing vessels. In general, these vessels range in size from 79 feet to as much as 250 feet in length. (Operators of larger vessels usually must meet all vessel inspection and vessel manning requirements for their vessels even if they resort to regulatory tonnage measurement.) For example, passenger vessels frequently are designed to avoid certain Coast Guard safety regulations in Subchapter H of 46 CFR, Chapter I. Passenger vessels of up to 250 feet in length have been measured at less than 100 gross tons under the regulatory system to qualify as a small passenger vessel but measure as much as 2,354 gross tons under the Convention system. Statistics indicate that the preponderance of small passenger vessels measure about 800 Convention gross tons or less. Oil and mineral industry vessels of up to 220 feet are designed to avoid a 300 regulatory ton threshold or, in some cases, a 500 regulatory ton threshold. Statistics indicate that the average oil and mineral industry vessel would measure less than 1,600 Convention gross tons. Our data also indicates that fishing industry vessels upwards of 200 feet in length frequently are designed to avoid a

variety of tonnage thresholds (100, 200, 300, 500, and 1,600 regulatory gross tons) which affect safety and manning requirements.

Under these and similar circumstances, the following questions should be considered:

(1) Should the tonange threshold for regulating small passenger vessels be increased from 100 regulatory to 800 Convention gross tons, as discussed above? If not, what level would be appropriate, and why?

(2) If Convention tonnage thresholds were substituted for regulating small passenger vessels, what related laws and regulations would also be affected? Should those regulating tonnages also be adjusted?

(3) Should the threshold in the law governing inspection of offshore supply vessels be increased from 500 to 1,600 Convention gross tons, as discussed above? If not, what level would be appropriate, and why?

(4) If Convention tonnage thresholds were substituted for regulating offshore supply vessels, what related regulations would also be affected? Should those regulating tonnages also be adjusted?

(5) If Convention tonnage thresholds were substituted for regulating fishing industry vessels, what related regulations would also be affected? Should those regulating tonnages also be adjusted, and why?

(6) If regulatory tonnage was fully replaced by Convention tonnages, what other type vessels would be affected and how would they be affected? How many? What proportion of the industry's fleet?

(7) Recognizing that laws governing the licensing of personnel and the assigning of manning requirements for vessels are governed by tonnage thresholds, what thresholds should be adjusted to reflect Convention tonnages?

(8) How do the additional costs (e.g. construction, operating, personnel) required in designing vessels around tonnage thresholds compare with the costs for complying with safety and other regulatory requirements?

(9) What specific regulatory recommendations or solutions do you suggest that might help to eliminate the use of the old systems without unduly altering the scope of present regulating criteria?

(10) What specific tonnage thresholds in U.S. laws and regulations based on tonnage would have to be raised so that additional vessels would not become subject to those laws if Convention tonnage is used?

(11) Are there tonnage thresholds in U.S. laws and regulations based on tonnage that should be lowered or eliminated?

(12) If you believe that Convention tonnage cannot effectively replace regulatory tonnage or is inappropriate in general or for specific applications, what other type of regulating parameter or combinations of parameters (length, horsepower, displacement tonnage, deadweight tonnage, etc.) do you suggest?

(13) What impacts do you perceive if vessels of 79 feet and longer that operate exclusively on the Great Lakes become subject to Convention measurement?

(14) If there is cause to formally measure vessels under 79 feet, is there any reason for not applying Convention measurement to these vessels?

Comments and remarks on other topics and questions within the scope of the study are welcome. Written comments should be sent to the address listed in the **ADDRESSES** section of this notice. All comments received at the public meetings and all comments submitted in writing on or before the close of the comment period will be considered fully before completion of the study.

Dated: July 17, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-17142 Filed 7-20-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 17, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0153
Form Number: None.
Type of Review: Extension
Title: Appraisal of Property Upon Transfer to Other Real Estate Owned/ Instructions to Appraiser
Description: This recordkeeping requirement affects any national bank which acquires title to or possession of Other Real Estate Owned (OREO). The required records substantiate the carrying value of OREO in conformity with generally accepted accounting principles. This provides for more meaningful bank financial statement depictions and comparisons.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Recordkeepers: 3,195
Estimated Burden Hours Per Recordkeeper: 4 hours
Frequency of Response: Recordkeeping
Estimated Total Reporting Burden: 12,804 hours
OMB Number: 1557-0154
Form Number: None
Type of Review: Extension
Title: Investment in Bank Premises or Stock of a Corporate Holding Premises
Description: This regulation prescribes procedures necessary for a national bank to comply with statutory restrictions on its investment in bank premises. National banks wishing to invest an amount greater than its capital stock must obtain the Comptroller's approval under 12 U.S.C. 371d.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 533
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: When investment in excess of statutory limits are desired.
Estimated Total Reporting Burden: 533 hours
Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.
OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 89-17106 Filed 7-20-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 17, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0034
Form Number: ATF F 5000.9
Type of Review: Extension
Title: Personnel Questionnaire—Alcohol and Tobacco Products

Description: The information listed on ATF 5000.9, Personnel Questionnaire, enables ATF to determine whether or not an applicant for an alcohol or tobacco permit meets the minimum qualifications. The form identifies the individual, residence, business background, financial sources for business and criminal record. If the applicant is found not to be qualified, the permit may be denied.

Estimated Number of Respondents: 5,000
Estimated Burden Hours Per Response: 2 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 10,000 hours

Clearance Officer: Robert Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 89-17107 Filed 7-20-89; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 17, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8816
Type of Review: New Collection
Title: Special Loss Discount Account and Special Estimated Tax Payments for Insurance Companies

Description: Form 8816 is used by insurance companies claiming an additional deduction under Internal Revenue Code section 847, to reconcile their special loss discount, and special estimated tax payments, and to determine their tax benefit associated with the deduction. The information is needed by the IRS to determine that the proper additional deduction was claimed and to ensure the proper amount of special estimated tax was computed and deposited.

Respondents: Businesses or other for-profit
Estimated Number of Respondents: 2,500
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping—6 hours 42 minutes
Learning about the law or the form—47 minutes
Preparing, copying, assembling, and sending the form to IRS—56 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/Reporting Burden: 21,075 hours

Clearance: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 89-17090 Filed 7-20-89; 8:45 am]
BILLING CODE 4810-25-M

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954]. The list is the same as the prior quarterly list published in the **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954].

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Arab Republic
Yemen, Peoples Democratic Republic of

Date: July 14, 1989.

Kenneth W. Gideon,
Assistant Secretary for Tax Policy.

[FR Doc. 89-17125 Filed 7-20-89; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 139
Friday, July 21, 1989

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).

COMMISSION ON CIVIL RIGHTS

PLACE: University of California at San Francisco Nursing Building, Conference Room N-721/N-729 Third and Parnassus Avenue San Francisco, CA 94143.

DATE AND TIME: Friday, July 28, 1989, 9:00 a.m.—5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of June Meeting
III. Announcements
IV. Resolution on Police Handling of Operation Rescue Protest
V. Consideration of the Draft Report on the Immigration Reform and Control Act
Consideration of the Draft Summary Regarding the Los Angeles Forum, *Changing Perspectives on Civil Rights*
VI. SAC Reports and Recharters
Civil Rights Concerns of Older Americans (Arkansas)
Nativism Rekindled: A Report on the Effort to Make English Colorado's Official Language
Bigotry and Violence in Georgia
Implementation in Texas of the Immigration Reform and Control Act: A Preliminary Review
Minorities and Women in Higher Education in West Virginia and Civil Rights Issues in the Huntington Area
Alabama, Hawaii, and Iowa SAC Recharters
VII. Commission Subcommittee Reports
A. Asian Roundtable
B. Campus Tension
VIII. Staff Director's Report
IX. Future Agenda Items

PERSON TO CONTACT FOR FURTHER INFORMATION: John Eastman, Press and Communications Division, (202) 376-8312.

William H. Gillers,
Solicitor, 376-8514.

[FR Doc. 89-17215 Filed 7-18-89; 5:01 pm]

BILLING CODE 6335-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m, Friday, August 4, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89-17295 Filed 7-19-89; 2:54 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m, Friday, August 11, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89-17296 Filed 7-19-89; 2:54 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 1:00 a.m, Friday, August 18, 1989.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89-17297 Filed 7-16-89; 2:54 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m, Friday, August 25, 1989.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 89-17298 Filed 7-19-89; 2:59 pm]

BILLING CODE 6351-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, July 26, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to Regulations CC (Availability of Funds and Collection of Checks) regarding treatment of bank payable through checks. (Proposed earlier for public comment; Docket No. R-0648)
2. Mid-year review of the Board's 1989 budget.
3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 19, 1989.

William W. Wiles,
Secretary of the Board.

[FR Doc. 89-17219 Filed 7-19-89; 10:16 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:00 a.m., Wednesday, July 26, 1989, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Federal Reserve Bank and Branch director appointments. (This item was previously announced for a closed meeting on July 12, 1989.)
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 19, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17220 Filed 7-19-89; 10:16 am]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [54 FR 29636 July 13, 1989].

STATUS: Open meeting.

PLACE: 450 Fifth Street NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, July 11, 1989.

CHANGES IN THE MEETING: Deletion.

The following item will not be considered at an open meeting on Thursday, July 20, 1989, at 10:00 a.m.

Consideration of whether to issue a release proposing amendments to the Net Capital Rule. Under the Proposed Securities Exchange Act Rule 15c3-1 would be amended to raise the minimum net capital required of registered broker-dealers and to standardize the deductions that broker-dealers incur in arriving at net capital for their equity securities positions. Furthermore, the amendments would establish a haircut for zero coupon bonds and relieve certain aggregate indebtedness charges. For further information, please contact David I.A. Abramovitz at (202) 272-2398.

Commissioner Grundfest, as duty office, determined that Commission business required the above change.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Karen Burgess at (202) 272-2000.

Jonathan G. Katz,

Secretary.

July 19, 1989.

[FR Doc. 89-17280 Filed 7-19-89; 2:30 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 54, No. 139
Friday, July 21, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-88-205]

Shelled Pistachio Nuts; Grade Standards

Correction

In proposed rule document 89-14137 beginning on page 25281 in the issue of Wednesday, June 14, 1989, make the following correction:

On page 25282, in the third column, in § 51.2560, in paragraph (f)(4), in the third line, after "shall" insert "not".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA89-1-15-000]

Mid Louisana Gas Co.; Compliance of Filing

Correction

In notice document 89-16625 beginning on page 29930 in the issue of Monday, July 17, 1989, the Docket No. should read as printed above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ89-3-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff Filing

Correction

In notice document 89-16624 beginning on page 29932 in the issue of Monday July 17, 1989, the Docket No. should read as printed above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM89-3-18-000]

Texas Gas Transmission Corp.; Tariff Filing

Correction

In notice document 89-16607 beginning on page 29932 in the issue of Monday, July 17, 1989, the Docket No. should read as printed above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3706/R1029; FRL-3604-5]

Pesticide Tolerances for 1-[[2-(2,4-Dichlorophenyl)-4-Propyl-1,3-Dioxolan-2-YL]Methyl]-1H-1,2,4,-Triazole and Its Metabolites

Correction

In rule document 89-14683 beginning on page 26043 in the issue of Wednesday, June 21, 1989, make the following corrections:

On page 26044, in the third column, in § 180.434 and on page 26045, in the first column, the expiration dates in the table should read June 21, 1991.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 704

[OPTS-82013; FRL-3601-7]

Comprehensive Assessment Information Rule; Technical Amendment

Correction

In rule document 89-14003 beginning on page 25398 in the issue of Wednesday, June 14, 1989, make the following corrections:

1. On page 25398, in the table in the 1st column, the 18th line should read "920C134 COROCOOL™/ curing agent".
2. On page 25402, in the 1st column, the 42nd line should read "CE-1155-35 Part A".
3. On the same page, in the 1st column, the 58th line should be removed.
4. On page 25403, in the 1st column, the 27th line should read "EN-1554 Part B Black".
5. On page 25406, in the 1st column, the 18th line should read "Fuji CN-16Q NQ1-R Color Developer Replenisher".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

Cancellation of Inactive Domestic Offshore Tariffs

Correction

In notice document 89-16659 beginning on page 29936 in the issue of Monday, July 17, 1989, make the following correction:

On page 29938, in the 1st column, after the 23rd line, insert:

Attachment B--Federal Maritime Commission, Bureau of Domestic Regulation, Office of Carrier Tariffs and Service Contract Operations

Carriers that Failed to Respond to the Notice of Intent to Cancel Inactive Tariffs

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Performance Review Board Appointments

Correction

In notice document 89-15978 appearing on page 28724 in the issue of Friday, July 7, 1989, make the following correction:

1. On page 28724, in the second column, under *Assistant Secretary for Fish and Wildlife and Parks*, the fourth line should read "Jay Gerst, FWS, CA"
2. On the same page, in the same column, under *Office of the Solicitor*, in the second line "(CA)" should read "(NC)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-09-4212-12; A 20346-Q]

Realty Action; Exchange of Public Lands, Pima County, Arizona

Correction

In notice document 89-14863 appearing on page 26432 in the issue of Friday, June 23, 1989, make the following correction:

In the first column, under **Gila and Salt River Meridian, Arizona**, in the eighth line, "sec. 13" should read "sec. 12".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-010-09-4212-13; CA 25406]

Realty Action: Exchange of Public and Private Lands in Placer County, California

Correction

In notice document 89-16195 beginning on page 29109 in the issue of Tuesday, July 11, 1989, make the following correction:

On page 29109, in the second column, under the **DATES** caption, in the last line, the date should read "August 25, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-030-09-4212-13; GP9-259, OR 39525]

Realty Action, Exchange of Public Lands in Malheur County, OR

Correction

In notice document 89-15386 beginning on page 27435 in the issue of Thursday, June 29, 1989, make the following correction:

On page 27435, in the second column, under the first heading **Willamette Meridian**, the fifth line should read, "Sec. 33: W½SW¼", and in the same column under the second heading **Willamette Meridian**, the second line should read "Sec. 11: S½SW¼".

BILLING CODE 1505-01-D

THE PRESIDENT

3 CFR

Proclamation 5997 of July 6, 1989

To Amend the Generalized System of Preferences

Correction

The editorial note appearing on page 29000 in the issue of Tuesday, July 11, 1989, should have referred to Presidential Proclamation 5998 of July 7, 1989, and should have appeared on page 29314 of the issue.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWA-9]

RIN 2120-AD02

Proposed Establishment of the Salt Lake City Terminal Control Area and Revocation of the Salt Lake City International Airport, Airport Radar Service Area; UT

Correction

In proposed rule document 89-14859 beginning on page 26680 in the issue of Friday, June 23, 1989, make the following correction:

§ 71.403 [Corrected]

On page 26685, in the first column, in § 71.403, in the first paragraph, the third line should read "111°58'05" W".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 316, 342, and 351

[Dept. of Treasury Circs. No. 653, Tenth Revision; Public Debt Series No. 3-67, 2nd Rev.; and No. 1-80, 2nd Rev.]

U.S. Savings Bonds and Notes; Tables Reflecting Investment Yields and Maturity Periods

Correction

In rule document 89-9459 beginning on page 15924 in the issue of Thursday, April 20, 1989, and corrected at 54 FR 19486, May 5, 1989, and 54 FR 20476, May 11, 1989, make the following corrections:

The tables appearing on pages 15926 and 15927, and the table beginning at the bottom of page 15928, contained errors and are republished below.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCT 1, 1989

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.			
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
5/52 THRU 5/52	7/1/89	130.97	261.94	523.88	1047.76	2619.40	5238.80	52388.	8.50%	8.25%	8.50%
6/52 THRU 8/52	8/1/89	131.27	262.54	525.08	1050.16	2625.40	5250.80	52508.	8.50%	8.25%	8.50%
9/52 THRU 9/52	5/1/89	127.13	254.26	508.52	1017.04	2542.60	5085.20	50852.	8.50%	8.25%	8.50%
10/52 THRU 10/52	6/1/89	128.73	257.46	514.92	1029.84	2574.60	5149.20	51492.	8.50%	8.25%	8.50%
11/52 THRU 11/52	7/1/89	128.73	257.46	514.92	1029.84	2574.60	5149.20	51492.	8.50%	8.25%	8.50%
12/52 THRU 2/53	8/1/89	129.07	258.14	516.28	1032.56	2581.40	5162.80	51628.	8.50%	8.25%	8.50%
3/53 THRU 3/53	5/1/89	123.06	246.12	492.24	984.48	2461.20	4922.40	49224.	8.25%	8.25%	7.50%
4/53 THRU 4/53	6/1/89	124.58	249.16	498.32	996.64	2491.60	4983.20	49832.	8.25%	8.25%	7.50%
5/53 THRU 5/53	7/1/89	124.58	249.16	498.32	996.64	2491.60	4983.20	49832.	8.25%	8.25%	7.50%
6/53 THRU 8/53	8/1/89	124.88	249.76	499.52	999.04	2497.60	4995.20	49952.	8.25%	8.25%	7.50%
9/53 THRU 9/53	5/1/89	120.94	241.88	483.76	967.52	2418.80	4837.60	48376.	8.25%	8.25%	7.58%
10/53 THRU 10/53	6/1/89	122.48	244.96	489.92	979.84	2449.60	4899.20	48992.	8.25%	8.25%	7.58%
11/53 THRU 11/53	7/1/89	122.48	244.96	489.92	979.84	2449.60	4899.20	48992.	8.25%	8.25%	7.58%
12/53 THRU 2/54	8/1/89	122.80	245.60	491.20	982.40	2456.00	4912.00	49120.	8.25%	8.25%	7.58%
3/54 THRU 3/54	5/1/89	118.95	237.90	475.80	951.60	2379.00	4758.00	47580.	8.25%	8.25%	7.65%
4/54 THRU 4/54	6/1/89	120.45	240.90	481.80	963.60	2409.00	4818.00	48180.	8.25%	8.25%	7.66%
5/54 THRU 5/54	7/1/89	120.45	240.90	481.80	963.60	2409.00	4818.00	48180.	8.25%	8.25%	7.66%
6/54 THRU 8/54	8/1/89	120.77	241.54	483.08	966.16	2415.40	4830.80	48308.	8.25%	8.25%	7.65%
9/54 THRU 9/54	5/1/89	116.97	233.94	467.88	935.76	2339.40	4678.80	46788.	8.25%	8.25%	7.73%
10/54 THRU 10/54	6/1/89	118.52	237.04	474.08	948.16	2370.40	4740.80	47408.	8.25%	8.25%	7.73%
11/54 THRU 11/54	7/1/89	118.52	237.04	474.08	948.16	2370.40	4740.80	47408.	8.25%	8.25%	7.73%
12/54 THRU 2/55	8/1/89	118.81	237.62	475.24	950.48	2376.20	4752.40	47524.	8.25%	8.25%	7.73%
3/55 THRU 3/55	5/1/89	115.04	230.08	460.16	920.32	2300.80	4601.60	46016.	8.25%	8.25%	7.81%
4/55 THRU 4/55	6/1/89	116.55	233.10	466.20	932.40	2331.00	4662.00	46620.	8.25%	8.25%	7.81%
5/55 THRU 5/55	7/1/89	116.55	233.10	466.20	932.40	2331.00	4662.00	46620.	8.25%	8.25%	7.81%
6/55 THRU 8/55	8/1/89	116.85	233.70	467.40	934.80	2337.00	4674.00	46740.	8.25%	8.25%	7.81%
9/55 THRU 9/55	5/1/89	113.18	226.36	452.72	905.44	2263.60	4527.20	45272.	8.25%	8.25%	7.88%
10/55 THRU 10/55	6/1/89	114.70	229.40	458.80	917.60	2294.00	4588.00	45880.	8.25%	8.25%	7.88%
11/55 THRU 11/55	7/1/89	114.70	229.40	458.80	917.60	2294.00	4588.00	45880.	8.25%	8.25%	7.88%
12/55 THRU 2/56	8/1/89	114.99	229.98	459.96	919.92	2299.80	4599.60	45996.	8.25%	8.25%	7.89%
3/56 THRU 3/56	5/1/89	111.37	222.74	445.48	890.96	2227.40	4454.80	44548.	8.25%	8.25%	7.96%
4/56 THRU 4/56	6/1/89	114.50	229.00	458.00	916.00	2290.00	4580.00	45800.	8.25%	8.25%	7.96%
5/56 THRU 5/56	7/1/89	114.50	229.00	458.00	916.00	2290.00	4580.00	45800.	8.25%	8.25%	7.96%
6/56 THRU 8/56	8/1/89	114.75	229.50	459.00	918.00	2295.00	4590.00	45900.	8.25%	8.25%	7.96%
9/56 THRU 9/56	5/1/89	111.13	222.26	444.52	889.04	2222.60	4445.20	44452.	8.25%	8.25%	8.04%
10/56 THRU 10/56	6/1/89	112.42	224.84	449.68	899.36	2248.40	4496.80	44968.	8.25%	8.25%	8.04%
11/56 THRU 11/56	7/1/89	112.42	224.84	449.68	899.36	2248.40	4496.80	44968.	8.25%	8.25%	8.04%
12/56 THRU 1/57	8/1/89	113.08	226.16	452.32	904.64	2261.60	4523.20	45232.	8.25%	8.25%	8.03%
2/57 THRU 5/57	7/1/89	114.62	229.24	458.48	916.96	2292.40	4584.80	45848.	8.25%	8.25%	7.96%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCT 1, 1989

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.			
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
6/57 THRU 6/57	5/1/89	111.49	222.98	445.96	891.92	2229.80	4459.60	44596.	8.25%	8.25%	8.04%
7/57 THRU 7/57	6/1/89	112.77	225.54	451.08	902.16	2255.40	4510.80	45108.	8.25%	8.25%	8.04%
8/57 THRU 11/57	7/1/89	112.77	225.54	451.08	902.16	2255.40	4510.80	45108.	8.25%	8.25%	8.04%
12/57 THRU 12/57	5/1/89	109.70	219.40	438.80	877.60	2194.00	4388.00	43880.	8.25%	8.25%	7.53%
1/58 THRU 1/58	6/1/89	111.00	222.00	444.00	888.00	2220.00	4440.00	44400.	8.25%	8.25%	7.53%
2/58 THRU 5/58	7/1/89	111.00	222.00	444.00	888.00	2220.00	4440.00	44400.	8.25%	8.25%	7.53%
6/58 THRU 6/58	5/1/89	107.95	215.90	431.80	863.60	2159.00	4318.00	43180.	8.25%	8.25%	7.73%
7/58 THRU 7/58	6/1/89	109.21	218.42	436.84	873.68	2184.20	4368.40	43684.	8.25%	8.25%	7.73%
8/58 THRU 11/58	7/1/89	109.21	218.42	436.84	873.68	2184.20	4368.40	43684.	8.25%	8.25%	7.73%
12/58 THRU 12/58	5/1/89	106.23	212.46	424.92	849.84	2124.60	4249.20	42492.	8.25%	8.25%	7.92%
1/59 THRU 1/59	6/1/89	107.50	215.00	430.00	860.00	2150.00	4300.00	43000.	8.25%	8.25%	7.92%
2/59 THRU 5/59	7/1/89	107.50	215.00	430.00	860.00	2150.00	4300.00	43000.	8.25%	8.25%	7.92%
6/59 THRU 7/59	9/1/89	107.19	214.38	428.76	857.52	2143.80	4287.60	42876.	8.25%	8.25%	7.53%
8/59 THRU 8/59	5/1/89	103.81	207.62	415.24	830.48	2076.20	4152.40	41524.	8.25%	8.25%	7.73%
9/59 THRU 9/59	6/1/89	104.98	209.96	419.92	839.84	2099.60	4199.20	41992.	8.25%	8.25%	7.73%
10/59 THRU 11/59	7/1/89	104.98	209.96	419.92	839.84	2099.60	4199.20	41992.	8.25%	8.25%	7.73%
12/59 THRU 1/60	9/1/89	105.20	210.40	420.80	841.60	2104.00	4208.00	42080.	8.25%	8.25%	7.73%
2/60 THRU 2/60	5/1/89	101.90	203.80	407.60	815.20	2038.00	4076.00	40760.	8.25%	8.25%	7.92%
3/60 THRU 3/60	6/1/89	103.07	206.14	412.28	824.56	2061.40	4122.80	41228.	8.25%	8.25%	7.92%
4/60 THRU 5/60	7/1/89	103.07	206.14	412.28	824.56	2061.40	4122.80	41228.	8.25%	8.25%	7.92%
6/60 THRU 7/60	9/1/89	103.24	206.48	412.96	825.92	2064.80	4129.60	41296.	8.25%	8.25%	7.92%
8/60 THRU 8/60	5/1/89	100.01	200.02	400.04	800.08	2000.20	4000.40	40004.	8.25%	8.25%	8.11%
9/60 THRU 9/60	6/1/89	101.16	202.32	404.64	809.28	2023.20	4046.40	40464.	8.25%	8.25%	8.11%
10/60 THRU 11/60	7/1/89	101.16	202.32	404.64	809.28	2023.20	4046.40	40464.	8.25%	8.25%	8.11%
12/60 THRU 1/61	9/1/89	101.34	202.68	405.36	810.72	2026.80	4053.60	40536.	8.25%	8.25%	8.11%
2/61 THRU 2/61	5/1/89	98.50	197.00	394.00	788.00	1970.00	3940.00	39400.	8.31%	8.25%	8.31%
3/61 THRU 3/61	6/1/89	99.63	199.26	398.52	797.04	1992.60	3985.20	39852.	8.31%	8.25%	8.31%
4/61 THRU 5/61	7/1/89	99.63	199.26	398.52	797.04	1992.60	3985.20	39852.	8.31%	8.25%	8.31%
6/61 THRU 7/61	9/1/89	99.92	199.84	399.68	799.36	1998.40	3996.80	39968.	8.31%	8.25%	8.31%
8/61 THRU 8/61	5/1/89	97.95	195.90	391.80	783.60	1959.00	3918.00	39180.	8.50%	8.25%	8.50%
9/61 THRU 9/61	6/1/89	99.04	198.08	396.16	792.32	1980.80	3961.60	39616.	8.50%	8.25%	8.50%
10/61 THRU 11/61	7/1/89	99.04	198.08	396.16	792.32	1980.80	3961.60	39616.	8.50%	8.25%	8.50%
12/61 THRU 1/62	9/1/89	99.32	198.64	397.28	794.56	1986.40	3972.80	39728.	8.50%	8.25%	8.50%
2/62 THRU 2/62	5/1/89	96.20	192.40	384.80	769.60	1924.00	3848.00	38480.	8.50%	8.25%	8.50%
3/62 THRU 3/62	6/1/89	96.89	193.78	387.56	775.12	1937.80	3875.60	38756.	8.50%	8.25%	8.50%
4/62 THRU 5/62	7/1/89	96.89	193.78	387.56	775.12	1937.80	3875.60	38756.	8.50%	8.25%	8.50%
6/62 THRU 7/62	9/1/89	97.13	194.26	388.52	777.04	1942.60	3885.20	38852.	8.50%	8.25%	8.50%
8/62 THRU 8/62	5/1/89	94.08	188.16	376.32	752.64	1881.60	3763.20	37632.	8.50%	8.25%	8.50%
9/62 THRU 9/62	6/1/89	94.74	189.48	378.96	757.92	1894.80	3789.60	37896.	8.50%	8.25%	8.50%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCT 1, 1989

ISSUE PRICE	$18.75	$37.50	$75.00	$150.00	$375.00	$750.00	$7500.
DENOMINATION	25.00	50.00	100.00	200.00	500.00	1000.00	10000.

ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
10/62 THRU 11/62	7/1/89	94.74	189.48	378.96	757.92	1894.80	3789.60	37896.	8.50%	8.25%	8.50%
12/62 THRU 1/63	9/1/89	95.14	190.28	380.56	761.12	1902.80	3805.60	38056.	8.50%	8.25%	8.50%
2/63 THRU 2/63	5/1/89	92.14	184.28	368.56	737.12	1842.80	3685.60	36856.	8.50%	8.25%	8.50%
3/63 THRU 3/63	6/1/89	92.56	185.12	370.24	740.48	1851.20	3702.40	37024.	8.50%	8.25%	8.50%
4/63 THRU 5/63	7/1/89	92.56	185.12	370.24	740.48	1851.20	3702.40	37024.	8.50%	8.25%	8.50%
6/63 THRU 7/63	9/1/89	93.28	186.56	373.12	746.24	1865.60	3731.20	37312.	8.50%	8.25%	8.50%
8/63 THRU 8/63	5/1/89	90.33	180.66	361.32	722.64	1806.60	3613.20	36132.	8.50%	8.25%	8.50%
9/63 THRU 9/63	6/1/89	90.76	181.52	363.04	726.08	1815.20	3630.40	36304.	8.50%	8.25%	8.50%
10/63 THRU 11/63	7/1/89	90.76	181.52	363.04	726.08	1815.20	3630.40	36304.	8.50%	8.25%	8.50%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

U.S. SAVINGS BONDS, SERIES E - REDEMPTION VALUES AND INVESTMENT YIELDS FOR ACCRUAL DATES OCCURRING MAY 1, 1989 THRU OCT 1, 1989

ISSUE PRICE	$18.75	$37.50	$56.25	$ 75.00	$150.00	$375.00	$ 750.00	$ 7500.			
DENOMINATION	25.00	50.00	75.00	100.00	200.00	500.00	1000.00	10000.			
ISSUE DATES	ACCRUAL DATE(1)	REDEMPTION VALUES DURING HALF-YEAR PERIOD FOLLOWING ACCRUAL DATE (VALUES INCREASE ON FIRST DAY OF PERIOD)							ACTUAL YIELD(2)	MARKET YIELD(3)	MINIMUM YIELD(4)
8/69 THRU 8/69	6/1/89	71.42	142.84	214.26	285.68	571.36	1428.40	2856.80	28568.	8.25%	8.25%	7.88%
9/69 THRU 11/69	7/1/89	71.42	142.84	214.26	285.68	571.36	1428.40	2856.80	28568.	8.25%	8.25%	7.88%
12/69 THRU 12/69	10/1/89	71.79	143.58	215.37	287.16	574.32	1435.80	2871.60	28716.	8.25%	8.25%	7.88%
1/70 THRU 1/70	5/1/89	69.55	139.10	208.65	278.20	556.40	1391.00	2782.00	27820.	8.25%	8.25%	7.96%
2/70 THRU 2/70	6/1/89	69.70	139.40	209.10	278.80	557.60	1394.00	2788.00	27880.	8.25%	8.25%	7.96%
3/70 THRU 5/70	7/1/89	69.70	139.40	209.10	278.80	557.60	1394.00	2788.00	27880.	8.25%	8.25%	7.96%
6/70 THRU 6/70	10/1/89	70.02	140.04	210.06	280.08	560.16	1400.40	2800.80	28008.	8.25%	8.25%	7.96%
7/70 THRU 7/70	5/1/89	67.82	135.64	203.46	271.28	542.56	1356.40	2712.80	27128.	8.25%	8.25%	8.04%
8/70 THRU 8/70	6/1/89	68.01	136.02	204.03	272.04	544.08	1360.20	2720.40	27204.	8.25%	8.25%	8.04%
9/70 THRU 11/70	7/1/89	68.01	136.02	204.03	272.04	544.08	1360.20	2720.40	27204.	8.25%	8.25%	8.04%
12/70 THRU 12/70	10/1/89	68.14	136.28	204.42	272.56	545.12	1362.80	2725.60	27256.	8.25%	8.25%	8.04%
1/71 THRU 1/71	5/1/89	66.01	132.02	198.03	264.04	528.08	1320.20	2640.40	26404.	8.25%	8.25%	7.53%
2/71 THRU 2/71	6/1/89	66.16	132.32	198.48	264.64	529.28	1323.20	2646.40	26464.	8.25%	8.25%	7.53%
3/71 THRU 5/71	7/1/89	66.16	132.32	198.48	264.64	529.28	1323.20	2646.40	26464.	8.25%	8.25%	7.53%
6/71 THRU 6/71	10/1/89	66.35	132.70	199.05	265.40	530.80	1327.00	2654.00	26540.	8.25%	8.25%	7.54%
7/71 THRU 7/71	5/1/89	64.25	128.50	192.75	257.00	514.00	1285.00	2570.00	25700.	8.25%	8.25%	7.73%
8/71 THRU 8/71	6/1/89	64.40	128.80	193.20	257.60	515.20	1288.00	2576.00	25760.	8.25%	8.25%	7.72%
9/71 THRU 11/71	7/1/89	64.40	128.80	193.20	257.60	515.20	1288.00	2576.00	25760.	8.25%	8.25%	7.72%
12/71 THRU 12/71	10/1/89	64.56	129.12	193.68	258.24	516.48	1291.20	2582.40	25824.	8.25%	8.25%	7.73%
1/72 THRU 1/72	5/1/89	62.53	125.06	187.59	250.12	500.24	1250.60	2501.20	25012.	8.25%	8.25%	7.92%
2/72 THRU 2/72	6/1/89	62.68	125.36	188.04	250.72	501.44	1253.60	2507.20	25072.	8.25%	8.25%	7.92%
3/72 THRU 5/72	7/1/89	62.68	125.36	188.04	250.72	501.44	1253.60	2507.20	25072.	8.25%	8.25%	7.92%
6/72 THRU 6/72	10/1/89	62.85	125.70	188.55	251.40	502.80	1257.00	2514.00	25140.	8.25%	8.25%	7.92%
7/72 THRU 7/72	5/1/89	60.89	121.78	182.67	243.56	487.12	1217.80	2435.60	24356.	8.25%	8.25%	8.11%
8/72 THRU 8/72	6/1/89	61.02	122.04	183.06	244.08	488.16	1220.40	2440.80	24408.	8.25%	8.25%	8.11%
9/72 THRU 11/72	7/1/89	61.02	122.04	183.06	244.08	488.16	1220.40	2440.80	24408.	8.25%	8.25%	8.11%
12/72 THRU 12/72	10/1/89	61.14	122.28	183.42	244.56	489.12	1222.80	2445.60	24456.	8.25%	8.25%	8.11%
1/73 THRU 1/73	5/1/89	59.42	118.84	178.26	237.68	475.36	1188.40	2376.80	23768.	8.31%	8.25%	8.31%
2/73 THRU 2/73	6/1/89	59.58	119.16	178.74	238.32	476.64	1191.60	2383.20	23832.	8.31%	8.25%	8.31%
3/73 THRU 5/73	7/1/89	59.58	119.16	178.74	238.32	476.64	1191.60	2383.20	23832.	8.31%	8.25%	8.31%
6/73 THRU 6/73	10/1/89	59.71	119.42	179.13	238.84	477.68	1194.20	2388.40	23884.	8.31%	8.25%	8.31%
7/73 THRU 7/73	5/1/89	58.53	117.06	175.59	234.12	468.24	1170.60	2341.20	23412.	8.50%	8.25%	8.50%
8/73 THRU 8/73	6/1/89	58.67	117.34	176.01	234.68	469.36	1173.40	2346.80	23468.	8.50%	8.25%	8.50%
9/73 THRU 11/73	7/1/89	58.67	117.34	176.01	234.68	469.36	1173.40	2346.80	23468.	8.50%	8.25%	8.50%
12/73 THRU 12/73	6/1/89	57.01	114.02	171.03	228.04	456.08	1140.20	2280.40	22804.	8.31%	8.25%	8.31%
1/74 THRU 4/74	7/1/89	57.01	114.02	171.03	228.04	456.08	1140.20	2280.40	22804.	8.31%	8.25%	8.31%
5/74 THRU 5/74	5/1/89	55.89	111.78	167.67	223.56	447.12	1117.80	2235.60	22356.	8.50%	8.25%	8.50%
6/74 THRU 6/74	6/1/89	56.02	112.04	168.06	224.08	448.16	1120.40	2240.80	22408.	8.50%	8.25%	8.50%
7/74 THRU 10/74	7/1/89	56.02	112.04	168.06	224.08	448.16	1120.40	2240.80	22408.	8.50%	8.25%	8.50%

(1) ACCRUAL DATE SHOWN IS FOR BONDS OF THE FIRST ISSUE DATE LISTED -- ADD ONE MONTH FOR EACH SUCCESSIVE MONTH OF ISSUE.
(2) ACTUAL INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(3) MARKET BASED VARIABLE INVESTMENT YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
(4) GUARANTEED MINIMUM YIELD (ANNUAL PERCENTAGE RATE) FROM DATE OF ISSUE OR BEGINNING OF FIRST ACCRUAL PERIOD ON OR AFTER NOVEMBER 1, 1982, WHICHEVER IS LATER, TO THE ACCRUAL DATE SHOWN.
NOTE: ADDITIONAL INVESTMENT INFORMATION IS OBTAINABLE FROM FEDERAL RESERVE BANKS AND THE BUREAU OF THE PUBLIC DEBT, SAVINGS BOND OPERATIONS OFFICE, 200 THIRD ST., PARKERSBURG, WV 26102-1328.

BILLING CODE 1505-01-D

Federal Register

Friday
July 21, 1989

Part II

Department of Education

Office of Special Education Programs

Application for New Awards Under Certain Direct Grant Programs for Fiscal Year 1990

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.023, 84.024, 84.025, 84.026, 84.029, 84.030, 84.086, 84.0158]

Office of Special Education Programs

Notice Inviting Applications for New Awards Under Certain Direct Grant Programs for Fiscal Year 1990

Note to Applicants: This notice is a complete application package. Together with the applicable statute and regulations, the notice contains all of the information, application forms, and instructions needed to apply for a grant under these competitions.

The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, and 85; and the following program regulations:

Research in Education of the Handicapped (CFDA No. 84.023) 34 CFR Part 324, except that 34 CFR Part 79 does not apply to the program. Final priorities were previously published on April 4, 1989, at 54 FR 13608.

Handicapped Children's Early Education Program (CFDA No. 84.024) 34 CFR Part 309.

Services for Deaf-Blind Children and Youth (CFDA No. 84.025) 34 CFR Part 307. Final regulations were published on April 17, 1989, at 54 FR 15308.

Educational Media Research, Production, Distribution, and Training Program (CFDA No. 84.026) 34 CFR Part 332.

Training Personnel for the Education of the Handicapped (CFDA No. 84.029) 34 CFR Part 318. Final Regulations were published on November 19, 1988, at 53 FR 45730.

Clearinghouses for the Handicapped (CFDA No. 84.030) 34 CFR Part 320. Final Regulations were published on July 15, 1987, at 52 FR 26657.

Programs for Severely Handicapped Children (CFDA 34.086) 34 CFR Part 315.

Secondary Education and Transitional Services for Handicapped Youth Program (CFDA No. 84.158) 34 CFR 326.

Final priorities were previously published on January 26, 1989, at 54 FR 3938 for the following programs: Handicapped Children's Early Education Program; Educational Media Research, Production, Distribution, and Training Program; Program for Severely Handicapped Children; and Secondary and Transitional Services of Handicapped Youth Program.

RESEARCH IN EDUCATION OF THE HANDICAPPED PROGRAM

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available fund [1]	Estimated range of awards (per year)	Estimated size of awards [1] (per year)	Estimated number of awards	Project period in months
Field initiated research projects (84.023C)	10/06/89	N/A	2,061,000	30,000–130,000	100,000	20	Up to 60.
Research on general education social studies or language arts curricula (CFDA No. 84.023D).	10/06/89	N/A	550,000	200,000–250,000	225,000	2	Up to 36.
Initial career awards (CFDA 84.023N)	11/17/89	N/A	300,000	50,000–100,000	75,000	4	Up to 36.
Small grants program (CFDA 84.023A)	12/01/89	N/A	750,000	50,000–100,000	75,000	10	Up to 18.
Interventions to support junior high school-aged students with handicaps who are at risk of dropping out of school (CFDA. 84.023K).	12/22/89	N/A	550,000	150,000–215,000	183,000	3	Up to 60.
Research on the delivery of services to students with handicaps from nonstandard English, limited English proficiency (including monolingual) and/or non-dominant cultural groups (CFDA No. 84.023H).	01/12/90	N/A	900,000	250,000–350,000	300,000	3	Up to 36.
Student-initiated research projects (84.023B)	01/19/90	N/A	150,000	5,000–15,000	10,000	15	Up to 18.

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

CFDA No. 84.023—Research in Education of the Handicapped Program

Purpose of Program

To assist research and related purposes, and to conduct research, surveys, or demonstrations, relating to the education of infants, toddlers, children, and youth with handicaps.

Priorities

CFDA No. 84.023C—Field-Initiated Research

This priority provides support for a broad range of field-initiated research projects focusing on the education of, and early intervention services for infants, toddlers, children, and youth with handicaps consistent with the purposes of the program as stated in 34 CFR 324.1. This priority allows projects to address problems identified by researchers/investigators in the field.

CFDA No. 84.023B—Student-Initiated Research

This priority provides support for a broad range of student initiated projects focusing on the education of, and early intervention services for infants, toddlers, children, and youth with handicaps consistent with the purposes of the program as stated in 34 CFR 324.1.

The Secretary particularly encourages applications for short term projects (up to 18 months) that will develop research skills in post-secondary students. The Secretary further encourages applications that, while developed by the student, will identify a principal investigator who will serve as a mentor to the student/researcher. However, in accordance with 34 CFR 75.105(c)(1), applications that meet the criteria discussed in this paragraph will not be

given a competitive or absolute preference over other applications.

CFDA No. 84.023A—Small Grants Program

This priority provides support for a broad range of research projects that can be completed within a 12–18 month time period, are budgeted at $75,000 or less for the entire project period, and are focused on the education of infants, toddlers, children, and youth with handicaps consistent with the purpose of the program as stated in 34 CFR 324.1. This priority is for pilot studies, projects that employ new methodologies, descriptive studies, instrument validation studies, projects that synthesize state-of-the-art research and practice, projects for research dissemination and utilization, and projects that analyze extant data bases.

CFDA No. 84.023D—Research on General Education Social Studies or Language Arts Curricula

The purpose of this priority is to support projects that analyze general education kindergarten through grade eight curricula in (1) social studies or (2) language arts using a cross-grade (e.g., primary, elementary and middle grades) perspective to determine the compatibility of the scope, sequence, and presentation (including rate, complexity, informational density, and approach for organizing and presenting content) with the learning characteristics and needs of students with handicapping conditions for whom the regular education curriculum is considered appropriate. In planning the research, projects must consider the kindergarten through grade eight curriculum in social studies and language arts as a whole, not just as a year-by-year treatment, so that assumptions about students' prior knowledge and skills as well as their need for acquisition, mastery, automaticity, application of skills, and understanding of concepts can be examined. While focusing on the needs of children with handicaps, projects must consider current national initiatives in social studies or language arts including those of professional associations and the Federal Government to develop standards and new curricula for use in regular primary, elementary and middle school grades.

Alternative curriculum approaches to organizing disciplinary knowledge bases in social studies or language arts curriculum design must be included, and their implications for educating children with handicaps in kindergarten through grade eight examined. For example, in social studies such alternative approaches might include social studies as process for conveying facts, events, and historical trends; social studies as a process for teaching values (e.g., citizenship, capitalism, democracy); social studies as a means to teach general social science principles (e.g., the tenets of economics) rather than details related to historical events (e.g., the Great Depression); social studies as a process for teaching problem solving skills by emphasizing cause-effect relationships; or social studies as a process for reflective inquiry. In language arts, these alternative approaches might include language arts as a process for teaching language skills and knowledge for the purpose of transmitting the culture; language arts as a means for teaching skills that have utilitarian value in our society; or language arts as a means for enhancing the cognitive development of students (by giving students tools to access, process, and interpret information).

These alternative approaches for organizing social studies or language arts curricula will provide the starting point for analyzing alternative structures for prioritizing, segmenting and arranging social studies or language arts content to be covered in kindergarten through grade eight. In addition, potential alternatives for structuring this content must be examined. These analyses must include examination of current curricula scope and sequence, textbooks and supplementary materials. Finally, the structural alternatives for presenting social studies or language arts content for kindergarten through grade eight must be examined in relation to the learning characteristics of children with a variety of handicaps, particularly related to needs associated with acquisition, mastery, automaticity, application of skills, and understanding of concepts. The purpose of this activity is to develop guidelines for decision-making related to determining appropriateness of, establishing priorities for, and adapting or modifying, curriculum goals and objectives for children and youth with handicapping conditions. These guidelines must make explicit the factors to be considered in making these decisions. Further, the guidelines must be useful to publishers for textbook revision activities, to teachers for analyzing and prioritizing content for students, and to school district personnel who conduct school building or district-wide curriculum revision activities and textbook evaluation and adoption procedures.

To determine the usefulness of the guidelines, projects must include several field tests. These field tests must determine: (1) The usefulness of the guidelines to publishers in the development of new materials and in the revision of existing materials; (2) the extent to which the guidelines help teachers analyze and prioritize content for students; and (3) the utility of the guidelines in improving school building or district-wide curriculum revision and textbook evaluation and adoption procedures. Part of the field testing must include obtaining informed judgments about the logic, design, and content of the guidelines from each of the target audiences above. For purposes (2) and (3), the projects must also include field tests in at least four school districts to test the usefulness of the guidelines as implemented in typical settings (classrooms and districts). The target populations for this priority are primary, elementary, and middle school aged students (kindergarten through grade eight) with handicapping conditions. It is anticipated that two cooperative agreements will be funded under this priority: one addressing social studies curricula and one addressing language arts curricula.

CFDA No. 84.023H—Research on the Delivery of Services to Students With Handicaps From Non-Standard English, Limited English Proficiency (Including Mono-Lingual) and/or Non-Dominant Cultural Groups

The purpose of this priority is to support projects that focus on students with handicaps from non-standard English-speaking, limited English proficiency (including mono-lingual), and/or non-dominant cultural groups. Projects supported under this priority must: (1) Use ethnographic and observational research techniques to identify the cultural and language features of classrooms and related service settings (e.g., speech or occupational therapy provided elsewhere on school grounds) that detrimentally affect the delivery of educational services to students with handicaps from non-standard English-speaking, limited English proficiency (including mono-lingual), and/or non-dominant cultural groups by general education, special education, and related services personnel; (2) develop and test strategies, including personnel training strategies, for adapting the delivery of educational services to better accommodate the cultural and language patterns of these students; and (3) develop and test strategies for enhancing the development of the language, social, and survival skills necessary for functioning and learning

in special and regular educational and community settings by students with handicaps from non-standard English-speaking, limited English proficiency (including mono-lingual) and/or non-dominant cultural groups. Projects may select one or more target groups for the research but must make the selection through consideration of research evidence showing the need to address the particular groups.

CFDA No. 84.023K—Interventions to Support Junior High School-Aged Students With Handicaps Who Are at Risk for Dropping Out of School

This priority supports research projects that focus on junior high school-aged students who are classified as seriously emotionally disturbed (SED) and students who are classified as learning disabled (LD), and who are at risk for leaving school prior to completion. These projects must develop and field test interventions designed to enhance students' engagement in school. Each project must identify a target school district in light of relevant district and student characteristics including the percentage of nonhandicapped students and the percentage of students with handicaps, by handicapping condition, who exit schooling by dropping out. Information and hypotheses as to the reasons district students classified as SED and students classified as LD drop out of school must also be considered along with strategies for keeping these students in school. Hypotheses must be based on a conceptual framework that is drawn from previous special education and general education research regarding school drop-outs and drop-out prevention but tailored to the particular characteristics and circumstances of the target district and its students. This framework must identify school, home, and community factors that result in student engagement in schooling. Indicators of student engagement in schooling include attendance, participation in school and extra-curricular activities, completion of assignments, development of friendships, as well as commitment to school completion as measured by continuance in schooling during the entire project period. The interventions must address underlying problems rather than correct symptoms associated with students who drop out of school. For example, failing grades may be associated with students who drop out, but to simply give passing grades to students at risk for dropping out is not an acceptable intervention. Projects must develop, implement, and test comprehensive interventions related to these factors. School-based components of interventions must be implemented in general education settings, though they may be implemented in alternative school settings if these settings include nonhandicapped students. Projects must select at least two cohorts of students in successive years and follow them through at least two years of participation in the interventions through their transition to high school and at least to a chronological age that is 6 months past the minimum age for exiting from compulsory schooling as determined by State law or regulations. Research findings from the first cohort of students must be used to adjust (if necessary) the interventions used with the second cohort. In designing the field tests, investigators must concurrently or retrospectively collect information on comparison cohorts of similar students within the district to provide a longitudinal data base for measuring the effectiveness of the interventions. The final (fifth) year's activities must be limited to student follow-up and dissemination of project findings and materials, and thus will entail a reduced level of funding. Each project supported under this priority must include both SED and LD students at risk for dropping out of school.

CFDA 84.023N—Initial Career Awards

This priority provides awards to eligible applicants for the support of individuals who have exited from graduate school programs no longer than three years prior to the award to conduct research and related activities focusing on the education of infants, toddlers, children, and youth with handicaps consistent with the purpose of the program as stated in 34 CFR 324.1. The support is intended to allow individuals in the initial phases of careers to initiate and develop promising lines of research that will improve the education of children with handicaps. The project must include a potential contribution to be derived from the proposed line of inquiry that will be pursued during the project period. The project must include a plan for obtaining sustained involvement with nationally recognized experts having substantive or methodological knowledge and techniques critical to the conduct of the proposed research. These experts may be geographically located at other institutions. The nature of this interaction must be of sufficient frequency and duration for the researcher to develop the capacity to effectively pursue the research into mid-career activities. An applicant may apply for up to three years of funding. At least 50% of the researcher's time must be devoted exclusively to the project.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for research projects. The maximum score for all of the criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary looks for—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel that the applicant plans to use on the project.

(2) The Secretary considers—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well

as other evidence that the applicant provides.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget and is cost effective.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application to determine the quality of the evaluation plan for the project.

(Cross Reference: 34 CFR 75.590. Evaluation by the grantee.)

(2) The Secretary considers the extent to which the methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application to determine if the applicant plans to devote adequate resources to the project.

(2) The Secretary considers the extent to which—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Importance.* (10 points) The Secretary reviews each application to determine the importance of the project in leading to the understanding of, remediation, or compensation for the problem or issue relating to the education of handicapped children and youth being addressed.

(g) *Impact.* (5 points) The Secretary reviews each application to determine the probable impact of the proposed research and development products and the extent to which those products can be expected to have a direct influence on handicapped children and youth or personnel responsible for their education.

(h) *Organizational capability.* (10 points) The Secretary considers—

(1) The applicant's special education experience; and

(2) The ability of the applicant to disseminate the findings of the project to appropriate groups to ensure that they can be used effectively.

(i) *Technical soundness.* (40 points) The Secretary reviews each application to determine the technical soundness of the research or evaluation plan, including—

(1) The design;

(2) The proposed sample;

(3) Instrumentation; and

(4) Data analysis procedures.

Eligible Applicants:

Eligible applicants are State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

Program Authority: 20 U.S.C. 1441–1444.

HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1]	Estimated range of awards (per year)	Estimated size of awards [1] (per year)	Estimated number of awards	Project period in months
State or multi-State outreach projects (84.024D)[3].	09/28/89	11/27/89	2,500,000	100,000–130,000	125,000	20	Up to 36.
Information management of services for infants and toddlers (84.024M) [3].	09/29/89	11/28/89	750,000	100,000–130,000	125,000	6	Up to 24.
Nondirected demonstrations (84.024B) [3]	11/15/89	1/15/90	3,421,000	100,000–130,000	125,000	[2] 9	Up to 36.

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

[2] Approximately $3,421,000 of 1990 funds are available to fully fund these projects for the total 36 month project period. Estimated size of awards information ($125,000) is for each 12 months of the project period. Applicants are encouraged to submit budget estimates of approximately $125,000 for each 12 month budget period requested.

[3] Awards may not exceed 90 percent of the total costs of development, operation, and evaluation of these projects.

CFDA No. 84.024—Handicapped Children's Early Education Program

Purpose of Program: To provide Federal support for a variety of activities designed to address the special problems of infants, toddlers, and children with handicaps, from birth through age eight and their families, and to assist State and local entities in expanding and improving programs and services for those infants, toddlers, and children and their families. Activities include demonstration, outreach, experimental research and training projects, and research institutes.

Priorities:

CFDA No. 84.024B—Nondirected Demonstrations

This priority supports demonstration projects that develop, implement, and evaluate new or improved approaches for serving young children with handicaps (ages birth through eight). Projects funded under this priority must design models that allow young children with handicaps to achieve their optimal functioning level within normalized, nonsegregated environments.

Projects must (1) address a specific service problem or issue; (2) include specific components or procedures of the model and the rationale, based on theory, research, or practice evaluation, for those components or procedures; (3) include specific types of students to participate in the project (i.e., by age, handicapping condition or diagnosis, level of functioning) and (4) include an evaluation design that includes functional outcome measures for the young children with handicaps who participate in the proposed interventions. Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for developing interventions for young children with handicaps. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information.

The Secretary particularly invites applications for demonstration projects that develop models for delivering, coordinating, or supplementing needed developmental, special educational, or related services to infants, toddlers, or preschool-aged children with handicaps who are in day-care programs (home-

based, center-based, or home or center based in conjunction with part-day special education preschool programs). This invitational priority responds to the growing number of young children, including children with handicaps, who are placed in day-care services to accommodate the childcare needs of working parents. However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over other applications for demonstration projects that develop, implement, and evaluate new or improved approaches for serving young children with handicaps (ages birth through eight).

CFDA No. 84.024M—Information Management of Services for Infants and Toddlers

This priority supports demonstration projects to develop or improve and evaluate automated information management systems for tracking, managing, and planning services for young children with handicaps, aged birth through two years of age, and their families within a State or major urban area. The system must (1) separately track and count the children and families who receive early intervention services; (2) identify the types and location of those services provided and/or needed but not provided; (3) identify the provider and the funding sources (Federal, State, private, or local) for each service provided; (4) alert programs serving preschool-aged children of incoming three year old children, at least three months in advance of the children's transition from early intervention services to preschool services; and, (5) use data elements compatible with State or regional child count systems.

Projects must coordinate the program with the State education agency and the State agency designated to administer the Program for Infants and Toddlers With Handicaps in the States where the information system is tested. The system must be coordinated with any other information systems in the State (e.g., health agency systems for tracking specific medical conditions), that overlap in population tracked, intent or purpose. This may be achieved, for example, by using identifiers compatible with other existing systems, or by merging the existing systems into a single system.

Projects funded under this priority must include an evaluation design that assures that the automated system is operational (*i.e.* produces information and reports that are accurate and consistent with the system design), that the required information linkages are compatible and reliable, and that the information produced is useful for tracking and planning purposes by the intended users of the information system. It is anticipated that projects funded under this priority will develop the software, documentation, and users' guides that will allow other interested agencies to adopt the information system. Users guides must provide as much information as possible as to the ways elements of the system can be adapted to fit the data needs or hardware configurations of other agencies.

CFDA No. 84.024D—State or Multi-State Outreach Projects

This priority supports projects that facilitate the implementation in single or multiple States of proven infant, toddler or early childhood models, or selected components of those models. Projects supported under this priority must:

(1) Coordinate their dissemination and replication activities with the lead agency for Part H of the Education of the Handicapped Act for early intervention services or the State educational agency for special education and related services;

(2) Disseminate and replicate proven models, or components of proven models, that provide services needed to assist young children, aged eight and below to achieve the children's optimal functioning. Services at a minimum must contain the following components:

(a) Approaches relevant to programming in regular settings including provision for skills necessary to function in integrated educational environments;

(b) Team based programming that integrates the delivery of services that includes parents, teachers, therapists and other professional disciplines;

(c) Effective involvement of families in the planning and delivery of services; and

(d) Interagency coordination when multiple agencies are involved in the provision of services to children;

(3) Evaluate the dissemination and replication activities to determine their effectiveness including their impact on the provision of services to infants, toddlers, and young children with handicaps.

The models or components of models must be state-of-the-art, providing procedures and information that are not readily available to program sites within States where outreach is planned. The models or components of models must be based on current theory and research, and must have unambiguous evaluation information regarding effectiveness. In addition, the project must be consistent with the provisions of Part B or Part H of the Education of the Handicapped Act. Outreach activities may include, but not be limited to: public awareness, product development and dissemination, site development, training and technical assistance. The projects may work with major early childhood associations, provider groups or agencies in disseminating and replicating the proven models, or components of proven models.

Projects under this priority must (1) include models or components of models selected for outreach activities and a rationale as to the importance of these models; (2) select a model based on unambiguous evidence as to its effectiveness; (3) include specific dissemination and replication activities; and (4) have a rationale for those activities.

Final reports submitted by projects funded under this priority must include evaluation information as to the effectiveness of the model as implemented by replication sites.

The Secretary particularly invites applications for outreach projects that are based on models serving young children with severe disabilities, young children with handicaps due to chronic health problems, or young children with handicapping conditions who have been previously unserved or underserved. However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over other applications for outreach projects that serve other young children with handicaps aged birth through eight.

Selection Criteria:

The Secretary uses the following criteria to evaluate an application. The maximum score for all the criteria is 100 points.

(a) Importance. (15 points)

(1) The Secretary reviews each application to determine the extent to which the proposed project addresses concerns in light of the purposes of this part.

(2) The Secretary considers—

(i) The significance of the problem or issue to be addressed;

(ii) The extent to which the project is based on previous research findings related to the problem or issue;

(iii) The numbers of individuals who will benefit; and

(iv) How the project will address the identified problem or issue.

(b) Impact. (15 points)

(1) The Secretary reviews each application to determine the probable impact of the proposed project in meeting the needs of children with handicaps, birth through age eight, and their families.

(2) The Secretary considers—

(i) The contribution that project findings or products will make to current knowledge and practice;

(ii) The methods used for dissemination of project findings or products to appropriate target audiences; and

(iii) The extent to which findings or products are replicable, if appropriate.

(c) Technical soundness. (35 points)

(1) The Secretary reviews each application to determine the technical soundness of the project plan;

(2) In reviewing applications under this part, the Secretary considers—

(i) The quality of the design of the project;

(ii) The proposed sample or target population, including the numbers of participants involved and methods that will be used by the applicant to ensure that participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(iii) The methods and procedures used to implement the design, including instrumentation and data analysis; and

(iv) The anticipated outcomes.

(3) With respect to training projects, in applying the criterion in paragraph (c)(2)(iii) of this section, the Secretary considers—

(i) The curriculum, course sequence, and practice leading to specific competencies; and

(ii) The relationship of the project to the comprehensive system of personnel development plans required by Parts B and H of the Act, and State licensure or certification standards.

(4) In addition to the criteria in paragraph (c)(2) of this section, the Secretary, in reviewing outreach projects, also considers—

(i) The agencies to be served through outreach activities;

(ii) The current services, their location, and anticipated impact of outreach assistance for each of those agencies;

(iii) The model demonstration project upon which the outreach project is based, including the effectiveness of the model program with children, families, or other recipients of project services; and

(iv) The likelihood that the demonstration project will be continued and supported by funds other than those available through this part.

(d) *Plan of operation.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary considers—

(i) The extent to which the management plan will ensure proper and efficient administration of the project;

(ii) Clarity in the goals and objectives of the project;

(iii) The quality of the activities proposed to accomplish the goals and objectives;

(iv) The adequacy of proposed timelines for accomplishing those activities; and

(v) Effectiveness in the ways in which the applicant plans to use the resources and personnel to accomplish the goals and objectives.

(e) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating project goals, objectives, and activities.

(2) The Secretary considers the extent to which the methods of evaluation are appropriate and produce objective and quantifiable data.

(f) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use.

(2) The Secretary considers—

(i) The qualifications of the project director and project coordinator (if one is used);

(ii) The qualifications of each of the other key project personnel;

(iii) The time that each person referred to in paragraphs (f)(2) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant will ensure that personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) The Secretary considers experience and training in areas related to project goals to determine qualifications of key personnel.

(g) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application to determine adequacy of resources allocated to the project.

(2) The Secretary considers the adequacy of the facilities and the equipment and supplies that the applicant plans to use.

(h) *Budget and cost-effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to undertake project activities; and

(ii) Costs are reasonable in relation to objectives of the project.

Eligible Applicants: Public agencies and nonprofit private organizations may apply for an award under any of the priorities.

Program Authority: 20 U.S.C. 1423.

SERVICES FOR DEAF BLIND CHILDREN AND YOUTH

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1]	Estimated range of awards (per year)	Estimated size of awards [1] (per year)	Estimated number of awards	Project period in months
State and multi-State projects for deaf-blind children and youth (84.025A)	9/29/89	11/28/89	400,000	80,000-110,000	100,000	4	34
Technical assistance to State and multi-State projects (84.025C)	10/27/89	12/26/89	940,000	940,000	940,000	1	36

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

CFDA No.: 84.025—Services for Deaf-Blind Children and Youth

Purpose of Program:

To provide support for projects that enhance services to deaf-blind children and youth, particularly by providing technical assistance to State educational agencies and others who are involved in the education of deaf-blind children and youth.

Priorities:

CFDA 84.025A—State Deaf-Blind Projects

This priority supports State deaf-blind projects for services to deaf-blind children and youth and technical assistance to agencies, institutions, and organizations as described in 34 CFR 307.11.

This priority provides the opportunity for a State presently participating in a multi-State project for deaf-blind children and youth to apply for a single State project, or for a State not participating at all to apply for a project.

CFDA 84.025C—Technical Assistance to Grantees Under 34 CFR 307.11

This priority supports one project to provide technical assistance to grantees under 34 CFR 307.11 as described in 34 CFR 307.12.

The Secretary particularly invites applications that in addition to providing technical assistance services on a national basis to State and Multi-State projects funded under 34 CFR 307.11, include the following:

(a) Selection of quality project reports, research findings, peer-reviewed journal articles, and other materials pertaining to the provision of services to deaf-blind children and youth, and the dissemination of this information to the field in response to requests from State educational agencies or grantees under 34 CFR 307.11. The selection of these materials would be based on established criteria to determine evidence of replicable, best practices, and could include material relating to the education of children with other severe handicaps that have a high degree of relevance for the education of children with deaf-blindness. This task would include the development of materials addressing topical issues of prominent concern to the field.

(b) Provide the planning assistance and managerial support for programmatically substantive annual meetings in Washington, DC, of directors of projects serving children and youth with deaf-blindness. The planning for these meetings would be approved by and conducted in coordination with Federal program staff; and

(c) Provide technical assistance to the 34 CFR 307.11 grantees in their preparation and submission of data required under Paragraph (c)(2) of section 622 of the Education of the Handicapped Act.

However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications to provide technical assistance to grantees under 34 CFR 307.11 as described in 34 CFR 307.12.

Selection Criteria:

The Secretary uses the following criteria to evaluate the quality of an application submitted under 34 CFR 307.11. Each applicant may receive up to a total of 100 points. Each application will be evaluated based only on those factors of each criterion that relate to the service needs of the States the applicant proposes to serve.

(a) *Justification for the project, extent of need, and expected impact.* (15 points) The Secretary reviews each application to determine the justification for the proposed activities in each State, based on the extent of State need for and expected impact from the provision of services and technical assistance, including consideration of—

(1) The age, number, and location of deaf-blind children and youth in the State to whom the State is not obligated to provide a free appropriate public education under Part B of the EHA, to whom the State is not providing special educational and related services under some other authority, and to whom the applicant proposes to provide services;

(2) The specific actions needed for the provision of educational and related services to deaf-blind children and youth based on the State's plan for delivery of services to students with handicaps required under Parts B and H;

(3) The specific actions needed for the provision of technical assistance addressed by the project based on the State's plan for provision of technical assistance to providers of services to deaf-blind children and youth;

(4) The expected benefits to be gained by providing the educational and related services to deaf-blind children and youth to be served by the project, their parents and service providers; and

(5) The expected benefits to be gained by meeting the technical assistance needs of service providers to be assisted by the project.

(b) *Quality of services and technical assistance.* (40 points) The Secretary reviews each application to determine the quality of the plan to provide services and technical assistance in each State to be served, including—

(1) The quality of the design of the project for providing each of the educational and related services described under 34 CFR 307.11(a)(1), and for providing technical assistance as described under 34 CFR 307.11(a)(2);

(2) The extent to which the applicant's plan for providing services and technical assistance implements current research findings and exemplary practices including arranging for services that are age-appropriate for project participants, and providing for the maximum integration of deaf-blind children and youth in the least restrictive environment;

(3) How well the objectives of the project respond to the needs of deaf-blind children and youth in the State, their parents, and service providers;

(4) The extent to which the plan of management is effective and ensures proper and efficient provision of educational and related services and technical assistance, and reflects an analysis of the service needs of deaf-blind children and youth in the State;

(5) How well the objectives of the project relate to the purpose of the program;

(6) How the project will assist the State in developing and implementing the State's Comprehensive Systems of Personnel Development required under Parts B and H of EHA;

(7) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(8) The quality of the applicant's plan for providing consultative and training services for families of deaf-blind children and youth as described in 34 CFR 307.11(a)(1)(iii);

(9) The quality of the applicant's plan to involve parents in the development and delivery of appropriate services to their deaf-blind children and youth; and

(10) The extent to which services provided for children birth through two years of age meet the requirements of Part H of the EHA.

(c) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project for the provision of services to deaf-blind children and youth and technical assistance to agencies, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The experience among key personnel referred to in paragraphs (c)(1) and (2) of this section, relevant to the provision of quality educational services to deaf-blind children and youth in less restrictive environments;

(4) The time that each person referred to in paragraphs (c)(1) and (2) of this section will commit to the project; and

(5) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee)

(e) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine for technical assistance, and direct services where appropriate, in each State to be served, the extent to which—

(1) The budgets are adequate to support the activities;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) Costs reflect—

(i) The time anticipated to be spent by each staff member for the provision of services described under 34 CFR 307.11(a)(1) and costs for contracted and consultative services, travel costs, and other direct costs;

(ii) The time anticipated to be spent by each staff member for the provision of technical assistance under 34 CFR 307.11(a)(2), and costs for contracted and consultative services, travel, and other related expenditures for technical assistance activities; and

(iii) The time anticipated to be spent for administrative services.

(Authority: 20 U.S.C. 1422)

(f) *Coordination.* (5 points) The Secretary reviews each application to determine the adequacy of the applicant's procedures for initiating and maintaining coordination in each State to be served with—

(1) Related activities funded from grants, contracts, and cooperative agreements awarded under Parts C, D, E, F, and G of the EHA; and

(2) Relevant agencies, organizations, and institutions having responsibility to deliver services to deaf-blind children and youth in the State, including State education agencies and other service providers under Parts B and H of the EHA and Section 1221 *et seq.* of Title I of the Elementary and Secondary Education Act of 1965.

(g) *Dissemination.* (5 points) The Secretary reviews each application to determine the adequacy of the applicant's procedures for disseminating significant project information within the State(s) to providers of services to deaf-blind children and youth.

The Secretary uses the following criteria to evaluate an application for the provision of technical assistance under 34 CFR 307.12 or 307.13:

(a) *Extent of need and expected impact of the project.* (25 points) The Secretary reviews each application to determine the extent to which the project will assist in meeting national needs in the provision of services to deaf-blind children and youth, including consideration of—

(1) The extent and importance of the needs addressed by the project;

(2) The expected benefits to deaf-blind children and youth served by the project, their parents, and service providers; and

(3) The national significance of the project in terms of potential benefits to deaf-blind children and youth who are not directly involved in the project.

(b) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (c)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Dissemination plan.* (5 points) The Secretary reviews each application to determine the quality of the dissemination plan for the project, including the extent to which the applicant's plan—

(1) Ensures proper and efficient dissemination of project information throughout the Nation; and

(2) Adequately includes the content, intended audiences, and timelines for production of all project documents and other products that the applicant will disseminate.

Eligible Applicants: Public or nonprofit private agencies, institutions, or organizations may apply for support under this program.

Program Authority: 20 U.S.C. 1422

EDUCATIONAL MEDIA RESEARCH, PRODUCTION, DISTRIBUTION AND TRAINING PROGRAM

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1] per year	Estimated range of awards (per year)	Estimated size of awards [1]	Estimated number of awards	Project period in months
Closed captioned local and regional news (84.026L)	09/29/89	11/28/89	300,000	50,000	50,000	6	36

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

CFDA No. 84.026—Educational Media Research, Production, Distribution, and Training Program

Purpose of Program

To promote the educational advancement of persons with handicaps by providing assistance for: (a) Conducting research in the use of educational media for persons with handicaps; (b) producing and distributing educational media for the use of persons with handicaps, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of persons with handicaps; and (c) training persons in the use of educational media for the instructions of persons with handicaps.

Priority

CFDA No. 84.026L—Closed-Captioned Local and Regional News

The purpose of this priority is to support projects for the closed-captioning of local television news programs which, at the end of this three year award, will be maintained and continued without additional Federal funding. Projects must:

(1) Include a total number of television hours (first time and repeat) to be captioned per week and a specific method to be used for each hour—real-time, computer assisted, teleprompting, etc.;

(2) Obtain financial commitments for project continuation by the end of the third year;

(3) Provide a back-up system that will ensure successful, timely captioning; and

(4) Have obtained willingness of major networks to permit captioning of their programs.

Selection Criteria

The Secretary uses the following criteria to evaluate applications for new awards. The maximum score for all criteria is 100 points.

(a) *Plan of operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally under represented, such as—

(A) Handicapped persons;

(B) Members of racial or ethnic minority groups;

(C) Women; and

(D) The elderly.

(b) *Quality of key personnel.* (20) points

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under represented, such as—

(A) Handicapped persons;

(B) Members of racial or ethnic minority groups;

(C) Women; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (15 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (*See* 34 CFR 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources for the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need.* (20 points)

(1) The Secretary reviews each application for information that shows the need for the project.

(2) The Secretary looks for information that shows—

(i) The need for the proposed activity with respect to the handicapping condition served or to be served by the applicant; and

(ii) The potential for using the results in other projects or programs.

(g) *Marketing and dissemination.* (5 points)

(1) The Secretary reviews each application for information that shows adequate provisions for marketing or disseminating results.

(2) The Secretary looks for information that shows—

(i) The provisions for marketing or otherwise disseminating the results of the project; and

(ii) Provisions for making materials and techniques available to the populations for whom the project would be useful.

Eligible Applicants

Parties eligible for grants under this subpart are profit and nonprofit public and private agencies, organizations, and institutions.

Program Authority: 20 U.S.C. 1451, 1452.

TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1]	Estimated range of awards (per year)	Estimated size of awards [1] (per year)	Estimated number of awards	Project period in months
Special Projects (84.029K)	11/03/89	01/02/90	2,300,000	65,000–85,000	80,000	29	Up to 36.
Preparation of personnel for careers in special education and early intervention (84.029B).	11/10/89	01/09/90	7,400,000	60,000–80,000	75,000	99	Up to 36.
Preparation of personnel for transition of handicapped youth to adult and working life (84.029G).	11/17/89	01/16/90	1,150,000	60,000–80,000	75,000	15	Up to 36.
Preparation of leadership personnel (84.029D)	11/27/89	01/26/90	2,250,000	70,000–90,000	85,000	26	Up to 60.
Preparation of personnel to provide early intervention services to infants and toddlers with handicaps (84.0290).	12/08/89	02/06/90	1,100,000	60,000–80,000	75,000	15	Up to 60.
Preparation of personnel for special populations of infants, toddlers, children and youth with handicaps (84.029E).	01/08/90	03/09/90	1,150,000	60,000–80,000	75,000	15	Up to 36.
Preparation of personnel to work in rural areas (84.029J).	01/08/90	03/09/90	1,000,000	60,000–80,000	75,000	13	Up to 36.
Preparation of personnel for low-incidence handicapped students (84.029A).	01/12/90	03/13/90	500,000	60,000–80,000	75,000	7	Up to 60.
Preparation of related services personnel (84.029F).	01/12/90	03/13/90	2,250,000	60,000–80,000	75,000	30	Up to 36.

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

CFDA No.: 84.029—Training Personnel for the Education of the Handicapped

Purpose of Program

This program serves to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children, and youth with handicaps through the provision of awards to support the preservice training of personnel for careers in special education and early intervention in special education teaching, related services, supervision and administration, research, and early intervention; and through support of special projects designed to develop and demonstrate new approaches for preservice and inservice training.

Priorities

CFDA No. 84.029B—Preparation of personnel for Careers in Special Education and Early Intervention

This priority supports projects under 34 CFR 318.3 (b) and (c) that are designed to provide preservice training of personnel for careers in special education and early intervention, or supervisors of those personnel. The priority includes the preparation of special teachers of infants, toddlers, children, and youth with handicaps, special education administrators and supervisors, speech-language pathologists, audiologists, adaptive physical educators, vocational educators, and infant intervention specialists.

CFDA No. 84.029F—Preparation of Related Services Personnel

This priority supports projects under 34 CFR 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who provide developmental, corrective, and other supportive services that assist infants, toddlers, children, and youth with handicaps to benefit from special education. These include paraprofessional personnel, therapeutic recreation specialists, health service providers, physical therapists, occupational therapists, and other related services personnel.

CFDA No. 84.029D—Preparation of Leadership Personnel

This priority supports projects under 34 CFR 318.3 (b) and (c) that are designed to provide preservice doctoral and post-doctoral preparation of professional personnel such as administrators, supervisors, researchers, and teacher trainers.

CFDA No. 84.029G—Preparation of Personnel for Transition of Youth With Handicaps to Adult and Working Life

This priority supports projects under 34 CFR 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who assist youth with handicaps in their transition from school to adult roles. Personnel may be prepared to provide short-term transitional services, long-term structured employment services, or instruction in community and school settings with secondary school students.

CFDA No. 84.029Q—Preparation of Personnel to Provide Early Intervention Services to Infants and Toddlers With Handicaps

This priority supports projects under 34 CFR 318.3 (b) and (c) that are designed to provide preservice preparation of individuals who serve infants and toddlers with handicaps or those who are at high risk of being handicapped. Personnel may be prepared to provide short-term services or long-term services that extend into a child's preschool program.

CFDA No. 84.029E—Preparation of Personnel for Special Populations of Infants, Toddlers, Children, and Youth With Handicaps

This priority supports the preservice preparation of early intervention, special education, and related services personnel under 34 CFR 318.3 (b) and (c) who will serve special populations of infants, toddlers, children, and youth with handicaps who, because of special characteristics, require professional competencies in addition to those needed for other infants, toddlers, children, and youth with similar disabilities. Project personnel funded under this priority must define a specific special population, describe the additional competencies that are needed by professionals serving that population, and describe how the project's training program will result in the attainment of those competencies.

The Secretary especially invites applications in which personnel are prepared to address the special characteristics of children with handicaps from minority groups, those who have limited English proficiency, and those from disadvantaged groups. However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over other special population applications.

CFDA No. 84.029J—Preparation of Personnel to Work in Rural Areas

This priority supports projects under 34 CFR 318.3 (b) and (c) that are designed to provide preservice training of personnel who will serve infants, toddlers, children, and youth with handicaps in rural areas. Projects must also be designed to provide training to assist personnel to work with parents, teachers, and administrators in a rural environment.

CFDA No. 84.029K—Special Projects

This priority supports projects with preservice and inservice activities specified in 34 CFR 318.3(a).

CFDA No. 4.029A—Preparation of Personnel for Low Incidence Handicapped Students

This priority supports preservice preparation of special educators and early intervention personnel who serve infants, toddlers, children, and youth with low incidence handicaps in a designated State or geographic area.

Specifically, the Secretary selects the following low-incidence categories:

(1) Severe handicaps, including intense physical or mental problems, deaf-blindness, and other multiple handicaps.

(2) Deaf

(3) Blind

(4) Serious emotional disturbance

(5) Other health impairments, including autism and chronic or acute health problems.

Selection Criteria

(a) The Secretary uses the following criteria to evaluate all applications other than applications for special projects, as described in 34 CFR 318.3(a).

(1) *Impact on critical present and projected need.* (30 points) The Secretary reviews each application to determine the extent to which the training will have a significant impact on critical State, regional, or national needs in the quality or the quantity of personnel serving infants, toddlers, children, and youth with handicaps. The Secretary considers—

(i) The significance of the personnel needs to be addressed to the provision of special education, related services and early intervention services. Significance of need identified by the applicant may be shown by—

(A) Evidence of critical personnel shortages in targeted specialty or geographic areas, as demonstrated by data from the State Comprehensive System of Personnel Development; reports from the Clearinghouse on Careers and Employment of Personnel serving children and youth with handicaps; or other indicators of need that the applicant demonstrates are relevant, reliable, and accurate; or

(B) Evidence showing significant need for improvement in the quality of personnel providing special education, related services and early intervention services, as shown by comparisons of actual and needed skills of personnel in targeted specialty or geographic areas; and

(ii) The impact the proposed project will have on the targeted need. Evidence that the project results will have an impact on the targeted needs may include—

(A) The projected number of graduates from the project each year who will have necessary competencies and certification to affect the need;

(B) For ongoing programs, the extent to which the applicant's projections are supported by the number of previous program graduates that have entered the field for which they received training, the professional contributions of those graduates, and data on the need for graduates in paragraph (a)(1)(ii)(A) of this section; and

(C) For new programs, the extent to which program features support the projections in 34 CFR 318.21(a)(1)(ii)(A), and the applicant's plan for helping graduates locate appropriate employment in the area of need or the program features that ensure that graduates will have competencies needed to address identified qualitative needs.

(2) *Capacity of the institution.* (25 points) The Secretary reviews each application to determine the capacity of the institution or agency to train qualified personnel, including consideration of—

(i) The qualifications and accomplishments of the project director and other key personnel directly involved in the proposed training program, including prior training, publications, and other professional contributions;

(ii) The amount of time each key person plans to commit to the project;

(iii) The adequacy of resources, facilities, supplies, and equipment that the applicant plans to commit to the project;

(iv) The quality of the practicum training settings, including evidence that they are sufficiently available, apply state-of-the-art services and model teaching practices, materials and technology, provide adequate supervision to trainees, and offer opportunities for trainees to teach and foster interaction between students with handicaps and their non-handicapped peers;

(v) The capacity of the applicant to recruit well-qualified students;

(vi) The experience and capacity of the applicant to assist local public schools and early intervention service agencies in providing training to these personnel, including the development of model practicum sites: and

(vii) The extent to which the applicant cooperates with State educational agency (SEAs), the State designated lead agency under Part H of the Act, other institutions of higher education (IHEs), and other appropriate public and private agencies in the region served by the applicant in identifying personnel needs and plans to address those needs.

(3) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) The extent to which the plan of management ensures effective, proper, and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition;

(vi) The extent to which the application includes a delineation of competencies that program graduates will acquire and how the competencies will be evaluated;

(vii) The extent to which substantive content and organization of the program—

(A) Are appropriate for the students' attainment of professional knowledge and competencies deemed necessary for the provision of quality educational and early intervention services for infants, toddlers, children, and youth with handicaps; and

(B) Demonstrate an awareness of methods, procedures, techniques, technology, and instructional media or materials that are relevant to the preparation of personnel who serve infants, toddlers, children, and youth with handicaps; and

(viii) The extent to which program philosophy, objectives, and activities implement current research and demonstration results in meeting the educational or early intervention needs of infants, toddlers, children, and youth with handicaps.

(4) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project;

(ii) To the extent possible, are objective and produce data that are quantifiable, including, but not limited to, the number of trainees graduated and hired;

(iii) Provide evidence that evaluation data and student follow-up data are systematically collected and used to modify and improve the program. (See 34 CFR 75.590, Evaluation by the grantee.)

(5) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(i) The budget for the project is adequate to support the project activities:

(ii) Costs are reasonable in relation to the objectives of the project; and

(iii) The applicant presents appropriate plans for the institutionalization of Federally supported activities into basic program operations.

(b) The Secretary uses the following criteria to evaluate a special projects application described in § 318.3(a):

(1) *Anticipated project results.* (20 points) The Secretary reviews each application to determine the extent to which the project will meet present and projected needs under Parts B and H of the Act in special education, related services, or early intervention services personnel development.

(2) *Program content.* (20 points) The Secretary reviews each application to determine—

(i) The project's potential for national significance, its potential for replication and effectiveness, and the quality of its plan for dissemination of the results of the project;

(ii) The extent to which substantive content and organization of the program—

(A) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants, toddlers, children, and youth with handicaps; and

(B) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to prepare personnel to serve infants, toddlers, children and youth with handicaps; and

(iii) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with handicaps.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) How the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(4) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate for the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(5) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each of the key personnel plans to commit to the project:

(iv) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition; and

(v) Evidence of the applicant's past experience and training in fields related to the objectives of the project.

(6) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(7) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project: and

(ii) Costs are reasonable in relation to the objectives of the project.

Eligible Applicants

Eligible applicants include institutions of higher education, State agencies, and other appropriate private non-profit agencies.

Program Authority: 20 U.S.C. 1431.

CLEARINGHOUSES FOR THE HANDICAPPED

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1]	Estimated range of awards	Estimated size of awards [1]	Estimated number of awards	Project period in months
National Information Center (84.030A)	09/29/89	11/28/89	615,000	615,000	615,000	1	36
Postsecondary Clearinghouse (84.030C)	09/29/89	11/28/89	283,000	283,000	283,000	1	36
Clearinghouse on Careers and Employment (84.030E)	09/29/89	11/28/89	237,000	237,000	237,000	1	36

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

CFDA 84.030—Clearinghouses for the Handicapped

Purpose

To support national clearinghouses on special education information, postsecondary education for persons with handicaps, and special education careers and employment. The authorizing legislation requires support for three national clearinghouses. A national clearinghouse on the education of the handicapped that disseminates information and provides technical assistance to parents, professionals, and other interested parties; a national clearinghouse on post-secondary education for handicapped individuals; and a national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of handicapped children and youth.

Priorities

CFDA No. 84.030A—National Information Center

This priority provides support to establish and operate a national clearinghouse on the education of the handicapped that will—

(a) Disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties concerning at least—

(1) Programs relating to the education of the handicapped under the Education of the Handicapped Act and other Federal laws;

(2)(i) Special educational programs, services, and resources;

(ii) Related medical, health, social, and recreational services;

(iii) Options for training and experience in daily living skills programs;

(iv) The nature of various handicapping conditions and their educational and employment implications;

(v) Legal issues affecting the handicapped; and

(vi) Information on available services and programs in postsecondary education for the handicapped; and

(3) Participation in programs described above, including referral of individuals to appropriate national, State, and local agencies and organizations for further assistance; and

(b) Promote the involvement of handicapped individuals, parents, volunteers, professionals, and interested organizations in the provision of information to the general public concerning the handicapped.

CFDA No. 84.030C—Postsecondary Clearinghouse

This priority provides support to establish and operate a national clearinghouse on postsecondary education for handicapped individuals that will collect and disseminate information on a national basis to handicapped individuals, professionals and other interested individuals, concerning postsecondary services and programs for the handicapped, including specially designed programs of postsecondary, vocational, technical, and adult education for handicapped individuals.

CFDA No. 84.030E—Clearinghouse on Careers and Employment

This priority provides support to establish and operate a national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields related to the education of handicapped children and youth through the following:

(a) Collection and dissemination of information on current and future national, regional, and State needs for special education and related services personnel. To meet this requirement the clearinghouse must—

(1) Collect, validate, and provide ready access to existing information about current needs;

(2) Develop a plan to estimate future needs;

(3) Conduct investigations designed to improve the relevance and accuracy of information on current and future needs;

(4) Collect, analyze, and report on information concerning the current personnel needs related to differently aged children and youth with handicaps of varying severity; and

(5) Devise mechanisms to foster better collection and dissemination on information on current and future personnel needs.

(b) Dissemination of information to high school guidance counselors and others concerning current career opportunities in special education and related services, location of programs that prepare personnel for the various special education and related service professions, and various forms of financial assistance (such as scholarships, stipends, and allowances).

(c) Identification of training programs, for the various special education and related service professions, that meet State and professionally recognized standards for programs that prepare personnel for those professions.

(d) Establishment of a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

(e) Provision of technical assistance to institutions seeking to meet State and professionally recognized standards of personnel preparation.

Selection Criteria

The Secretary uses the following criteria to evaluate applications for new grants. The maximum score for all the criteria is 100 points. The maximum score for each complete criterion is indicated in parentheses.

(a) Plan of operation. (40 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) Quality of key personnel. (15 points)

(1) The Secretary reviews each application for information that shows the qualifications of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) Budget and cost effectiveness. (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) Evaluation plan. (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590, Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project, and to the extent possible, are objective and produce data that are quantifiable.

(e) Adequacy of resources. (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) Experience and ability. (10 points)

The Secretary looks for information that shows the applicant's—

(1) National experience relevant to performance of the functions supported by this program;

(2) Ability to conduct its proposed project;

(3) Ability to communicate with the intended consumers of information; and

(4) Ability to maintain the necessary communication with other agencies and organizations.

(g) Cooperation and coordination with other agencies. (10 points)—

(1) The Secretary reviews each application for information that shows the activities funded under this section will be coordinated with—

(i) Similar activities funded from grants and contracts awarded under this part and under Part C of the Act; and

(ii) Other agencies and organizations conducting or eligible to conduct activities essential to the effective implementation of the proposed project.

(2) The Secretary looks for information that shows the nature and extent of, and timeline for, coordination which the applicant has had and proposes to have to facilitate implementation and continuation of the project activities after termination of Federal funding.

Eligible Applicants: Parties eligible to apply for assistance under this part are Public agencies or nonprofit private organizations or institutions.

Program Authority: 20 U.S.C. 1433.

PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds*	Estimated range of awards (per year)	Estimated size of awards (per year) [1]	Estimated number of awards	Project period in months
Utilization of innovative practices for children with severe handicaps (84.086U)	09/29/89	11/28/89	600,000	100,000–120,000	112,000	5	Up to 36.
Validated practices: children with deaf-blindness (84.086G)	09/29/89	11/28/89	680,000	100,000–120,000	113,000	6	Up to 36.
State-wide systems change (84.086J)	10/13/89	12/15/89	750,000	220,000–260,000	250,000	3	Up to 60.
Innovations for meeting special problems of children with severe handicaps in the context of regular education settings (84.086D)	10/13/89	12/15/89	450,000	100,000–120,000	112,000	4	Up to 36.
Utilization of innovative practices for children with deaf-blindness (84.086L)	10/13/89	12/15/89	680,000	100,000–120,000	113,000	6	Up to 36.

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

CFDA No.: 84.086—Program for Severely Handicapped Children

Purpose: To provide Federal financial assistance for demonstration or development, research, training, and dissemination activities for severely handicapped, including deaf-blind, children and youth.

Priorities

CFDA No. 84.086J—State-wide Systems Change

This priority supports projects that do all of the following:

(a) Develop, in conjunction with the Part B State plan, activities to improve the quality of special education and related services in the State for severely handicapped (including deaf-blind) children and youth, birth through 21 years of age, and to change the delivery of these services from segregated to integrated environments;

(b) Significantly increase the number of severely handicapped including deaf-blind children in the State who are served in regular school settings alongside their same-aged nonhandicapped peers;

(c) Evaluate the effectiveness of these activities, including tracking the number of children with severe handicaps and deaf-blindness in the State in each type of educational setting and showing changes from previous years; and,

(d) Evaluate and disseminate information about the project's outcomes.

Projects under this priority must:

(1) Identify resources available in the State to provide the needed services to children and youth who are severely handicapped, including deaf-blind, as well as financial resources available through other agencies or parties.

(2) Establish services needed to assist these children and youth to achieve their most realistic functioning level in normalized, nonsegregated least restrictive environments. These services must include at a minimum:

(i) Delivery of integrated educational services that include providing severely handicapped, including deaf-blind, children who are currently being served in segregated environments with special educational and related services in programs at facilities with nonhandicapped children;

(ii) Movement of participating children and youth to and integration into less segregated environments, with the objective of facilitating the placement of these children in appropriate regular school settings;

(iii) Delivery of curricula relevant to education in integrated settings including the teaching of social integration skills, community referenced skills, and employment skills;

(iv) Activities to promote acceptance of severely handicapped including deaf-blind children and youth by the general public through increasing both the quality and frequency of meaningful interactions of these children and youth with handicapped and nonhandicapped peers and adults;

(v) Delivery of services to meet the unique needs of severely handicapped including deaf-blind children and youth; and

(vi) Effective involvement of families in the planning and delivery of services to their severely handicapped children and youth.

(3) Establish a project advisory board having representation of parents of project children and youth, including parents of deaf-blind children and youth, providers of services to this population, and State and professional organizations, that is responsible for providing significant input on project management procedures.

(4) Formulate and implement formal, written policies and procedures with relevant State, local and professional organizations for coordinating services provided to the target population, of severely handicapped including deaf-blind children and youth including the elimination of overlapping and redundant services.

Each project must include a specific number of deaf-blind students that will benefit from the project.

CFDA No. 84.086D—Innovations for Meeting Special Problems of Children With Severe Handicaps in the Context of Regular Education Settings

This priority supports projects that are designed to develop in-depth, innovative approaches to a particular problem for educating students with severe handicaps in the context of regular educational settings. Towards this end, projects must include a setting in which the activities will be carried out, with particular attention paid to the extent to which physical and social integration between students with severe handicaps and students without handicaps exist in the proposed setting. Projects must ensure that the proposed setting has the following prerequisite components: (1) An established system of community-based training; (2) a systematic, data-based educational program; and (3) an established functional curriculum. Projects must build upon previous research and demonstration activities in the field and demonstrate a thoughtful synthesis and extension of such work within a complete approach of their own. Projects funded under this priority must include (1) a specific problem that the project will address; (2) a proposed approach developed by the project that can be expected to alleviate that problem; and (3) an evaluation design that includes functional outcome measures for children and youth who experience severe handicaps who participate in the proposed intervention. Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned and tested for solving specific problems that may arise when students who experience severe handicaps are educated within the context of regular education settings. Quantifiable information from project evaluation activities must also be included.

The Secretary particularly invites applications that address one of the following special problems:

(1) Serving individuals with profound disabilities and/or who are treatment-assisted or otherwise require significant therapeutic or medical intervention;

(2) Designing models for incorporating nonaversive approaches within curriculum and instruction, particularly for students who present difficult and persistent excess behaviors;

(3) Developing approaches to encourage social support systems for individuals with severe handicaps within educational and community environments;

(4) Establishing innovative approaches to facilitating home-school communication and interactions that serve to benefit the student and the family and that allow for the varied needs and concerns of individual families;

(5) Developing steps for providing related services within regular education settings; or

(6) Developing approaches that address the problems children and youth with severe handicaps who use assistive technology have when attending regular education programs.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive or absolute preference over applications that meet the priorities described in this notice.

CFDA No. 84.086G—Validated Practices: Children with Deaf-Blindness

This priority supports projects that test solutions to specific problems in the delivery of special education and related services to students with deaf-blindness. Projects supported under this priority must use methodological

procedures that will produce unambiguous findings regarding the relative effectiveness of different solutions to a specific problem, or that use well-designed outcome evaluations to test the effects of a single program or solution in addressing the service delivery problem. The projects must be designed to improve the services for children and youth with deaf-blindness as defined at 34 CFR 300.5(b)(2).

Projects funded under this priority must include (1) a specific problem that the project will address; (2) specific solutions that will be compared or validated, including previous evaluations regarding these approaches; and (3) an evaluation design that includes functional outcome measures for children and youth with deaf-blindness who participate in the proposed interventions. Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested for solving specific problems that may arise in providing services. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for the interventions and the contexts in which they were implemented as well as available cost information. Each project must include a specific number of deaf-blind students that will benefit from the proposed project.

The Secretary particularly invites applications that address one of the following areas:

(1) Improving and expanding social interaction skills in regular classrooms, workplaces, or recreational settings;

(2) Improving curricular and instructional procedures that enhance acquisition, generalization, and maintenance of functional skills and activities;

(3) Improving communications skills of children who are deaf-blind in their interaction with peers and others in educational and noneducational settings;

(4) Expanding the activities that support the participation in a range of community-based settings for children with deaf-blindness, with such settings to include living environments, recreation-leisure options, transportation options, and neighborhood shopping, educational and cultural settings;

(5) Supported employment for youth with deaf-blindness; or

(6) Supported living for children and youth with deaf-blindness.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive preference over applications that meet the priorities described in this notice.

CFDA No. 84.086U—Utilization of Innovative Practices for Children With Severe Handicaps

This priority promotes the adoption and use of innovative practices for the education of students with severe handicaps through the support of technical assistance activities such as inservice training, program replication, and/or product dissemination. The practices are to be selected from current data and best practices and must be justified in the application in terms of their proven ability to address the needs of children with severe handicaps.

Applicants are particularly encouraged to select practices that have been generated and implemented across a range of disciplines that provide services to students with severe handicaps. Projects must identify a focus of the utilization activities and the importance of the focus in terms of its impact on the education and quality of life of students with severe handicaps, as defined at 34 CFR 315.4.

Projects under this priority must include a design that (a) defines a target audience for the training or dissemination activities; (b) includes what this target audience is expected to do or to accomplish by participating in the project; (c) includes the utilization activities that are appropriate and well-suited to achieving the described activities with the intended audiences; i.e., inservice training, program replication, and/or product dissemination, as needed to accomplish the selected change; and (d) includes systematic evaluation and reporting of the impact and effectiveness of project activities. Target audiences must include family members to the extent practicable.

The Secretary particularly invites applications that address one of the following topics:

(1) Least restrictive environments for children and youth with severe handicaps;

(2) Supported employment for youth with severe handicaps;

(3) Community-based curriculum and instruction for children and youth with severe handicaps;

(4) Integration of related services for children and youth with severe handicaps into instructional objectives;

(5) Increased participation of parents in the educational process; or

(6) Communication skills of children and youth with severe handicaps.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive preference over applications that meet the priorities described in this notice.

CFDA No. 84.086L—Utilization of Innovative Practices for Children With Deaf-Blindness

This priority promotes the adoption and use of innovative practices for the education of students with deaf-blindness through the support of technical assistance activities such as inservice training, program replication, and/or product dissemination. The practices are to be selected from current data and best practices and must be justified in terms of their proven ability to address the needs of children who are deaf-blind.

Applicants are particularly encouraged to select practices that have been generated and implemented across a range of disciplines that provide services to students who are deaf-blind. Projects must identify a focus of the utilization activities and the importance of the focus in terms of its impact on the education and quality of life of students with deaf-blindness, as defined at 34 CFR 300.5(b)(2).

Projects under this priority must include a design that (a) defines a target audience for the training or dissemination activities; (b) includes what this target audience is expected to do or to accomplish by participating in the project; (c) includes activities that are appropriate and well-suited to achieving the training or dissemination activities with the intended audience; i.e., inservice training, program replication, and/or product dissemination, as needed to accomplish the selected change; and (d) includes systematic evaluation and reporting of the impact and effectiveness of the project activities. Target audiences must include family members whenever practicable.

The Secretary particularly invites applications that address one of the following topics:

(1) Least restrictive environments for children and youth with deaf-blindness;

(2) Supported employment for youth with deaf-blindness;

(3) Community-based curriculum and instruction for children and youth with deaf-blindness;

(4) Integration of related services for children and youth with deaf-blindness into instruction objectives;

(5) Communication skills of children and youth with deaf-blindness; or

(6) Transitional services from school to independent living or working for youth with deaf-blindness.

However, in accordance with EDGAR at 34 CFR 75.105(c)(1), an application that meets this invitational priority receives no competitive preference over applications that meet the priorities described in this notice.

Selection Criteria

The Secretary uses the following criteria to evaluate an application for a demonstration project or a training project.

(a) Extent of need and expected impact of the project. (25 points) The Secretary reviews each application to determine the extent to which the project is consistent with national needs in the provision of innovative services to severely handicapped children and youth, including consideration of—

(1) The needs addressed by the project;

(2) The impact and benefits to be gained by meeting the educational and related service needs of severely handicapped children and youth served by the project, their parents and service providers; and

(3) The national significance of the project in terms of potential benefits to severely handicapped children and youth who are not directly involved in the project.

(b) Plan of operation. (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (c)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project: and

(2) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation hy the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Dissemination plan.* (5 points) The Secretary reviews each application to determine the quality of the dissemination plan for the project, including the extent to which the applicant's plan—

(1) Ensures proper and efficient dissemination of project information within the State in which the project is located and throughout the Nation; and

(2) Adequately includes the content, intended audiences, and timeliness for production of all project documents and other products which the applicant will disseminate.

Eligible Applicants: Any public or private, profit or nonprofit, organization or institution may apply for a grant under this program.

Program Authority: 20 U.S.C. 1424

SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH PROGRAM

[Application Notices for Fiscal Year 1990]

Title and CFDA No.	Deadline for transmittal of applications	Deadline for intergovernmental review	Available funds [1]	Estimated range of awards (per year)	Estimated size of awards [1] (per year)	Estimated number of awards	Project period in months
Family networking (84.158S)	09/28/89	11/27/89	315,000	100,000–110,000	105,000	3	36
Training and employment models for youth with handicaps (84.158N)	12/16/89	2/14/90	880,000	105,000–115,000	110,000	4 [2]	36

[1] These are estimates. The actual amount available for awards cannot be determined pending final action by the Congress.

[2] Approximately $880,000 of FY 1990 funds are available to initially fund these projects for two 12 month budget periods of the total 36 month project period. Estimated size of awards information ($110,000) is for each 12 months of the project period. Applicants are encouraged to submit budget estimates of approximately $110,000 for each 12 month budget period requested.

CFDA No. 84.158: Secondary Education and Transitional Services for Handicapped Youth Program

Purpose

To assist handicapped youth in the transition from secondary school to postsecondary environments such as competitive or supported employment and to ensure that secondary special education and transitional services result in competitive or supported employment for handicapped youth.

Priorities

CFDA No. 84.158N:—Training and Employment Models for Youth With Handicaps

This priority supports school and community-based model projects for youth with handicaps to be prepared for and placed in competitive or supported work prior to leaving school. This priority responds to growing evidence that youth with handicaps who exit from school may have difficulty obtaining competitive or supported employment despite the vocational programming that may have been offered in school. These students often remain at home for several years before a placement can be found in a job training or supported employment program. By providing employment experiences in settings where the requisite support services are provided by adult service agencies or other public or private providers prior to exit from school, it is more likely that a smooth transition can be made from school to work and adult life. Projects funded under this priority must include models that emphasize the following:

(1) Collaboration with employers;

(2) Measurement of employer and youth satisfaction;

(3) Program evaluation with outcome measures to determine initial and continuing employment status;

(4) Working relationships between education agencies and supported and transitional work efforts at the State and/or local level; and

(5) Working partnerships with families that demonstrate a commitment to maximizing independence.

The goal of these models is to place youths with handicaps in competitive or supported employment. Supported employment must include paid employment in integrated work settings and ongoing support from adult service agencies or other public or private services.

Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested regarding the preparation of youth with handicaps for competitive or supported employment upon leaving school. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures used to implement the model and the contexts in which the model was implemented.

CFDA No. 84.158S—Family Networking

This priority supports model demonstration projects that build on existing transition planning processes to assist youth with handicaps and their families in identifying, accessing, and using formal and informal networks to obtain needed supports and services to maximize independence in adult life. Projects under this priority must ensure that there is an existing planning process in place that includes the student, his or her family, representatives from the school, and representatives from adult service agencies or other providers in planning for the transition of students who will be exceeding the maximum age for public school services.

Models funded under this priority must assist youth with handicaps and their families in identifying the range of possible post-school options for living, working, recreation, or post-secondary education, and assessing the supports or services needed by the student to participate in different Post-school options. Projects must develop strategies to assist youth with handicaps and their families in identifying potential formal (service agencies, handicapped student services) and informal (extended family, friends) sources of services and supports and in learning to effectively access and use these sources. Persistent barriers to obtaining needed supports or services must also be identified and strategies developed and tested for overcoming these barriers.

Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested regarding the identification, access, and use of formal and informal networks by youth with handicaps and their families to obtain needed supports and services. Common barriers identified to accessing and using various sources for support and service should be described along with any implications for policy makers or service providers. Quantifiable information from project evaluation activities must also be included along with precise information regarding the model procedures, the context in which it was implemented, and available cost information.

Selection Criteria

The Secretary uses the following criteria to evaluate an application for new awards. The maximum score for all of the criteria is 100 points.

(a) Plan of operation. (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective ; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project.

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well

as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget of the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(See 34 CFR 75.590. Evaluation by the grantee)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Importance.* (10 points)

The Secretary reviews each application for information that shows—

(1) The service delivery problem addressed by the proposed project is of concern to others in the Nation, and

(2) The importance of the project in solving the problem.

(g) *Impact.* (10 points)

The Secretary reviews each application for information that shows the probable impact of the proposed model in educating handicapped youth, including—

(1) The contribution that the project findings or products will make to current knowledge or practice; and

(2) The extent to which findings and products will be disseminated to, and used for the benefit of, appropriate target groups.

(h) *Innovativeness.* (10 points)

(1) The Secretary reviews each application for information that shows the innovativeness of the proposed project.

(2) The Secretary looks for information that shows a conceptual framework that—

(i) Is founded on previous theory and research; and

(ii) Provides a basis for the unique strategies and approaches to be incorporated into the model.

(i) *Technical soundness.* (25 points)

The Secretary reviews each application for information demonstrating the technical soundness of the plan for the development, implementation, and evaluation of the model with respect to such matters as—

(1) The population to be served;

(2) The model planning process;

(3) Recordkeeping systems;

(4) Coordination with other service providers;

(5) The identification and assessment of students;

(6) Interventions to be used, including proposed curricula;

(7) Individualized educational program planning; and

(8) Parent and family participation.

Eligible Applicants: Institutions of higher education, State educational agencies, local educational agencies, and other public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*)).

Program Authority: 20 U.S.C. 1425

Intergovernmental Review of Federal Programs

These programs, except Research in Education of the Handicapped, CFDA 84.023, are subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the Single Point of Contact for each State and follow the procedure established in those States under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 18, 1987, pages 44338–44340.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# ( ) U.S. Department of Education, Room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THIS ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATION TO THE ABOVE ADDRESS.*

Instructions for Transmittal of Applications:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #), Washington, DC 20202–4725

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA#), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped, self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms:

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (NOTE: ED Form GCS–009 is intended for the use of grantees and should not be transmitted to the Department.)

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80–0004).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT:

Joseph Clair, Division of Educational Services, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW,. (Switzer Building, Room 4620–2644), Washington, DC 20202 (except CFDA No. 84.023 and 84.029). Telephone: Joseph Clair (202) 732–4503

Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, 400 Maryland Avenue, SW., (Switzer Building, Room 3094–M.S. 2313), Washington, DC 20202 (CFDA No. 84–023 only). Telephone: Linda Glidewell (202) 732–1099

Angele Thomas, Division of Personnel Preparation, Office of Special Education Programs, 400 Maryland Avenue, SW., (Switzer Building, Room 3517–M.S. 2313), Washington, DC 20202 (CFDA No. 84–029 only). Telephone: Angele Thomas (202) 732–1100.

Dated: July 14, 1989.

Patricia McGill Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

Appendix

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. CAN WE GET AN EXTENSION OF THE DEADLINE?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to *all* applications. Waivers for individual applications *cannot* be granted, regardless of the circumstances.

Q. HOW MANY COPIES OF THE APPLICATION SHOULD I SUBMIT AND MUST THEY BE BOUND?

A. Current Government-wide policy is that only AN ORIGINAL AND TWO COPIES need be submitted. The binding of applications is optional. At least one copy should be left unbound to facilitate any necessary reproduction. Applicants should not use foldouts, photographs, or other materials that are hard-to-duplicate.

Q. WE JUST MISSED THE DEADLINE FOR THE XXX COMPETITION. MAY WE SUBMIT UNDER ANOTHER COMPETITION?

A. Yes, but it may not be worth the postage. A properly prepared application should meet the specifications of the competition to which it is submitted.

Q. I'M NOT SURE WHICH COMPETITION IS MOST APPROPRIATE. WHAT SHOULD I DO?

A. We are happy to discuss the questions with you and provide clarification on the unique elements of the various competitions.

Q. WILL YOU HELP US PREPARE OUR APPLICATION?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required nor does it guarantee the success of an application.

Q. WHEN WILL I FIND OUT IF I'M GOING TO BE FUNDED?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. ONCE MY APPLICATION HAS BEEN REVIEWED BY THE REVIEW PANEL, CAN YOU TELL ME THE OUTCOME?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with *anyone.*

Q. HOW LONG SHOULD AN APPLICATION BE?

A. The Department of Education is making a concerted effort to reduce the volume of paperwork in discretionary program applications. The scope and complexity of projects is too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the significance of the project against the criteria of the competition. Is helpful to include in the appendices such information as:

(1) Staff qualifications. These should be brief. They should include the person's title and role in the proposed project and contain only information relevant to the proposed project. Qualification of consultants and advisory council members should be provided and be similarly brief.

(2) Assurance of participation of an agency other than the applicant if such participation is critical to the project, including copies of evaluation instruments proposed to be used in the project in instances where such instruments are not in general use.

Q. HOW CAN I BE SURE THAT MY APPLICATION IS ASSIGNED TO THE CORRECT COMPETITION?

A. Applicants should clearly indicate in Block 10 of the face page of their application (Standard Form 424) the CFDA number and the title of the program priority (e.g., 84.023) representing the competition in which the application should be considered. If this information is not provided, your application may inadvertently be assigned and reviewed under a different competition from the one you intended.

Q. WILL MY APPLICATION BE RETURNED IF I AM NOT FUNDED?

A. We no longer return original copies of unsuccessful applications. Thus, applicants should retain at least one copy of the application. Copies of reviewer comments will be mailed to applicants who are not successful.

Q. HOW SHOULD MY APPLICATION BE ORGANIZED?

A. The application narrative should be organized to follow the exact sequence of the components in the selection criteria of the regulations pertaining to the specific program competition for which the application is prepared. In each instance, a table of contents and a one-page abstract summarizing the objectives, activities, project participants, and expected outcomes of the proposed project should precede the application narrative.

Q. IS TRAVEL ALLOWED UNDER THESE PROJECTS?

A. Travel associated with carrying out the project is allowed (i.e. travel for data collection, etc.). Because we may request the principal investigator or director of funded projects to attend an annual meeting, you may also wish to include a trip to Washington, D.C. in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. IF MY APPLICATION RECEIVES A HIGH SCORE FROM THE REVIEWER DOES THAT MEAN THAT I WILL RECEIVE FUNDING?

A. No. It is often the case that the number of applications scored highly by or approved by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of the applications and other relevant factors, determines the applications that can be funded.

Q. WHAT HAPPENS DURING NEGOTIATIONS?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during panel and staff review and require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met.

Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. IF MY APPLICATION IS SUCCESSFUL CAN I ASSUME I WILL GET THE ESTIMATED/PROJECTED BUDGET AMOUNTS IN SUBSEQUENT YEARS?

A. No. The estimate for subsequent year project costs is helpful to us for planning purposes but it in no way represents a commitment for a particular level of funding in subsequent years. Grantees having a multiyear project will be asked to submit a continuation application and a detailed budget request prior to each year of the project.

Q. WHAT IS A COOPERATIVE AGREEMENT AND HOW DOES IT DIFFER FROM A GRANT?

A. A cooperative agreement is similar to a grant in that its principal purpose is to provide assistance for a public purpose of support or stimulation as authorized by a Federal statute. A cooperative agreement differs from a grant because of the substantial involvement anticipated between the executive agency (in this case the Department of Education) and the recipient during the performance of the contemplated activity.

Q. IS THE PROCEDURE FOR APPLYING FOR A COOPERATIVE AGREEMENT DIFFERENT FROM THE PROCEDURE FOR APPLYING FOR A GRANT?

A. No. If the Department of Education determines that a given award should be made by cooperative agreement rather than a grant, the applicant will be advised at the time of negotiation of any special procedures that must be followed.

Q. HOW DO I PROVIDE AN ASSURANCE?

A. Simply state in writing that you are meeting a prescribed requirement.

Q. WHERE CAN COPIES OF THE FEDERAL REGISTER, PROGRAM REGULATIONS, AND FEDERAL STATUTES BE OBTAINED?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783-3238.

BILLING CODE 4000-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name	Organizational Unit:
Address *(give city, county, state, and zip code)*	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A State
B. County
C Municipal
D Township
E. Interstate
F Intermunicipal
G Special District
H Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L Individual
M Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other *(specify)*: _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ • ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c State	$ 00
d Local	$ 00
e Other	$ 00
f Program Income	$ 00
g TOTAL	$ 00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b NO ☐ PROGRAM IS NOT COVERED BY E O 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17 IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4001-01-C

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

BILLING CODE 4000-01-C

Notice: Reporting Burden

Public reporting burden for this collection of information is estimated to be 40 hours (for new applications) per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202-4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820-0028, Washington, DC 20503.

Part III—Program Narrative

A. New Grants

Prepare the program narrative statement in accordance with the following instructions for all new grants programs and all new functions or activities for which support is being requested.

Note that the program narrative should encompass each program and each function or activity for which funds are being requested. Relevant selection criteria (included in this package) should be carefully examined for criteria upon which evaluation of an application will be made and the program narrative must respond to such criteria under the related headings below. The program narrative should begin with an overview statement (Abstract) of the major points covered below.

1. Objectives and Need for This Assistance

Describe the problem and demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used.

Any relevant data based on planning studies should be included or footnoted. Projects involving Demonstration/Service activities should present available data, or estimates for need in terms of number of handicapped children (by type of handicap and by type of service) in the geographic area involved.

Projects involving Training should present available data, or estimates, for need in terms of number of personnel by position type (e.g., teachers, teacher-aides) by type of handicap to be served. Documentation by the SEA should be supplied for 84.029 (Handicapped Personnel Preparation).

2. Results or Benefits Expected

Identify results and benefits to be derived. Projects involved in training activities should indicate the number of personnel to be trained. Projects involved in demonstration/service activities must provide research or other evidence that indicate that the proposed activities will be effective.

3. Approach

a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each grant program, function or activity provided in the budget. Cite factors which might accelerate or decelerate the work and your reason for taking this approach as opposed to others.

For example, an application for demonstration/service programs should describe the planned educational curriculum: the types of attainable accomplishments set for the children served; supplementary services including parent education; and the composition and responsibilities of an advisory council.

An application for a training program should describe the substantive content and organization of the training program, including the roles or positions for which students are prepared, the tasks associated with such roles, the competencies that must be acquired; the program staffing; and the practicum facilities including their use by students, accessibility to students and their staffing.

b. Provide for each grant program, function or activity, quantitative projections of the accomplishments to be achieved.

An applications for demonstration/service programs should project the number of children to receive demonstration/services by type of handicapping conditions, and number of persons to receive inservice training.

Training programs should project the number of students to be trained by type of handicapping condition.

For non-demonstration/service and non-training activities of all programs, planned activities should be listed in chronological order to show the schedule of accomplishment and their target dates.

c. Identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and successes of the project. For demonstration/service child-centered objectives set for project participants. For 84.029 (Handicapped Personnel Preparation), the positions for which students are receiving training should be related to the needs as explained in 1 and 2 above.

For all activities, explain the methodology that will be used to evaluate project accomplishments.

d. List organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Especially for demonstration/service activities, describe the liaison with community or State organizations as it affects project planning and accomplishments.

e. Present biographical sketch of the project director with the following information: name, address, telephone number, background, and other qualifying experience for the project. Also, list the names, training and background for other key personnel engaged in the project.

Note—The application narrative should not exceed 30 double-spaced typed pages (on one side only).

BILLING CODE 4000-01-M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name | PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature | Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualiiy such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion–Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name | PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature | Date

ED Form GCS-009, (REV. 12/88)

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

ED Form GCS-009, (REV. 12/88)

Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and
(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Organization Name | PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature | Date

ED 80-0004

[FR Doc. 89-17051 Filed 7-20-89; 8:45 am]
BILLING CODE 4000-01-C

federal register

Friday
July 21, 1989

Part III

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 1989.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of July 1, 1989 of six rescission proposals and 14 deferrals contained in the first four special messages of FY 1989. These messages were transmitted to the Congress on September 30 and November 29, 1988, and January 9 and April 18, 1989.

Rescissions (Table A and Attachment A)

As of July 1, 1989, there are no funds being withheld related to rescission proposals.

Deferrals (Table B and Attachment B)

As of July 1, 1989 $4,935.1 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1989.

Information from Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 53, FR p. 39879, Wednesday, October 12, 1988

Vol. 53, FR p. 49530, Wednesday, December 7, 1988

Vol. 54, FR p. 1650, Friday, January 13, 1989

Vol. 54, FR p. 18234, Thursday, April 27, 1989

Richard G. Darman,

Director.

TABLE A.—STATUS OF 1989 RESCISSIONS

	Amount (in millions of dollars)
Rescissions proposed by President Reagan	143.1
Accepted by the Congress as of July 1, 1989	0
Funding made available	123.1
Funding never withheld	22.0

TABLE B.—STATUS OF 1989 DEFERRALS

	Amount (in millions of dollars)
Deferrals proposed by the President	9,156.2
Routine Executive releases through July 1, 1989 (OMB/Agency releases of $4,227.1 million and cumulative adjustments of $6.0 million)	−4,221.1
Overturned by the Congress	0
Currently before the Congress	4,935.1

BILLING CODE 3110–01–M

Attachment A Status of Rescissions Fiscal Year 1989

As of July 1 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Cong ess	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs:								
Subsidized housing programs	R89 1	20 000		1 9 89		(See note below)		
Community Planning and Development:								
Urban development action grants	R89 2	51 651		1 9 89		51 651	2 28 89	
DEPARTMENT OF THE INTERIOR								
Fish and Wildlife Service:								
Land acquisition	R89 3	30 000		1 9 89		30 000	2 28 89	
National Park Service:								
Land acquisition and State assistance	R89 4	35 000		1 9 89		35 000	2 28 89	
DEPARTMENT OF JUSTICE								
Office of Justice Programs:								
Justice assistance	R89 5	5 000		1 9 89		5 000	3 16 89	
DEPARTMENT OF LABOR								
Employment Standards Administration:								
Black lung disability trust fund	R89 6	1 445		1 9 89		1 445	3 16 89	
TOTAL RESCISSIONS		143 096	0			123 096		

NOTE The $20 million proposed for rescission in Rescission Proposal No 89 1 was never withheld from obligation Therefore there was no need to release the funds

Attachment B - Status of Deferrals - Fiscal Year 1989

As of July 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7-1-89
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit.....	D89-11	4,122,750		11-29-88	1,490,000				2,632,750
Economic support fund.....	D89-01	592,760		09-30-88					
	D89-01A		2,054,000	11-29-88	1,860,009				786,751
Military assistance.....	D89-12	457,000		11-29-88	291,250				165,750
International military education and training.....	D89-13	37,400		11-29-88	37,400				0
Agency for International Development									
International disaster assistance.....	D89-14	18,125		11-29-88	15,164				2,961
Special Assistance for Central America									
Promotion of stability and security in Central America.....	D89-2	1,000		09-30-88	1,000				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal.....	D89-3	144,649		09-30-88	751				143,898
Cooperative work.....	D89-4	335,263		09-30-88					
	D89-4A		172,737	04-18-89	508,000				0
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense.....	D89-5	1,212		09-30-88					
	D89-5A		227	04-18-89	56				1,383
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Southwestern Power Administration, Operation and maintenance.....	D89-6	2,800		09-30-88					
	D89-6A		5,600	04-18-89					8,400

Attachment B - Status of Deferrals - Fiscal Year 1989

As of July 1, 1989 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change (+)	Date of Message	Cumulative OMB/Agency Releases (-)	Congressionally Required Releases (-)	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7-1-89
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D89-7	6,745		09-30-88					
	D89-7A		80	04-18-89					6,824
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D89-8	90,000		09-30-88					
	D89-8A		35,000	04-18-89					125,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D89-9	26,135		09-30-88					
	D89-9A		27,000	11-29-88	23,492			6,001	35,644
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D89-10	823,608		09-30-88					
	D89-10A		202,084	11-29-88					1,025,692
TOTAL, DEFERRALS.....		6,659,446	2,496,728		4,227,122	0		6,001	4,935,053

[FR Doc. 89-17100 Filed 7-20-89; 8:45 am]

BILLING CODE 3110-01-C

federal register

Friday
July 21, 1989

Part IV

Commodity Futures Trading Commission

17 CFR Part 34

Regulation of Hybrid Instruments; Policy Statement Concerning Swap Transactions; Final Rule and Notice

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 34

RIN 3038-AA53

Regulation of Hybrid Instruments

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is adopting final regulations concerning certain "hybrid" instruments that combine characteristics of commodity option contracts with debt, preferred equity or depository interests. The final rules establish an exemption from CFTC regulations under the Commodity Exchange Act (CEA or Act) for certain hybrid instruments with commodity option components, based upon the limited nature of the option component and deference to other regulatory frameworks applicable to the non-commodity component of such instruments. In addition, the final rules establish a notice requirement for hybrid instruments qualifying for the exemption.

EFFECTIVE DATE: July 21, 1989.

FOR FURTHER INFORMATION CONTACT: Robert Rosenfeld, Attorney, Division of Trading and Markets, telephone (202) 254-8955, David Merrill, Senior Assistant General Counsel, telephone (202) 254-9880, or Eugene Moriarty, Director, Research Section, Division of Economic Analysis, telephone (202) 254-6990, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Burden

The public reporting burden for this collection of information is estimated to average 0.17 hours per response, including the time for reviewing instructions, searching existing data resources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, and Office of Management and Budget, Paperwork Reduction Project, NEOB, Washington, DC 20503.

I. Background

On January 11, 1989, the Commission published for public comment proposed regulations concerning certain "hybrid" instruments that combine elements of commodity option contracts with debt or depository interests.[1] The proposed rules would have established an exemption from CFTC regulations under the CEA for certain hybrid instruments with limited commodity option components and a notice requirement applicable to specified exempt hybrid instruments. The Commission received letters from 31 commenters on the proposal: Four from futures exchanges; five from federal regulatory agencies; six from industry associations; one from a lawyers' professional association; two from oil companies; one from a law firm; one from the Student Loan Marketing Association; one from the Federal National Mortgage Association; five from broker-dealer and investment banking firms; three from banking organizations; one from a floor-trading and market-maker partnership; and one from the chairman of the Senate Resources Committee of the Alaska State Legislature.

Most commenters supported the general objectives of the rulemaking (*i.e.*, providing clarity concerning the regulatory treatment of hybrids) even though they differed with respect to the content of the release. Certain futures exchanges raised concerns that the rulemaking could impair the Commission's exclusive jurisdiction. Others, however, concurred in the Commission's approach, at least in part. Some exchanges also expressed concern that unless the eligibility rules were made more stringent, the Commission's and the exchanges' regulatory efforts could be compromised. A contrary view was taken by representatives of the banking industry, who contended that the Commission does not have jurisdiction over any security or hybrid instrument offered by banks. Most of the remaining commenters suggested revisions to clarify various provisions or to broaden their applicability. In this regard, commenters representing the securities and banking industries contended that relief should be made available for any security (whether registered or exempt) or any depository instrument offered by federally-insured banks and savings and loans. Finally, the Department of the Treasury contended that the ambiguities in the CEA were too substantial to address on a case-by-case basis and that a legislative solution was needed.

Comments addressing specific rule provisions and an explanation of the Commission's revisions thereto are discussed in more detail below.

Section 4c of the CEA grants the Commission the authority to permit the offer and sale of commodity options without the requirement of exchange trading under such terms and conditions as the Commission may prescribe.[2] The exemptive rule discussed herein does not represent a transfer of regulatory responsibility for option instruments subject to another regulatory scheme. Instead, the rule identifies certain debt, preferred equity or depository instruments in which the commodity option component is not predominant and which meet performance criteria intended to assure that Commission regulation in addition to that of another regulatory would be unnecessary. Accordingly, the Commission has determined to retain the general scheme of the exemptive rule as proposed, subject to modifications discussed below which broaden and clarify certain aspects of the rule.

The Commission did not intend to address the entire universe of hybrid instruments in the proposed rules but, rather, to establish an exemptive framework applicable to categories of instruments in which issuers had expressed interest. As instruments are developed that do not fall within the criteria of the final rule, the Commission will continue to review transactions on a case-by-case basis.

II. Substantive Revisions

A. Section 34.1 Definitions

1. *Section 34.1(b) Hybrid instrument.* As proposed, the definition of hybrid instrument in § 34.1(b) was drafted to include only debt or depository instruments with a commodity-dependent payment that is not severable thereform. In the release accompanying the proposed rules, the Commission specifically requested comment as to the appropriateness of including equity and other interests with commodity-dependent payments as hybrid instruments within the meaning of proposed Rule 34.1(b).[3] A number of commenters who addressed the appropriateness of expanding the definition of hybrid instruments to include equities supported broadening the definition to include such interests. Some commenters specifically advocated the inclusion of preferred stock, many forms of which, unlike common stock, appear to be readily analyzable under the exemptive

[1] 54 FR 1128 (January 11, 1989); 54 FR 9460 (March 7, 1989) (extending the comment period to April 6, 1989).

[2] 7 U.S.C. 6c(b), 6c(c).

[3] 54 FR at 1134 n.26.

framework. Based upon its evaluation of these comments, the Commission is revising proposed § 34.1(b) to include in the definition of hybrid instruments preferred equity interests that otherwise can meet the exemptive criteria. The Commission is limiting the category of included equity interests to preferred equity interests because such interests can closely resemble debt instruments. Although the Commission currently is expanding the definition of hybrid instruments in the final rule only to the extent of including those preferred equities for which an implied option premium meeting the exemptive criteria can be calculated, this action does not foreclose later consideration of other forms of equity interests when the Commission has gained further experience relevant to measurement of the commodity-dependent payment.

The proposed definition of hybrid instrument also was limited to instruments having a commodity component that is not severable from the instrument as a whole. The definition was designed to make clear that hybrid instruments are interests that combine non-severable option or futures-like interests with other interests.[4] Several commenters suggested that the non-sever-ability condition in § 34.1(b) could be read as disallowing the exemption to instruments with detachable hybrid components, such as units or packages of debt securities that incorporate hybrid instruments, even if such detachable components separately meet the criteria of the exemption. The Commission did not, however, intend to prohibit the sale of detachable hybrid option instruments sold in units with other interests, provided that the detachable hybrid instrument itself complies with the criteria for exemption under § 34.2. For purposes of analysis each detachable unit could itself constitute a hybrid instrument subject to the exemptive criteria. As noted in the release accompanying the proposed rules, the Commission intended to exclude from the hybrid instrument definition instruments in which the commodity component is detachable from the non-commodity interest. The non-severability condition would therefore render ineligible for exemption instruments which, for example, combined a commodity option component with a debt instrument and permitted the option component to be detached at a later date (such as a security and a detachable gold warrant).[5]

2. *Section 34.1(d) Commodity-dependent payment.* Proposed § 34.1(d) defined "commodity-dependent payment" as any payment pursuant to a hybrid instrument "resulting from indexing to, or calculation by reference to, the price of a commodity." One commenter questioned the applicability of the definition to instruments that do not provide for periodic interest payments, such as zero coupon debt securities, or instruments that do not provide for cash returns, such as securities that permit or require an issuer to issue additional securities in lieu of cash interest payments. The Commission does not construe "payment" as used in § 34.1(d) to be limited to periodic cash payments. The definitions of commodity-dependent and commodity-independent payments were intended to permit flexibility in the design of hybrid instruments as long as the commodity component is not severable from the instrument as a whole. Thus, as the Commission noted previously, a hybrid's commodity component includes that portion of the principal or interest, or both, that is indexed to the price of a commodity; the commodity indexing mechanism need not be confined to any particular component of the instrument.[6] Hybrid instruments in the form of zero coupon securities or instruments providing for other than cash returns (*e.g.*, interest paid by discount, premium or coupon) are eligible for the exemption. However, the definition of hybrid instrument is limited to instruments containing a debt, depository, or preferred equity component in addition to a commodity-dependent component. Although the rule does not address explicitly hybrid instruments containing more than one non-commodity component, if the additional non-commodity component did not affect the commodity price indexing of a hybrid and the instrument would otherwise satisfy the exemptive criteria, the instrument may qualify for exemption. In any event, an instrument structured in a manner not contemplated by the rule, such as an instrument containing a to-be-issued security, may be eligible for exemption on a case-by-case basis.

3. *Section 34.1(e) Commodity option based payment.* Proposed § 34.1(e) defines "commodity option based payment" to include any commodity-dependent payment in which the commodity indexing results in the indexing of payments to commodity price changes either above or below the indexing reference price but not both. Several commenters contended that the definition of "commodity option based payment" would unreasonably limit the scope of the exemption because hybrid instruments may include combinations of embedded options that offer investors a collar-like return, that is, one limited by both a floor and a ceiling. A collar which has its cap and floor significantly out-of-the-money would have *de facto* futures-like indexing. The definition is designed to assure that exemptive relief is available only to hybrids the commodity component of which is an option and to exclude hybrids with futures-like commodity components.[7] However, indexing with a collar where one of the implicit strike prices is sufficiently near-the-money to create non-trivial option indexing would be eligible for exemptive relief on a case-by-case basis. The Commission believes that the definition as drafted and the provision for case-by-case review appropriately deal with the necessity to distinguish between instruments which have *de facto* futures-like indexing from those with embedded options.[8]

4. *Section 34.1(f) Implied option premium.* Proposed § 34.1(f) defines "implied option premium" as the issue price of a hybrid instrument with commodity based option payments less the present discounted value of the instrument's commodity-independent payments.[9] The proposed rule specifies

[4] Although hybrid instruments may include futures-like interests, the exemption provided in Rule 34.2 only applies to hybrid instruments with option components.

[5] *See, e.g.*, Interpretative Letter No. 85-7, March 6, 1985 *reprinted in* [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,727.

[6] *See* 54 FR at 1134.

[7] It should be noted that option indexing either above or below an implicit strike price where the indexing is capped by an implicit short option further out-of-the-money would meet the rule's definition of an option based payment.

[8] The Commission recognizes that, for example, the indexing of an instrument's coupon above and below a given interest rate subject to a floor on the interest rate may be eligible for the exemption if the strike price implied by the interest rate floor creates a significant option indexing feature.

[9] In response to suggestions that the Commission clarify the factual assumptions of footnote 29 in 54 FR 1128, 1134 n.29 (January 11, 1989), the Commission is restating the text of that footnote as follows:

For example, consider the case of a note with a principal amount of $1000 and a maturity of 5 years that pays interest of 3% per annum, but also pays an additional return when the price of crude oil is between $30 to $50 per barrel. The note is issued at par when the price of crude oil is $20 per barrel. Under the definitions in the regulatory exemption, the commodity-independent payments include the repayment of the original principal at maturity and the annual payment of interest of $30. The commodity-dependent return is the payment at maturity when the price of oil is between $30 and $50 per barrel. This payment is equal to the price of crude oil multiplied by 100 barrels. The calculation of the implied option premium does not involve the

Continued

that the discount rate to be used is "the annual yield at the time of issuance for a comparable non-hybrid debt or depository instrument of a similar term issued by the same or a comparable issuer." Several commenters observed that a comparable instrument may not be available for these purposes on the issuance date and suggested that the Commission permit an estimated annual yield for a comparable non-hybrid instrument to be used. The Commission agrees that issuers should be permitted to use reasonable estimates of the annual yield on a comparable non-hybrid instrument in cases where an actual yield cannot be determined and has amended § 34.1(f) accordingly. See § 34.1(f)

Several commenters also requested that the Commission clarify the time at which the implied option premium is to be calculated for purposes of § 34.1(f). One commenter noted that in a typical underwritten offering of securities, the relevant time for the premium calculation would be the time at which the offering is priced and the underwriting agreement is signed or released from escrow (the process being similar for private placements and "best efforts" offerings). This point in time was suggested in order to enable issuers to determine the exemption is available at the time the instruments are sold as opposed to when they are actually issued by the underwriter. The Commission agrees and confirms that the relevant time for making the § 34.1(f) implied option premium calculation is when the instrument is priced. For instruments that are offered on a continuous basis but are frequently repriced based upon market conditions, the Commission believes that the § 34.1(f) premium test should be met each time firm prices are fixed.

One commenter suggested that the Commission clarify how the definition would apply to an instrument in which the principal amount increases or decreases during the term of the instrument, which pays a higher coupon to compensate investors for the lack of a final maturity date, or which is sold at a deep discount to par. In general, the implied option premium definition measures the difference between the market price of the instrument at issuance and the value of the instrument without its commodity-dependent option payments. This difference is an approximation of the value of the commodity-dependent payments. In cases in which the principal amount is indexed to a commodity price, the gain or loss resulting from such indexing represents the commodity-dependent component of the instrument. Cases in which interest payments are based upon a variable principal should also pose no calculation problem since the effect of such principal indexing will be reflected in the issue price of the instrument. The concerns raised by one commenter with respect to payment of higher coupons to compensate investors for the lack of a final maturity date suggest an instrument design which has not yet been presented to the Commission and which is not contemplated by the exemptive rule. If the instrument is indexed in an option-like manner, the coupons generally would be expected to be lower for the option purchaser than the straight debt rate and a maturity date would be required to enable the buyer to assess the value of the instrument.

The same commenter also inquired about the treatment of discount instruments under the implied option premium definition. Discount instruments are adequately addressed in the definition of the implied option premium as the issue price used in the calculations will reflect the discount.

B. Section 34.2 Option Hybrid Exemption

1. *Section 34.2(a) General.* As proposed, Rule § 34.2(a) would have provided an exemption from Commission regulation applicable to hybrid instruments for which an appropriate degree of federal oversight exists, conditioned upon compliance with one of a number of alternative performance criteria designed to provide indicia of the financial soundness of such transactions. Extensive comments were received concerning the scope of the exemption as delimited by the criteria set forth in § 34.2(a)(1).

2. *Section 34.2(a)(1) Certain exempt securities.* As proposed, § 34.2(a)(1) would have made the exemption available to a class of hybrid instruments with limited option components subject to the applicability of an alternate regulatory framework, as specified in the proposed rule, and to compliance with one of a number of alternative performance criteria. Included in the class of eligible hybrid instruments were certain securities exempt from the registration requirements of the Securities Act of 1933. A number of commenters stated that the categories of exempt securities specified in the proposed rule were too narrow and that certain of these categories could be interpreted too restrictively. Commenters proposed various additions to the list of eligible securities set forth in proposed § 34.2(a)(1). These suggestions, certain of which the Commission is incorporation in the final rule, are discussed below.

a. *Securities which are deemed to be exempt securities by federal statute.* Several commenters stated that proposed § 34.2(a)(1) should be expanded to include securities which are, by federal statute, deemed to be exempt securities for purposes of the federal securities laws. Examples of statutes that provide for such exemption include the legislation establishing the Student Loan Marketing Association, 20 U.S.C. 1087-2(1), the Federal National Mortgage Association, 12 U.S.C. 1723(c), the Federal Home Loan Mortgage Corporation, 12 U.S.C. 1455(g), and the Financing Corporation, 12 U.S.C. 1441(e)(9). These commenters essentially contended that such exempt securities are analogous to the type of exempt security described in proposed § 34.2(a)(1)(iii) (exempt securities under section 3(a)(2) of the Securities Act of

---

commodity-dependent payment, only the commodity-independent payments.

Assume the issuer of the note would pay 9% per annum for a conventional debt instrument of the same maturity. The implied option premium is:

Discount rate=9% per annum

Issue price=$1000

Present discounted value of the commodity-independent payments=

$$\frac{\$1{,}000}{(1.09)^5} + \frac{\$30\times 1-[1/(1.09)^5]}{.09} = \$766.62$$

Implied option premium=$1,000-$766.62=$233.38

$$\frac{\text{Implied option premium}}{\text{Issue price}} = \frac{\$233.38}{\$1{,}000} = 23.3\%$$

The formulas used to calculate the present discounted values are standard annuity formulas. The Commission will accept the underwriter's good-faith estimate of what the issuer's debt rate would be for a comparable fixed income instrument payment be indexed to the price of a commodity on no more than a one-to-one basis. This instrument would fail such a requirement since at issuance the price of crude oil of $20 and the principal amount is $1000 so that one-to-one indexing would be on 50 barrels (*i.e.*, $1,000/$20=50).

1933 issued or guaranteed by the United States or any state). In addition, one federally chartered corporation stated that providing eligibility under the rule for its securities would be necessary to preserve that corporation's competitive position in capital market transactions and thereby facilitate performance of its Congressionally mandated functions. While this commenter noted that a federal statute makes its securities exempt securities for purposes of SEC regulations, it nonetheless questioned whether as a matter of statutory interpretation these securities would be deemed to be exempt securities under Section 3(a)(2) of the Securities Act of 1933 for purposes of proposed § 34.2.

Proposed § 34.2(a)(1)(iii) was intended to include securities which are deemed to be exempt by statute, such as those listed above. However, to eliminate any potential ambiguities, the Commission has revised proposed § 34.2(a)(1)(iii) to clarify that instruments issued or guaranteed as to principal or interest by a corporation, the securities of which are designated by statute to constitute exempt securities, are eligible for the exemption pursuant to § 34.2(a)(1)(iii).

b. *Life insurance products exempt under section 3(a)(2) of the Securities Act of 1933.* Proposed § 34.2(a)(1)(ii) would have made eligible for the exemption securities that constitute exempt securities under Sections 3(a)(3) and 3(a)(8) of the Securities Act of 1933. This provision would have included, among other things, insurance policies and annuity contracts subject to state regulation and exempt from registration under Section 3(a)(8) of the Securities Act of 1933.[10] In proposing this provision, the Commission noted that this exemptive approach was:

> based both upon the character of such interests as primarily non-investment vehicles as well upon the existence of a state regulatory structure applicable to a field historically viewed as sufficiently addressed by state regulation.[11]

An insurance industry trade group stated that the Commission should modify proposed § 34.2(a)(1) to include the full range of insurance products exempt under the Securities Act of 1933 and thereby fulfill completely the Commission's previously expressed intention to include life insurance and annuity contracts within the proposed exemptive framework.[12] In this regard, the commenter noted that life insurance and annuity contracts that fulfill the requirements of Section 3(a)(2) of the Securities Act of 1933 "possess indicia of soundness" (such as comprehensive state regulation) warranting their treatment as eligible exempt instruments.

The Commission agrees and is revising § 34.2(a)(1) by adding a new paragraph to include any securities issued by an insurance company that constitute exempt securities under Section 3(a)(2) of the Securities Act of 1933. *See* § 34.2(a)(1)(v).

c. *Exempt securities under Section 3(a)(2) of the Securities Act: Inclusion of other federally insured institutions.* In proposed § 34.2(a)(1)(iv), the Commission included, as potentially eligible for the exemption, securities exempt under Section 3(a)(2) of the Securities Act of 1933 and issued or guaranteed by a bank that is a member of the Federal Deposit Insurance Corporation (FDIC). Several commenters, including the Federal Home Loan Bank Board and the staff of the Board of Governors of the Federal Reserve System (Federal Reserve), contended that restricting qualifying bank depository instruments to those issued by members of the FDIC inappropriately omitted instruments issued by other federally insured institutions such as savings and loan associations and credit unions. These commenters perceived no distinguishing characteristics of the applicable regulatory system that would warrant such differential treatment and noted that, if uncorrected, this difference in treatment would place other federally insured institutions at a competitive disadvantage to FDIC-insured institutions. Based upon an evaluation of these comments, the Commission has revised proposed § 34.2(a)(1)(iv) by replacing the phrase "FDIC-insured institution" with the phrase "financial institution that is insured by a United States government agency or United States chartered corporation." § 34.2(a)(1)(iv). See also § 34.2(a)(1)(vii) and § 34.2(a)(3)(iv).

Those commenters who urged that federally insured savings and loans be accorded equal treatment with FDIC-insured institutions requested that securities issued by such organizations that are exempt under Section 3(a)(5) of the Securities Act of 1933 be included as eligible exempt securities. The Commission is revising the final rules to accommodate those securities exempt under Section 3(a)(5) issued by federally insured financial institutions. § 34.2(a)(1)(iv).

d. *Exempt securities under Section 3(a)(2) of the Securities Act of 1933 that are issued by foreign banks licensed in the U.S.* Several commenters (including the Institute of International Bankers (IIB), the Federal Reserve and a law firm) suggested that the exemption should be made available to the uninsured domestic offices of foreign banks. These commenters noted that most U.S. branch offices of foreign banks are not FDIC-insured because they are not engaged in retail deposit-taking activities requiring federal deposit insurance within the meaning of the International Banking Act of 1978 (IBA) and implementing regulations of the FDIC.[13] Moreover, it was noted that U.S. agency offices of foreign banks are not eligible for FDIC insurance because they are empowered only to issue non-depository debt obligations to (and maintain credit balances for) citizens or residents of the United States. Both the IIB and the Federal Reserve contended that the uninsured status of most foreign banks and consequent unavailability of the proposed exemption would place such foreign banks' U.S. operations at a competitive disadvantage to FDIC-insured banks and would be inconsistent with the principle of parity of treatment between foreign and domestic banks under the IBA.[14]

The Federal Reserve noted that foreign banks are entitled to be treated equally with domestic banks under the General Agreement on Tariffs and Trade and United States trade laws and that the IBA provides for equal treatment for the U.S. branches and agencies of foreign banks. Commenters represented that disparity of treatment under the hybrid exemptive rule is unwarranted, particularly since the uninsured U.S. offices of foreign banks would be subject to supervision by U.S. bank regulatory authorities, as well as by the regulatory authorities of their

[10] This exemption addresses only insurance contracts and annuities that are not otherwise excluded from Commission jurisdiction.

[11] 54 FR at 1135 n.30.

[12] For example, Section 3(a)(2) of the Securities Act of 1933 exempts any security arising out of a contract issued by an insurance company used to fund certain stock bonus, pension, or profit-sharing plans which meet the requirements for qualification under specified provisions of the Internal Revenue Code.

[13] *See* 12 U.S.C. 3102(b), 3104 (1982); 12 CFR 28.8(a), 346.5 and 346.6 (1988).

[14] *See* U.S.C. 3102(b) which provides in part: "In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section * * * Except as otherwise specifically provided in this chapter or in rules, regulations, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank.* * *"

home jurisdiction, to the same extent generally as insured institutions. In this regard, the IIB noted that all U.S. branches and agencies of foreign banks are subject to essentially the same statutory and regulatory restrictions, reporting obligations, and examination requirements that are applicable to U.S.-chartered commercial banks. In the case of a federally licensed uninsured branch or agency of a foreign bank, the IBA requires that regulations issued by the Comptroller of the Currency and the Federal Reserve concerning such branches or agencies track the regulation of national banks.[15]

The Commission believes that the principles of parity of treatment contained in the IBA and other relevant laws and treaties warrant an accommodation in the exemptive framework applicable to hybrid option instruments to address the special status of domestic [16] uninsured offices of foreign banks. Accordingly, the Commission is amending its proposal to permit the uninsured U.S. offices of foreign banks that are subject to federal bank regulatory supervision to be eligible for the exemption. See § 34.2(a)(1)(iv) and § 34.2(a)(1)(vii) discussed below. The Commission is limiting such relief to federally supervised institutions, since such relief will remove any disparity in treatment as between federally regulated domestic and foreign banks. Since the rule does not extend eligibility for the exemption to securities offered by solely state supervised institutions (*i.e.*, state chartered, and not federally insured), this limitation creates no inequality of treatment between foreign and U.S. banks. However, the Commission invites uninsured state-chartered foreign bank branches and agencies who wish to offer option hybrids to apply for no-action relief on a case-by-case basis.[17]

The Commission is therefore revising proposed § 34.2(a)(1)(iv) to make eligible for the exemption securities exempt under section 3(a)(2) of the Securities Act of 1933 that are issued or guaranteed by a U.S. branch or agency of a foreign bank that is licensed under the laws of the United States and that is supervised by federal banking authorities. Section 34.2(a)(1)(iv). See also § 34.2(a)(1)(vii).

e. *Securities exempt under section 4(2) of the Securities Act of 1933.* Proposed § 34.2(a)(1)(v) would have made eligible for the exemption securities that are exempt from registration pursuant to 17 CFR 230.506. (SEC Regulation D). Numerous commenters stated that § 34.2(a)(1)(v) should be expanded to include securities exempt from registration under section 4(2) of the Securities Act, without regard to whether the securities are offered within a Regulation D safe harbor. These commenters noted that many financial institutions offer securities under section 4(2) of the Securities Act without reliance upon Regulation D. For example, a securities industry trade association represented that most privately-placed securities are offered pursuant to the statutory exemptions from registration of the Securities Act of 1933 without reliance upon SEC Regulation D. The SEC represented that a large number, if not a majority, of private placements rely solely on the section 4(2) exemption of the Securities Act of 1933 and not on Rule 506.[18] These commenters noted that offerings of securities under section 4(2) are exempt only from the registration requirements of section 5 of the Securities Act but that transactions in such securities are not exempt from the antifraud, civil liability or other provisions of the federal securities laws, applicable state securities laws or rules of the National Association of Securities Dealers, Inc. The securities industry trade association and a broker-dealer also noted that use of the Regulation D exemption generally occurs only where unaccredited investors are taking part in the initial offering. Thus, the commenters argued that offerings under section 4(2) of the Securities Act of 1933 may be made to a more restricted class of investors than offerings under Regulation D. In addition, a bar association noted that because many novel financial products are offered under section 4(2), a failure to include such offerings in § 34.2 could retard product development and innovation.

The Commission has determined to reformulate § 34.2(a)(1)(v) to permit securities offered pursuant to section 4(2) of the Securities Act of 1933 to be eligible for exemption. As commenters indicated that private placements pursuant to Section 4(2) of the 1933 Act generally would be made to a subset of permissible Rule 506 purchasers, the revised provision should not restrict the scope of private placements under existing practice and will be consistent with the Commission's objective of limiting eligibility to instruments not offered to the general public.

3. *Section 34.2(a)(1)—Time deposits.*

a. *Time deposits offered by non-FDIC insured institutions and at certain uninsured branches and agencies of foreign banks.* Proposed § 34.2(a)(1)(vi) would have made eligible for the exemption time deposits, within the meaning of 12 CFR 204.2(c)(1), which are offered by a bank that is a member of the FDIC and marketed and sold directly to a customer or through a broker registered in accordance with Section 15 of the Securities Exchange Act of 1934 and applicable regulations.

As noted above, several commenters objected to the exclusion from eligibility under § 34.2(a)(1) of institutions that were not members of the FDIC but that otherwise were subject to federal insurance, such as federally insured savings and loan institutions. For the reasons previously discussed, the Commission is revising proposed § 34.2(a)(1)(vi), as well as § 34.2(a)(1)(iv), to extend eligibility for the exemption to other federally insured institutions.

Similarly, also for the reasons previously discussed, the Commission is revising proposed § 34.2(a)(1)(vi) to extend the exemption to deposits at the uninsured branches or agencies of U.S. supervised foreign banks. Section 34.2(a)(1)(vii) (revision and redesignation of proposed § 34.2(a)(1)(vi)).

b. *Time deposits under 12 CFR 204.2(c)(1): Expansion of category.* As noted above, proposed § 34.4(a)(1)(vi) would have established eligibility for the exemption for time deposits within

[15] *Id.*

[16] The IIB noted that the FDIC-insurance criterion in the proposed exemption could, in conjunction with a technical reading of the Federal Deposit Insurance Act (FDIA), allow all non-U.S. offices of a foreign bank having an insured U.S. branch to be eligible under the exemption. The IIB noted that Section 3 of the FDIA defines the term "insured bank" to include "a foreign bank having an insured branch." 12 U.S.C. 1813(h) (1982). Thus, read technically, all offices of a foreign bank having an insured U.S. branch, including not only the uninsured offices of such a bank located in the United States, but also all non-U.S. offices of such a bank, could rely on the exemption to issue hybrid instruments in the United States.

The Commission has replaced references to FDIC-insured banks with references to U.S. financial institutions insured by a U.S. Government agency or chartered corporation. It is the Commission's intention that only a domestic issuer which is subject to federal insurance be eligible under the federally-insured provisions of the exemption. Thus, a non-insured branch or agency of a foreign bank having an insured U.S. branch would not be eligible for the exemption but would be an eligible issuer only if it is licensed under U.S. law and appropriately regulated, supervised and examined by U.S. banking authorities. See, e.g. § 34.2(a)(1)(iv).

[17] Review of foreign bank branches and agency offerings on a case-by-case basis, followed by more generalized treatment, is consistent with the SEC's practice with respect to foreign branch and agency offerings under Section 3(a)(2) of the Securities Act of 1933. *See* SEC Release No. 33-6661, 39-2038, 51 FR 34462 (September 29, 1986).

[18] The SEC previously has stated that "in general, private placements with large institutions are made in reliance on section 4(2) rather than on the safe harbor provisions of Regulation D." SEC Release 33-6806, 53 FR 44016, 44025 (November 1, 1988) (proposed Rule 144A).

the meaning of 12 CFR 204.2(c)(1). Several commenters, including an association of banks and the Federal Reserve, contended that limiting such eligibility to time deposits under 12 CFR 204.2(c)(1) was too restrictive and omitted other forms of bank accounts that could be characterized as hybrids. These commenters noted, for example, that the proposed rule did not cover demand deposits, demand notes, NOW accounts and other liabilities that constitute transaction accounts under 12 CFR 204.2. The Federal Reserve noted that the regulatory distinction between time deposits and transaction accounts, from which funds may be withdrawn at any time without notice or penalty, is made primarily for monetary policy purposes and should not be material for purposes of the proposed exemption.[19]

The Commission is revising proposed § 34.2(a)(1)(vi) to include demand deposits, time deposits and transaction accounts within the meaning of 12 CFR 204.2(b)(1), (c)(1) and (e), respectively. § 34.2(a)(1)(vii) (redesignation and revision of proposed § 34.2(a)(1)(vi). However, while such accounts will be potentially eligible for the exemption, the conventional structure of some such accounts, for example demand deposits, as deposits without a fixed maturity or interest payment, may not be readily accommodated under the final exemptive rule.

4. *Section 34.2(a)(2) Implied option premium limitation.* Under proposed § 34.2(a)(2), the commodity component of exempted instruments would have been subject to a maximum implied option premium of 40% of the issue price of the instrument. As previously noted, the term "implied option premium" would have been defined in § 34.1(f) as the issue price of the instrument less the present, or discounted, value of the instrument's commodity-independent payments.[20] Under this standard, instruments that have implied option premiums greater than 40% of the instrument's total price at issuance would be ineligible for exemption under the proposed regulations.

Many commenters opposed this criterion. Several commenters objected to the use of a quantitative standard which could result in different permissible implied option premiums depending upon transitory market conditions. It was also noted that calculating the implied option premium depends upon a determination of the commodity-independent payments of the hybrid instrument, an amount which may not be readily ascertainable due to the absence of a final maturity date, variation in the principal amount of the instrument over its term, or other factors. For example, one commenter noted that due to possible fluctuations in the discount rate, an issuer may be unable to predict whether an identical hybrid instrument, issued shortly after an exempted instrument, would be exempt. The implied option premium test is applied at one point in time, at pricing of the instrument. At that time, the issue price and discount rate should be calculable. More generally, it is in the nature of a hybrid instrument to introduce temporal commodity pricing into debt, preferred equity, or depository instruments. Commodity pricing can differ greatly over time; a market may be inverted at one point in time and be a carrying charge market at another point in time. Thus, the reflection of such variables in regulatory standards applicable to hybrid instruments is appropriate.

The Federal Reserve contended that the maximum implied option premium standard could impair legitimate transactions, such as foreign currency deposits at U.S. banks paying interest at the prevailing rates for such currency. The Federal Reserve noted that this concern is particularly relevant to deposits in currencies on which lower interest rates tend to be paid, such as Japanese yen. The implied option premium standard should afford substantial flexibility in the construction of foreign currency linked accounts.

The Federal Reserve also commented that the criterion appears to favor instruments with imbedded options that are "out of the money" rather than "in" or "at the money." However, the criterion does not "favor" instruments that are out-of-the-money but simply puts a maximum limit at issuance on the amount of overall premium that may be embedded in an instrument. To the extent that more commodity units could be effectively indexed with out-of-the-money options as compared to in-the-money options, this simply reflects the lower price, other things being equal, of the former. This same principle governs any valuation of options, including exchange-traded options.

Finally, a number of commenters noted that if the Commission expanded the list of instruments eligible for the exemption to include broader groups of deposits under 12 CFR Part 204, it may not be possible to calculate the implied option premium of some instruments, for example, a demand deposit lacking a fixed maturity date. The Commission believes, however, that to the extent the option value can be effectively estimated, such an instrument may qualify for exemptive relief.

5. *Section 34.2(a)(3)(i) and (iv) Rating.* The Commission proposed to restrict the availability of exemptive relief under proposed § 34.2(a) to transactions satisfying one of five alternate performance criteria designed to provide assurance of the ability of the offeror to satisfy its obligations under the hybrid instrument.

Proposed § 34.2(a)(3)(i) would have provided as an alternative performance criterion that the instrument be rated in one of the three highest categories by at least two nationally recognized investment organizations. A number of commenters argued that requiring more than one rating would impose an unnecessary expense upon option hybrid issuers. An investment bank also commented that the requirement that the rating be in one of the three highest categories was unduly restrictive, since this requirement would exclude, for example, securities rated A (*i.e.*, under a rating system in which AAA, AA+ and AA are the three highest ratings), which are considered to be of investment grade. The investment bank noted that investment grade securities are eligible for investment by most fund managers and fiduciaries and recommended that the criterion be revised to require only that the instrument be rated investment grade.[21] The Commission has revised the final rule to provide that rating of the instrument by a nationally recognized investment rating organization in one of the four highest categories satisfies the performance requirement. See § 34.2(a)(3)(i).

A life insurance industry trade association stated that some life insurance companies are not evaluated by investment rating organizations because they do not issue debt or equity instruments. Nonetheless, the trade association noted that such life insurance companies are evaluated by nationally recognized financial rating organizations such as A.M. Best Company or Moody's Investor Services. The Commission believes that with respect to insurance companies which have not been rated by an investment rating organization, the § 34.2(a)(3)(i) criterion may be fulfilled by an equivalent rating by a nationally recognized financial rating organization.

[19] For example, the Federal Reserve noted that transaction accounts are subject to higher reserve requirements than time deposits. See 12 CFR 204.2(c), 204.2(e) and 204.9(a)(1).

[20] *See* 54 FR at 1135 n.29.

[21] Several commenters noted that investment grade would include instruments rated Baa or better under one grading system.

Proposed §34.2(a)(3)(iv) would have provided as an alternative performance criterion that other outstanding debt instruments offered by the same bank have been rated in one of the three highest categories by at least two nationally recognized investment rating organizations. Several commenters noted that while proposed § 34.2(a)(3)(i) (rating of instrument) would be available both to bank and non-bank issuers, proposed § 34.2(a)(3)(iv) (rating of other outstanding instrument) would be available only to banks. These commenters advocated that all issuers, not only banks, be permitted to employ this performance criterion. In particular, several commenters noted that such flexibility would be most important for issuers of private placements, where the instruments usually are not rated but where the issuers' other outstanding debt frequently has received such ratings.

The Commission agrees that § 34.2(a)(3)(iv) appropriately may be extended to non-bank issuers. Therefore, the Commission has revised § 34.2(a)(3)(iv) by incorporating it into § 34.2(a)(3)(i). The Commission also has clarified the revised rule to specify that where the performance criterion relied upon is the rating of an instrument other than the hybrid instrument, the rated instrument should be one of comparable seniority to the hybrid instrument. In addition, for the reasons discussed above, only one investment rating by a qualified rating agency will be required. See § 34.2(a)(3)(i).

6. *Section 34.2(a)(3)(ii) Net worth.* Proposed § 34.2(a)(3)(ii) provided a $100 million net worth alternative performance criterion. Several commenters suggested that the Commission make clear that the net worth calculation should be measured at only one date, the date the terms of the hybrid instrument are fixed. As discussed below, the Commission believes that, with the exception of cover, compliance with the performance standard should be determined at the time at which the instrument is issued. One commenter suggested that the net worth calculation should be derived from the issuer's most recent balance sheet, prepared in accordance with generally accepted accounting principles or regulatory accounting principles. The Commission concurs in this view.

7. *Section 34.2(a)(3)(iii) Cover or letter of credit.* Proposed § 34.2(a)(3)(iii) would have provided as an alternative performance criterion that the issuer maintain cover, consisting of the physical commodity or futures, forward or option contracts for the commodity, equal to the amount of its commitments to deliver, to take delivery of, or to pay the cash value of, the commodity (or a change in the price of the commodity) that is the subject of the commodity component of the instrument.

A number of commenters stated that the proposed cover requirement appeared to restrict unduly the type of permissible cover arrangements and should be modified to permit other forms of cover. In this regard, some commenters noted that in the Advance Notice, futures or options on futures were not intended as the exclusive means of cover.[22] Commenters suggested, for example, that customized agreements or letters of credit might be used. Others raised questions concerning whether physical inventory or reserves of the physical commodity to which the instrument is indexed would constitute acceptable cover.

The Commission has made several clarifying changes in § 34.2(a)(3)(iii) to address the forms of permissible cover. First, the Commission has revised the provision to make express reference to letters of credit as an alternative to cover.[23] Second, in response to the requests of various commenters that contractual interests in the relevant commodity be considered acceptable cover, the Commission has revised § 34.2(a)(3)(iii) to make clear that interests in the relevant commodity that qualify as cover under Commission Regulation 1.17(j) also would qualify as cover under the exemptive rule. The Commission has retained in the definition of cover specific references to the physical commodity that is deliverable under the hybrid instrument or whose price is the reference price for the instrument, as well as futures, forward, and option contracts.

8. *Section 34.2(a)(3)(v).* Proposed § 34.2(a)(3)(v) would have provided as an alternative performance requirement that the instrument be subject to insurance by the FDIC. In accordance with the revision of §34.2(a)(iii) discussed above, the Commission is expanding this performance criterion to include other forms of federal insurance. In addition, an association of banks contended that the insurance provision should be modified to specify that the institution, not the instrument, be federally insured. As deposits in an FDIC-insured bank are insured to $100,000, some commenters contended that the proposed formulation makes it unclear whether an instrument with a face value in excess of $100,000 would be deemed to be "subject to insurance" for purposes of the rule. The Commission intended the phrase "subject to insurance," as used in the proposed rule, to mean that the issuing bank is insured and that, subject to the applicable ceiling on coverage, the hybrid instrument would be covered by such insurance. The Commission did not intend to disallow exemptive relief to instruments with face values in excess of $100,000. The Commission has revised § 34.2(a)(3)(iv) (redesignation and revision of proposed §34.2(a)(3)(v)) to clarify this issue.

Finally, one commenter urged that proposed § 34.2(a)(3)(v) be revised to permit U.S. offices of foreign banks that are licensed and supervised by U.S. authorities to meet this alternative performance criterion solely by virtue of such a foreign bank's status as a U.S. licensed bank. While the Commission has revised the proposed rules to make clear that hybrid instruments issued by U.S. branches and agencies of foreign banks may qualify for the exemption, the Commission does not believe that revision of proposed § 34.2(a)(3)(v) in the manner suggested is appropriate. Were foreign status alone sufficient to satisfy the performance requirement, uninsured U.S. branches and agencies of foreign banks would be subject to no performance requirement while U.S. banks would, like all other U.S. issuers, be required to satisfy one of the alternate performance criteria. As the Commission has made clear above, it has revised the final rules to reflect the principle of parity of treatment established in the IBA. However, it does not believe that foreign banks should receive a waiver of performance requirements fully applicable to domestic banks, particularly as such requirements may be satisfied by one of several alternative methods.[24] Thus, the Commission believes that, as revised, its final rules treat the uninsured U.S. offices of foreign banks comparably with U.S. banks.

9. Section 34.2(a)(3) *Other comments.* A number of commenters questioned whether the performance requirement set forth in proposed § 34.2(a)(3) was intended to continue for the full term to maturity of the instrument or to be applicable only at the time of issuance of the instrument and objected to the former interpretation. Some commenters suggested that if satisfaction of one of

[22] *See* 52 FR 47022, 47025–26 (December 11, 1987).

[23] Although letters of credit may be used as cover for purposes of Rule 34.2, they do not constitute qualifying capital for purposes of calculating net capital under Commission Rule 1.17. *See* CFR 1.17(c)(3)(i) (1988).

[24] For example, such branches and agencies may rely upon the rating criterion of § 32 4(a)(3)(i).

the alternate performance criteria is required throughout the term of the instrument such a requirement may make it difficult for issuers to obtain opinions of counsel that registered securities will be legally issued. Moreover, these commenters represented that it would be unlikely for cover to be available on acceptable terms for longer maturity instruments. Finally, other commenters requested that the Commission clarify the consequences of a subsequent lack of compliance with a performance criterion.

The Commission agrees that, with the exception of the letter of credit or cover criterion, compliance with the alternate performance criteria is properly determined at the time the instrument is issued and that the exempt status of the instrument is not affected by subsequent events, *e.g.*, a decline in net worth, that result in noncompliance with the performance criterion initially relied upon. This clarification reflects the fact that the performance criteria are not designed to guarantee or assure the issuer's performance of its obligations under the hybrid instrument but only to provide indicia of the issuer's ability to satisfy its obligations under the hybrid instrument. The Commission believes, however, that use of letters of credit or cover to satisfy the performance standard is meaningful only to the extent that such arrangements continue throughout the term of the instrument. Compliance with the performance criteria other than letters of credit and cover, *e.g.*, net worth, is less likely to vary substantially over time. As a general matter, the issuer's failure to maintain compliance with the letter of credit or cover criterion throughout the term of the hybrid instrument should not affect the rights of purchasers who would be considered bona fide purchasers of such instruments. The Commission will continue to evaluate this criterion based upon further experience with the exemptive rule.

10. *Section 34.2(a)(4)—Marketing prohibition.* Proposed § 34.2(a)(4) would have precluded marketing of the instrument as a futures contract or a commodity option, or, except to the extent necessary to describe the instrument or to comply with applicable disclosure requirements, as having the characteristics of a futures contract or a commodity option. Several commenters contended that this requirement was vague and could discourage full disclosure. Other commenters recommended that the Commission make clear that this marketing restriction applies only to the initial issuance of the hybrid instrument and sales literature prepared by the issuer and not to material prepared by the underwriter. One commenter suggested that in order to prevent circumvention of this restriction through collusion between the issuer and underwriter, the issuer should be required to obtain from the underwriter a representation that the hybrid instrument in question will be marketed in accordance with the § 34.2(a)(4) marketing restriction.

The Commission believes that proposed § 34.2(a)(4) adequately described the type or representations that should be precluded as inconsistent with the character of an exempted instrument while preserving the ability of issuers to describe the instrument accurately. By making clear that issuers may describe the operation of the instrument and otherwise make such disclosures as are required by applicable disclosure requirements, the Commission believes that the rule as proposed adequately specifies the conduct prohibited.

As some commenters suggested, the marketing prohibition could be negated to the extent that persons involved in marketing and sales activity ignore the requirements of the rule. Therefore, the issuer must take reasonable steps to assure that the marketing restriction is complied with by other parties responsible for the initial marketing of the instrument.

11. *Section 34.2(b) Case-by-case additional relief.* Proposed § 34.2(b) stated that the Commission may, upon written petiton, grant such further exemptions with respect to hybrid instruments as it determines are not contrary to the public interest. Several commenters suggested that the reference to "hybrid instrument" should be deleted in order to allow the provision to address instruments that do not come within the meaning of that term as defined in proposed § 34.1(b). However, the Commission believes that the relief available under § 34.2(b) is appropriately limited to hybrid instruments inasmuch as the Commission retains exemptive authority under Rule 32.4(b) to grant exemptive relief with respect to options transactions in general, subject to certain exceptions set forth in that rule.[25] In addition, of course, issuers may seek other relief (*e.g.*, "no-action" letters) for instruments that warrant particularized treatment but do not fall within the definition hybrid instrument.

As suggested by one commenter, the Commission wishes to make clear that the exemptive rule is not exclusive and that issuers may continue to rely upon the CEA, other rules, and interpretations. However, a number of no-action positions granted during the pendency of this rulemaking specified that they were subject to such action as the Commission might take in the course of the rulemaking. Although promulgation of these final rules is not intended to affect the validity of existing issues offered pursuant to previous no-action positions, such prior no-action positions are superseded as to all other offerings.

Finally, several commenters stated that before the Commission grants other exemptive relief under § 34.2(b), it should provide a 90-day period for public comment as required by Section 4c(b) of the CEA. The Commission believes, however, that the notice and public comment requirements of Section 4c(b) of the CEA have been satisfied by the comment opportunities provided not only on the rule proposal but also with respect to the Advance Notice. The public has thus been given ample notice and opportunity to comment on the case-by-case exemptive rule.

C. Section 34.3 Notice

Proposed § 34.3 would have required that where the price used for determining the settlement of the commodity-dependent payments of an option hybrid is based on prices reported on a designated contract market, the issuer must provide the Commission with written notification within five business days of the effective date of the offering. One commenter noted that the phrase "the effective date of the offering" is ambiguous and requested clarification. The Commission construes the phrase "effective date of the offering" to mean the date on which the instrument is issued.

D. Additional Issues

1. *Granted options.* In connection with the proposed rules, the Commission requested comment as to the appropriateness of extending the proposed exemption to granted options and the conditions pursuant to which such options should be permitted.[26]

[25] Commission Rule 32.4(b), 17 CFR 32.4(b) provides that: "The Commission may, by order, upon written request or upon its own motion, exempt any other person, either unconditionally or on a temporary or other conditional basis, from any provisions of this Part, other than §§ 32.2, 32.8 and 32.9, if it finds, in its discretion, that it would not be contrary to the public interest to grasnt such exemption."

[26] 54 FR at 1135 n.32.

Several commenters urged the Commission to permit granted option hybrid instruments (such as instruments containing an option granted to the issuer) and suggested possible revisions to the proposed rules to implement this suggestion. The Commission believes that the issues raised by granted option hybrid instruments require further consideration. Therefore, to the extent that issuers seek to issue granted options, they may do so subject to the conditions of the trade option exemption of Commission Rule 32.4(a) or pursuant to case-by-case relief.[27]

III. Other Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, (PRA) 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA the Commission previously submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this rule on April 10, 1989 and assigned OMB control number 3038-0041 to the rule. The burden associated with this entire collection, including this final rule, is as follows:

Average burden hours per response	0.17
Number of Respondents	30
Frequency of response	1

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395-7340.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, requires each Federal agency to consider, in the course of proposing substantive rules, the effect of those rules on small entities. A small entity is defined to include, *inter alia*, a "small business" and a "small organization." 5 U.S.C. 601(6).[28]

The Commission notes that the notification procedure for the regulatory exemption (§ 34.3), would apply generally to any issuer of hybrid instruments with commodity option-dependent payments that are referenced to a futures price on a designated contract market and does not specifically implicate any Commission registrant, large trader or contract market in its status as such.

Based upon the Commission's experience with issuers who have sought no-action relief and filed notices pursuant to published Commission advisories concerning hybrid instruments, the Commission anticipates that most issuers would not constitute "small businesses." [29] The Commission notes that the exemptive rules adopted herein will not require burdensome legal, accounting, consulting or expert costs. The determination of whether an offering would qualify for the proposed exemption requires minimal analysis of data that will be readily available to the issuer.

Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that the rules adopted herein will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 34

Commodity futures, Commodity options, Hybrid instruments.

For the reasons set forth above, new Part 34 is added to Title 17 of the Code of Federal Regulations, to read as follows:

PART 34—REGULATION OF HYBRID INSTRUMENTS

Sec.
34.1 Definitions.
34.2 Option hybrid exemption.
34.3 Option hybrid notice requirement.

Authority: 7 U.S.C. 2, 6c and 12a.

§ 34.1 Definitions.

(a) *Commodity.* Commodity means a commodity within the meaning of Section 2(a)(1)(A) of the Commodity Exchange Act.

(b) *Hybrid instruments.* Hybrid instrument means a debt, preferred equity or depository instrument with a commodity-dependent payment that is not severable therefrom.

(c) *Commodity-independent payment.* Commodity-independent payment means any payment pursuant to a hybrid instrument that does not result from indexing to, or calculation by reference to, the price of a commodity.

(d) *Commodity-dependent payment.* Commodity-dependent payment means any payment pursuant to a hybrid instrument resulting from indexing to, or calculation by reference to, the price of a commodity.

(e) *Commodity option based payment.* Commodity option based payment means any commodity-dependent payment in which the commodity price indexing or referencing results in the indexing of payments for commodity prices either above or below the indexing reference price but not both.

(f) *Implied option premium.* Implied option premium means the issue price of a hybrid instrument with commodity based option payments less the present, or discounted, value of the commodity-independent payments. The discount rate to be used in determining the present value is the actual, or if unavailable, the estimated annual yield at the time of issuance for a comparable non-hybrid debt, preferred equity or depository instrument of a similar term issued by the same or a comparable issuer.

§ 34.2 Option hybrid exemption.

(a) A hybrid instrument whose only commodity-dependent payments are commodity option based payments is exempt from regulation under the Commodity Exchange Act, except as provided in § 34.3 of this part, if:

(1) The instrument is:

(i) A security within the meaning of section 2(1) of the Securities Act of 1933 which is registered in accordance with section 5 of the Securities Act of 1933;

[27] Commission Rule 32.4(a), 17 CFR 32.4(a)(1988) provides: "Except for the provisions of §§ 32.2, 32.8 and 32.9, which shall in any event apply to all commodity option transactions, the provisions of this Part shall not apply to a commodity option offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or by-products thereof, and that such producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such." *See also* note 7 referring to capped option indexing, *supra*, and related text.

[28] "Small organizations," as used in the RFA, means a "not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. 601(4). The RFA does not incorporate the six standards of the Small Business Administration for small organizations. Agencies are expressly authorized to establish their own definitions of small organization. (*Id.*)

[29] All such petitioners for relief were either major corporations, government-chartered corporations or large banks and all had assets approaching or in excess of $100 million. Under SEC Rule 157, 17 CFR 230.157, issuers of securities are considered to be small entities for purposes of the RFA if their total assets are $5 million or less and the proposed offering does not exceed $5 million. Under such criteria, all of the petitioners who have sought regulatory relief or filed under hybrid advisory procedures with Commission also would not be small entities under SEC Rule 157.

(ii) An exempt security under section 3(a)(3) or 3(a)(8) of the Securities Act of 1933;

(iii) An exempt security under section 3(a)(2) of the Securities Act of 1933 that is issued or guaranteed by the United States, any territory of the United States, the District of Columbia or any state of the United States, or any political subdivision or public instrumentality thereof; or a security issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Securities and Exchange Commission.

(iv) An exempt security under section 3(a)(2) or 3(a)(5) of the Securities Act of 1933 that is issued or guaranteed by a financial institution that is insured by a United States Government agency or United States chartered corporation; or an exempt security under section 3(a)(2) of the Securities Act of 1933 that is issued or guaranteed by a United States branch or agency of a foreign bank that is licensed under the laws of the United States and regulated, supervised and examined by United States government authorities having regulatory responsibility for such financial institutions.

(v) An exempt security under section 3(a)(2) of the Securities Act of 1933 that is issued by an insurance company;

(vi) A security that is offered and sold pursuant to an exempt transaction under section 4(2) of the Securities Act of 1933; or

(vii) A demand deposit, time deposit or transaction account within the meaning of 12 CFR 204.2 (b)(1), (c)(1) and (e), respectively, offered by a U.S. financial institution that is insured by a United States government agency or United States chartered corporation, or by a United States branch or agency of a foreign bank that is licensed under the laws of the United States and regulated, supervised and examined by U.S. federal authorities having regulatory responsibility for such financial institutions, and marketed and sold directly to a customer or through a broker registered in accordance with section 15 of the Securities Exchange Act of 1934 and applicable regulations;

(2) The value of the implied option premium is no greater than 40% of the issue price of the instrument;

(3) The issuer or instrument satisfies one of the following requirements:

(i) The instrument or, if the instrument has not been rated, another outstanding instrument of comparable seniority of the issuer has been rated in one of the four highest categories by a nationally recognized investment rating or financial rating organization;

(ii) The issuer has at least $100 million in net worth;

(iii) The issuer maintains letters of credit or cover, consisting of:

(A) The physical commodity that is the subject of the hybrid instrument,

(B) Futures, forward, or option contracts for the commodity, or

(C) Interests constituting acceptable cover under § 1.17(j), equal to the amount of its commitments to deliver, to take delivery of, or to pay the cash value of, the commodity (or a change in the price of the commodity) that is the subject of the commodity component of the instrument;

(iv) The instrument is eligible, subject to applicable restrictions upon the amount of coverage, to insurance by a United States Government agency or United States chartered corporation;

(4) The instrument is not marketed as a futures contract or a commodity option, or, except to the extent necessary to describe the functioning of the instrument or to comply with applicable disclosure requirements, as having the characteristics of a futures contract or a commodity option;

(5) The instrument does not provide for settlement in the form of a delivery instrument, for example, an exchange-approved warehouse receipt or shipping certificate, specified in the rules of a designated contract market.

(b) The Commission may, based upon written petition, grant such further exemptions with respect to hybrid instruments subject to this Section as it determines are not contrary to the public interest.

§ 34.3 Option hybrid notice requirement.

Where the price used for determining the settlement of the commodity-dependent payments of an option hybrid instrument exempted pursuant to § 34.2 is based on prices reported on a designated contract market, the issuer shall provide the Commission in writing, within five business days of the effective date of the offering of the instrument:

(a) The name, address, and telephone number of the issuer and of a designated contact person for such issuer;

(b) The maturity date and authorized or expected size of the offering; and

(c) A copy of the prospectus, offering document or other written description of the instrument provided to actual or prospective purchasers thereof.

Issued in Washington, DC, on July 17, 1989 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-17071 Filed 7-20-89; 8:45 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

Policy Statement Concerning Swap Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of Policy.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is issuing a policy statement concerning swap transactions. In this statement, the Commission identifies those swap transactions which will not be regulated as futures or commodity option transactions under the Commodity Exchange Act or the related regulations. As a consequence, the Commission will take no action to preclude the effectuation of or to regulate such transactions.

EFFECTIVE DATE: July 21, 1989.

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Attorney, Division of Trading and Markets, telephone (202) 254-8955, David Merrill, Senior Assistant General Counsel, Office of the General Counsel, telephone (202) 254-9880, or Eugene Moriarty, Director, Research Section, Division of Economic Analysis, telephone (202) 254-6990, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

Section 2(a)(1)(A) of the Commodity Exchange Act (CEA or Act) grants the Commission exclusive jurisdiction over "accounts, agreements (including any transaction which is of the character of * * * an 'option' * * *), and transactions involving contracts of sale of a commodity for future delivery traded or executed on a contract market * * * or any other board of trade, exchange, or market * * * *" 7 U.S.C. 2. The CEA and Commission regulations require that transactions in commodity futures contracts and commodity option contracts, with narrowly defined exceptions, occur on or subject to the rules of contract markets designated by the CFTC.[1] In several recent releases [2] and in response to requests for case-by-case review of various proposed offerings,[3] the Commission has addressed the applicability of the Act and Commission regulations to various forms of commodity-related instruments offered and sold other than on designated contract markets. An overview of off-exchange transactions and issues was commenced by issuance in December 1987 of an Advance Notice of Proposed Rulemaking (Advance Notice). The Advance Notice requested comment concerning, among other things, a proposed no-action position concerning certain commercial transactions, which, as described, would have extended to certain categories of swap transactions.

Based upon careful review of the comments received in response to the Advance Notice, indicating generally a need for greater clarity in this area, representations from market users, and consultations with other federal regulators concerning the issues raised by swap transactions, the Commission is issuing this policy statement to clarify its view of the regulatory status of certain swap transactions. This statement reflects the Commission's view that at this time most swap transactions, although possessing elements of futures or options contracts, are not appropriately regulated as such under the Act and regulations. This policy statement is intended to recognize a non-exclusive safe harbor for transactions satisfying the requirements set forth herein.

II. Safe Harbor Standards

In determining whether a transaction constitutes a futures contract, the Commission and the courts have assessed the transaction "as a whole with a critical eye toward its underlying purpose." [4] Such an assessment entails a review of the "overall effect" of the transaction as well as a determination as to "what the parties intended." [5] Although there is no definitive list of the elements of futures contracts, the CFTC and the courts recognize certain elements as common to such contracts.[6]

---

[1] 7 U.S.C. 6(a), 6c(b), 6c(c). Section 4(a) of the CEA provides, *inter alia*, that it is unlawful to enter into a commodity futures contract that is not made "on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity." 7 U.S.C. 6(a). This prohibition does not apply to futures contracts made on or subject to the rules of a foreign board of trade, exchange or market. 7 U.S.C. 6(a). The exchange trading requirement reflects Congress's view that such an environment would control speculation and promote hedging. H.R. Rep. No. 44, 67th Cong., 1st Sess. 2 (1921). *See also* 7 U.S.C. 5 (Congressional findings concerning necessity for regulation of futures and commodity option transactions). Pursuant to Sections 4c(b) and 4c(d), 7 U.S.C. 6c(b) and 6c(d), of the CEA, the Commission has authority to permit transactions in commodity options which do not take place on contract markets. Currently, only two narrow categories of such option transactions exist: trade options (in which the offeree is a "commercial user" of the underlying commodity) and dealer options (in which the grantor fulfills the criteria of Section 4c(d)(1) of the CEA). See also 54 FR 1128 (January 11, 1989) (Proposed Rules Concerning Regulation of Hybrid Instruments); Final Rules Concerning Regulation of Hybrid Instruments, published elsewhere in this issue.

[2] 52 FR 47022 (December 11, 1987) (Advance Notice of Proposed Rulemaking); 54 FR 1139 (January 11, 1989) (Statutory Interpretation Concerning Certain Hybrid Instruments); 54 FR 1128 (January 11, 1989) (Proposed Rules Concerning Regulation of Hybrid Instruments). See also 50 FR 42963 (October 23, 1985) (Statutory Interpretation and Request for Comments Concerning Trading in Foreign Currencies for Future Delivery).

[3] The Commission staff's Task Force on Off-Exchange Instruments has addressed a number of proposed offerings of hybrid instruments in a series of published "no-action" letters. See, *e.g.*, CFTC Advisory No. 39-88, June 23, 1988 [Interpretative Letter No. 88-10, June 20, 1988, 2 Comm. Fut. L. Rep. (CCH) ¶ 24,262] (notes indexed to dollar/Yen exchange rate); CFTC Advisory No. 45-88, July 19, 1988 [Interpretative Letter No. 88-11, July 13, 1988, 2 Comm. Fut. L. Rep. (CCH) ¶ 24,284] (notes indexed to dollar/Yen exchange rate); CFTC Advisory No. 48-88, July 26, 1988 [Interpretative Letter No. 88-12, July 22, 1988, 2 Comm. Fut. L. Rep. (CCH) ¶ 24,285] (notes indexed to dollar/foreign currency exchange rate); CFTC Advisory No. 58-88, August 30, 1988 [Interpretative Letter No. 88-16, August 26, 1988, 2 Comm. Fut. L. Rep. (CCH) ¶ 24,312] (federally-chartered corporation issuing notes indexed to nationally disseminated measure of inflation published by a U.S. government agency); CFTC Advisory No. 63-88, September 21, 1988 [Interpretative Letter No. 88-17, September 6, 1988, 2 Comm. Fut. L. Rep. (CCH) ¶ 24,320] (fixed-rate debentures with additional payments indexed to the price of natural gas over an established base price); CFTC Advisory No. 66-88, September 23, 1988, 2 Comm. Fut. L. Rep. (CCH) ¶ 24,321] (certificates of deposit with interest payable at maturity indexed in part to the spot price of gold). See also CFTC Advisory No. 18-19, March 17, 1989 (letter dated November 23, 1988, concerning proposed sale of hay for delayed delivery).

[4] *CFTC* v. *Co. Petro Marketing Group, Inc.*, 680 F.2d 573, 581 (9th Cir. 1982).

[5] *CFTC* v. *Trinity Metals Exchange*, No. 85-1482-CV-W-3 (W.D. Mo. January 21, 1986) [*citing CFTC v. National Coal Exchange, Inc.* [980-1982 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,424 at 26,046 (W.D. Tenn. 1982)].

[6] See generally, 52 FR 47022, 47023 (December 11, 1987) (*citing In the Matter of First National Monetary Corp.*, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,698 (CFTC 1985)); Letter to the Honorable Patrick Leahy and the Honorable Richard Lugar, Committee on Agriculture, Nutrition and Forestry, United States Senate, from Wendy L. Gramm, Chairman, Commodity Futures Trading Commission, dated May 16, 1989 (Attachment at 7-8). The Commission has explained that this does not

Continued

Futures contracts are contracts for the purchase or sale of a commodity for delivery in the future at a price that is established when the contract is initiated, with both parties to the transaction obligated to fulfill the contract at the specified price. In addition, futures contracts are undertaken principally to assume or shift price risk without transferring the underlying commodity. As a result, futures contracts providing for delivery may be satisfied either by delivery or offset.

In addition to these necessary elements, the CFTC and the courts also recognize certain additional elements common to exchange-traded futures contracts, including standardized commodity units, margin requirements related to price movements, clearing organizations which guarantee counterparty performance, open and competitive trading in centralized markets, and public price dissemination.[7] These additional elements facilitate the trading of futures contracts on exchanges and historically have developed in conjunction with the growth of organized contract markets. The presence or absence of these additional elements, however, is not dispositive of whether a transaction is a futures contract.[8]

In general, a swap may be characterized as an agreement between two parties to exchange a series of cash flows measured by different interest rates, exchange rates, or prices with payments calculated by reference to a principal base (notional amount).[9] Commenters have described the swap market as one in which the customary large transaction size effectively limits the market to institutional participants rather than the retail public.[10] Market participants also have noted that swaps typically involve long-term contracts, with maturities ranging up to twelve years.[11] In addition to these characteristics, many comparisons between swaps and futures contracts have stressed the tailored, non-standardized nature of swap terms; the necessity for particularized credit determinations in connection with each swap transaction (or series of transactions between the same counterparties); the lack of public participation in the swap markets; and the predominantly institutional and commercial nature of swap participants. Other commenters have stressed that despite these distinctions in the manner of trading of swaps and exchange products, the economic reality of swaps nevertheless resembles that of futures contracts.

The Commission recognizes that swaps generally have characteristics, such as individually-tailored terms, predominantly commercial and institutional participants, and expectation of being held to maturity, rather than offset during the term of the agreement, that may warrant distinguishing them from futures contracts. The criteria set forth below identify certain swaps for which regulation under the CEA and Commission regulations is unnecessary. These safe harbor standards are consistent with policies reflected in the CEA's jurisdictional exclusion for forward contracts,[12] the Treasury Amendment,[13] and the trade option exemption,[14] and are otherwise consistent with Section 2(a)(1)(A) of the CEA. Although these jurisdictional and exemptive or exclusionary provisions are not sufficiently broad to provide clear exemptive boundaries for many swaps, they reflect policies relevant to the safe harbor policy set forth herein and may encompass certain swap transactions.[15]

---

mean that "all commodity futures contracts must have all of these elements * * * *" *In re Stovall*, [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941 (CFTC 1979). To hold otherwise would permit ready evasion of the CEA.

[7] *E.g.*, Advance Notice, 52 FR at 47023; Letter to the Honorable Patrick Leahy and the Honorable Richard Lugar, Committee on Agriculture, Nutrition and Forestry, United States Senate, from Wendy L. Gramm, Chairman, Commodity Futures Trading Commission, dated May 16, 1989 (Attachment at 8); OGC Statutory and Regulatory Interpretation (Regulation of Leverage Transactions and Other Off-Exchange Future Delivery-Type Instruments), 50 FR 11656, 11657, n.2 (March 25, 1985); *CFTC* v. *Co Petro Marketing Group, Inc.*, 680 F.2d 573 (9th Cir. 1982).

[8] In addition, the Commission and the courts have consistently recognized that "the requirement that a futures contract be executed on a designated contract market is what makes the contract legal, not what makes it a futures contract." *In the Matter of First National Monetary Corp.*, [1984–1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,698 at 30,975 (CFTC 1985); *In re Stovall*, 1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941 at 23,776 (CFTC 1979). *See, also*, Interpretative Statement, "The Regulation of Leverage Transactions and Other Off-Exchange Future Delivery Type Investments-Statutory Interpretation," 50 FR 11656 (March 25, 1985).

[9] *See generally*, Bank for International Settlements, *Recent Innovations in International Banking* at 37–60 (April 1986); S. K. Henderson, "Swap Crdit Risk: A Multi-Perspective Analysis," 44 *Business Lawyer* 365 (1989). Interest rate swaps have been described as having three primary forms: coupon swaps (fixed rate to floating rate swaps); basis swaps (swap of one floating rate for another floating rate); and cross-currency interest rate swaps (swaps of fixed rate payments in one currency to floating rate payments in another currency). Currency swap transactions involve agreements between two parties providing for exchanges of amounts in different currencies which are calculated on the basis of a pre-established interest rate, a specified exchange rate, and a specified notional amount. Commodity swaps generally include swap transactions similar in structure to interest rate swaps, except that payments are calculated by reference to the price of a specified commodity, such as oil.

[10] The average notional amount for swaps has been estimated at $24 million. Letter from the New York Clearing House to CFTC, dated April 6, 1989, commenting on Proposed Rule and Statutory Interpretation Concerning Certain Hybrid and Related Instruments.

[11] *E.g.*, Letter to CFTC from the International Swap Dealers Association, Inc., dated April 8, 1988, concerning Advance Notice; Letter to CFTC from Morgan Guaranty Trust Company of New York, dated April 11, 1988, concerning Advance Notice.

[12] Section 2(a)(1)(A) of the CEA provides that the term "future delivery" does not include sales of any cash commodity for deferred shipment or delivery. 7 U.S.C. 2. Sales of cash commodities for deferred delivery, or forward contracts, generally have been recognized to be commercial, merchandising transactions in physicial commodities entered into by commercial counterparties who have the capacity to make or take delivery of the underlying commodity but in which delivery "may be deferred for purposes of convenience or necessity." 52 FR 47027; *In re Stovall*, [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941 at 23,777–78 (CFTC 1979). The forward contract exclusion may apply to certain types of swap transactions.

[13] The Treasury Amendment provides that "[n]othing in this Act shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade." 7 U.S.C. 2. *See generally*, 50 FR 42963 (October 23, 1985) (CFTC Statutory Interpretation). *See also, Commodity Futures Trading Commission* v. *American Board of Trade*, 473 F. Supp. 117 (S.D.N.Y. 1979), *aff'd*, 803 F.2d 1242 (2d Cir. 1986). The Treasury Amendment may apply to some types of transactions also characterized as swaps.

[14] The trade option exemption, which is set forth in Rule 32.4(a), 17 CFR 32.4(a) (1988), authorizes commodity option transactions, other than those on commodities specified in Rule 32.2(a), that are not executed on a designated contract market and that are:

offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or byproducts thereof, and that such producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such.

It should be noted that under Rule 32.4(a), only the offeree of the trade option need qualify as a "commercial user" or "merchant." Rule 32.4(a) is silent concerning which party to a trade option may be the option buyer of a put or call or "long," and which party may be the option seller of a put or call or "short." As a result, provided that the qualifying commercial offeree is entering the trade option transaction solely for non-speculative purposes demonstrably related to its commercial business in the commodity which is the subject of the option transaction, the requirements of Rule 32.4(a) are met.

[15] The forward contract exclusion facilitates commodity transactions within the commercial merchandising chain. The trade option exemption similarly may be viewed as facilitating principal-to-principal transactions in which the offeree is a commercial party with respect to the underlying commodity. The Treasury Amendment reflects

Continued

Consequently, the Commission has determined that a greater degree of clarity may be achieved through safe harbor guidelines establishing specific criteria for swap transactions to which the Commission's regulatory framework will not be applied. Swaps satisfying the requirements set forth below will not be subject to regulation as futures or commodity option transactions under the Act and regulations. This policy statement addresses only swaps settled in cash, with foreign currencies considered to be cash.[16]

1. Individually-Tailored Terms

Individual tailoring of the terms of swap agreements is frequently cited as indispensable to the operation of the swap market. Commenters have indicated that swap agreements are based upon individualized credit determinations and are tailored to reflect the particular business objectives of the counterparties. Tailoring occurs through private negotiations between the parties and may involve not only financial terms but issues such as representations, covenants, events of default, term to maturity and any requirement for the posting of collateral or other credit enhancement. Such tailoring and counterparty credit assessment distinguish swap transactions from exchange transactions, where the contract terms are standardized and the counterparty is unknown. In addition, the tailoring of swap terms means that, unlike exchange contracts, which are fungible, swap agreements are not fully standardized.

To qualify for safe harbor treatment, swaps must be negotiated by the parties as to their material terms, based upon individualized credit determinations, and documented by the parties in an agreement or series of agreements that is not fully standardized.[17] This requirement is intended to exclude from safe harbor treatment instruments which are fungible and therefore may be readily transferred and traded.

2. Absence of Exchange-Style Offset

Exchange-traded futures contracts generally may be terminated by offset,[18] that is, liquidated through establishment of an equal and opposite position. For exchange-traded futures contracts, the universal counterparty to each cleared position is the clearing organization. Prior consent of the clearing organization, as counterparty, is unnecessary to offset.[19]

In contrast, swap transactions have been described as transactions which create performance obligations terminable only with counterparty consent and which generally are expected to be maintained to maturity. A swap counterparty who seeks to eliminate the economic effect of a swap agreement may enter into a reverse swap agreement, that is, a second swap with the same maturity and payment requirements, with the same or a new counterparty, but in which the party seeking to eliminate its economic exposure assumes the reverse position (in this case the obligations of each party to both transactions continue to maturity). A swap counterparty who seeks to terminate, absent default, its obligations under a swap agreement may: (1) Undertake a swap sale, in which, based upon consent of the counterparty, it assigns its rights and obligations under the swap to a third party; or (2) negotiate an early termination of the transaction, or swap "closeout," in which it negotiates a lump sum payment with its counterparty to terminate the swap.[20] In the latter two cases, termination of the obligations created by a swap is dependent upon consent of the counterparty.

To qualify for safe harbor treatment, the swap must create obligations that are terminable, absent default, only with the consent of the counterparty. If consent to termination is given at the outset of the agreement and a termination formula or price fixed, the consent provision must be privately negotiated. This requirement is intended to confine safe harbor treatment to instruments that are not readily used as trading vehicles, that are entered into with the expectation of performance and that are terminated as well as entered into based upon private negotiation.

3. Absence of Clearing Organization or Margin System

As noted above, the necessity for individualized credit determinations has been described as a hallmark of swap transactions. A number of commenters have stressed both the dependence of the current swap market on such determinations and the absence of a multilateral "credit support" mechanism, such as a clearing organization, for swaps. In accordance with the concept of swaps as dependent upon private negotiation and individualized credit determinations as to the capacity of certain parties to perform, this safe harbor is applicable only to swap transactions that are not supported by the credit of a clearing organization and that are not primarily or routinely supported by a market-to-market margin and variation settlement system designed to eliminate individualized credit risk.[21] The ability to impose individualized credit enhancement requirements to secure either changes in the credit risk of a counterparty or increases in the credit exposure between two counterparties consistent with the above criteria would not be affected.

4. The Transaction is Undertaken in Conjunction With a Line of Business

The absence of public participation in the swaps market has frequently been

Congressional intent to avoid duplicative regulation of foreign currency transactions and other transactions in the interbank market supervised by bank regulatory agencies.

[16] As noted previously, certain categories of swap transactions may be subject to the forward contract exclusion, the Treasury Amendment and the trade option exemption. The safe harbor criteria set forth herein apply equally to options on swaps.

[17] Formation of swaps pursuant to a master agreement between two counterparties that establishes some or all contract terms for one or more individual swap transactions between those counterparties is not precluded by this requirement, provided that material terms of the master agreement and transaction specifications are individually tailored by the parties.

[18] In the context of exchange-traded futures, offset refers to the liquidation of a futures position through the acquisition of an opposite position. The availability of such offset, resulting in the liquidation of the position, typically is established by exchange rules governing exchange members' relationships with the clearing house. *See, e.g.*, Chicago Mercantile Exchange Rule 806 ("a clearing member long or short any commodity to the Clearing House as a result of substitution may liquidate the position by acquiring an opposite position for its principal"); Board of Trade Clearing Corporation Regulation 705.00 ("Where a member buys and sells the same commodity for the same delivery, and such contracts are cleared through the Clearing House, the purchases and sales shall be offset to the extent of their equality, and the member shall be deemed a buyer from the Clearing House to the extent that his purchases exceed his sales, or a seller to the Clearing House to the extent that his sales exceed his purchases"); New York Futures Exchange Rule 3-4 ("As between the Clearing Corporation and the original parties to futures contracts and option contracts, such contracts shall be binding upon the original parties until liquidated by offset, delivery, exercise or expiration, as the case may be"). Of course, the ability to offset in any given case depends upon the availability of a counterparty to enter into an offsetting transaction at an acceptable price.

[19] However, the ability to liquidate contractual positions through offset is established by clearing organization rules to which all clearing members consent.

[20] Swap paties may agree in advance upon a termination formula or price for the swap.

[21] Several commenters urged the Commission to adopt a safe harbor for swaps that would be conditioned upon, among other things, the absence of a credit support mechanism. *See* Letter to CFTC from Sullivan & Cromwell, dated April 8, 1988, concerning Advance Notice, at 41-42; Letter to CFTC from Manufacturers Hanover, dated April 11, 1988, concerning Advance Notice, at 4. The safe harbor standard is based upon individualized credit determinations at the outset and during the pendency of the contract.

cited as a factor supporting different regulatory treatment of swaps and futures contracts. Swap market participants are predominantly institutional and commercial entities such as corporations, commercial and investment banks, thrift institutions, insurance companies, governments and government-sponsored or chartered entities.[22]

The safe harbor set forth herein is limited to swap transactions undertaken in conjunction with the parties' line of business.[23] This restriction is intended to preclude public participation in qualifying swap transactions and to limit qualifying transactions to those based upon individualized credit determinations. This restriction does not preclude dealer transactions in swaps undertaken in conjunction with a line of business, including financial intermediation services.

5. Prohibition Against Marketing to the Public

Swap transactions eligible for safe harbor treatment may not be marketed to the public. This restriction reflects the institutional and commercial nature of the existing swap market and the Commission's intention to restrict qualifying swap transactions to those undertaken as an adjunct of the participant's line of business.

III. Conclusion

This policy statement is intended to clarify the regulatory treatment of certain transactions in order to facilitate legitimate market transactions in a field distinguished by innovation and rapid growth. Consequently, the Commission proposes to continue to review on a case-by-case basis transactions that do not meet the above criteria and that are not otherwise excluded from Commission regulation.

Issued in Washington, DC, on July 17, 1989 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-17070 Filed 7-20-89; 8:45 am]

BILLING CODE 6351-01-M

[22] Letter dated April 8, 1988, to CFTC from International Swap Dealers Association, Inc. Concerning Advance Notice.

[23] Swap transactions entered into with respect to exchange rate, interest rate, or other price exposure arising from a participant's line of business or the financing of its business would be consistent with this standard.

federal register

Friday
July 21, 1989

Part V

Environmental Protection Agency

40 CFR Part 355

Extremely Hazardous Substance List; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 355

[FRL-3303, 3553-3]

RIN 2050-AC77

Extremely Hazardous Substance List

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing the deletion of six substances from the list of "extremely hazardous substances" promulgated by the Agency under section 302. This action is being taken because further review of the information which formed the basis for the original listing as extremely hazardous substances indicates that these listings may have been in error. This proposal will reduce the number under the law.

DATE: Comments must be submitted on or before August 21, 1989.

ADDRESS:

Comments: Written comments should be submitted to: Chemical Emergency Preparedness and Prevention Office, Superfund Docket Clerk, Attention: Docket Number 300PQ, Room 2427 Mall, U.S. Environmental Protection Agency, Mail Stop OS-240, 401 M Street, SW., Washington, DC 20460.

Copies of materials relevant to this rulemaking are contained in Room 2427 Mall, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The technical background document relevant to the rulemaking is available in the docket. The docket is available for inspection, by appointment only, between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding federal holidays. The docket telephone number is (202) 382-3064. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Kathleen Bishop, Chemical Emergency Preparedness and Prevention Office, OS-120, U.S. EPA, 401 M Street SW., Washington, DC 20460, (202) 382-7912.

The Emergency Planning and Community Right-to-Know Information Hotline can also be contacted for further information at 1-800-535-0202, in Washington, DC and Alaska at 1-202-479-2449

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This proposed rule is issued under sections 302 and 328 of the Emergency Planning and Community Right-to-Know Act of 1986 ("the Act").

B. Background

On October 17, 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 ("SARA"). Pub. L. 99-499 (1986). Title III of SARA established a program designed to require state and local planning and preparedness for spills or releases of hazardous substances and to provide the public and local governments with information concerning potential chemical hazards in their communities. This program is codified as the Emergency Planning and Community Right-to-Know Act of 1986. 42 U.S.C. 11001-11050.

Subtitle A of the Act establishes the framework for local emergency planning. The Statute required that EPA publish the Agency's list of acutely toxic chemicals. This had previously been published in November, 1985, by the EPA Administrator in Appendix A of the "Chemical Emergency Preparedness Program Interim Guidance" (CEPP Guidance), as the list of "extremely hazardous substances" ("EHSs"). Under section 302, a facility which has present an EHS in excess of its "threshold planning quantity" ("TPQ") must notify the State emergency response commission and participate, as necessary, in local emergency planning activities.

EPA published as an interim final rule the list of extremely hazardous substances required by the Act and threshold planning quantities for each of these on November 17, 1986. 51 FR 41570. On the same day, EPA proposed the deletion of 40 substances from the list of extremely hazardous substances based on the fact that further analysis had revealed that these substances did not meet the Agency's criteria for acute toxicity that formed the basis of the list of chemicals in Appendix A of the CEPP Guidance. 51 FR 41593.

On April 22, 1987, EPA published a final rule revising the previously published interim final rule. 52 FR 13378. In the preamble to that rule, EPA announced that it was deferring the proposed delisting of the 40 substances, pending an evaluation of the long-term effects from short-term exposure to each of the substances proposed for delisting. 52 FR 13388. This deferral was in response to comments from members of the public who argued that the proposed deletion would be premature and inconsistent with the statutory requirements. These requirements include consideration of both short-term and long-term health effects from short-term exposure when revising the list.

On November 23, 1987, the District Court for the District of Columbia issued an order in A.L. Laboratories, Inc. v. Environmental Protection Agency, 674 F. Supp. 894 (D.D.C. 1987) Civ. Action No. 87-1991-OG (and consolidated cases) requiring EPA to remove four of the substances proposed for delisting from the list of extremely hazardous substances under section 302 of the Act. EPA's November 17, 1986 proposed delisting of all 40 substances was based on the Agency's explicit recognition that these substances did not meet the criteria established by the Agency for qualification for the list referred to by Congress in section 302(a)(2). The Court concluded that such substances were thus originally listed under section 302 in error.

In response to the Court's order, EPA published two final rules removing four substances from the section 302 list. 52 FR 48072, 48073 (December 17, 1987). The remaining 36 substances proposed for deletion subsequently were removed from the list. 53 FR 5574 (February 25, 1988). EPA based its decision to delist these substances on its belief that although the Court's order did not expressly address these 36 substances, the Court's reasoning extended to these substances.

On July 1, 1988, EPA received a petition from the Gaylord Chemical Corporation requesting the Agency to delete dimethyl sulfide from the list of extremely hazardous substances because it did not meet the list criteria. In response to this petition, EPA undertook a review of dimethyl sulfide and other chemicals the Agency suspected may not have met the original listing criteria. In March 1989 the Agency received a second petition from the Food Ingredient Division of Hercules Incorporated, also requesting that the Agency delist dimethyl sulfide from the list of extremely hazardous substances. Today's rule proposing to delist dimethyl sulfide from the section 302 list constitutes the Agency's proposed response to these petitions. The Agency's decision to delist or not delist dimethyl sulfide in a final rule will constitute the Agency's final response to the rulemaking petitions.

II. Proposed Deletions and Changes

Today EPA is proposing to remove dimethyl sulfide (CAS# 75-18-3); isopropyl formate (625-55-8); methyl disulfide (624-92-0); phenol, 2,2'-thiobis (4,6-dichloro-(97-18-7); piprotal (5281-13-0), and sodium pentachlorophenate (131-52-2) from the list of EHSs under section 302 of the Act. The Agency has reviewed the available toxicity data for

these chemicals and has concluded that they do not meet the listing criteria. EPA believes that these chemicals, like the 40 previously delisted, were incorrectly listed under section 302. Therefore, based on the reasoning in A.L. Laboratories the Agency believes that these chemicals should be delisted. The references reviewed for these chemicals and for the other chemicals discussed in this preamble are cited in the technical background document, available in the docket.

Dimethyl sulfide and methyl disulfide were listed as EHSs on the basis of an article that has been found to contain critical inconsistencies. In addition, key experimental design and conduct details were not given. The article thus was determined to contain flawed scientific methods. Other articles that EPA considers valid indicate that these substances clearly do not meet the criteria for listing as EHSs.

Isopropyl formate was listed on the basis of a secondary reference that appears to have included a typographical error. Toxicological data for chemicals of similar structure strongly indicate that isopropyl formate is not expected to be sufficiently toxic to warrant its listing as an EHS.

Phenol, 2,2'-thiobis (4,6-dichloro- was listed as an EHS on the basis of a toxicity value from a secondary reference that appears to be in error. This chemical is used as a human medication; reported therapeutic doses do not indicate that it is extremely toxic.

Piprotal, according to toxicity values currently listed by the Registry of Toxic Effects of Chemical Substances (RTECS) and a recent study, does not meet the listing criteria. The toxicity value originally used as the basis for listing appears to have been a clerical error which has since been corrected by RTECs.

Sodium pentachlorophenate was listed on the basis of a study that could not be validated. Another study, which appears to be valid, indicates that the chemical does not meet the listing criteria. In addition, pentachlorophenol, a substance with similar toxicological properties that was previously listed on the basis of a flawed study, has already been delisted (53 FR 5574).

The Agency requests comments on whether it should proceed to delist these six chemicals based upon this information or any additional information submitted by commenters relating to whether these chemicals meet the section 302 listing criteria.

On January 23, 1989, EPA proposed the designation of 232 EHSs as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. Under section 304 of SARA, releases of EHSs not currently subject to CERCLA must be reported if the quantity released is one pound or more. The Agency will be proposing in a separate rulemaking to adjust reportable quantities (RQs) for all EHSs proposed for designation in the January 23 rulemaking and for some EHSs already listed as CERCLA hazardous substances. The substances identified for proposed delisting in today's rulemaking were included in the January 23 rulemaking and will be part of the proposed rulemaking on the RQ adjustments. However, any final decisions regarding these substances will be deferred until this current rulemaking is finally decided. Once a final decision is made regarding today's proposed delisting, any chemical to be delisted will not be designated as a CERCLA hazardous substance or receive an adjusted RQ in the final rule responding to the January 23 designation proposal.

EPA is also proposing to change the TPQ of muscimol (2763-96-4) from 10,000 pounds in all instances to 500 pounds when the substance is in solution, in molten form, or has a particle size of 100 microns or less. The TPQ will remain at 10,000 pounds for solid forms with particle size greater than 100 microns. This proposed change returns the TPQ for muscimol to the levels published in the Agency's November 17, 1986 interim final rule originally listing the EHSs and their TPQs. It was noted during Agency review that muscimol was footnoted in the Final Rule of April 22, 1987, as not meeting the acute toxicity criteria. 52 FR 13378. This footnote was a typographical error. The basis for the listing has been verified. However, because of the error in footnoting, the TPQ for muscimol was raised to 10,000 pounds, the TPQ level of lowest concern. Based on the toxicity, the TPQ should have remained at 500 pounds or 10,000 pounds depending on the physical form of the substance.

One chemical, methyl mercaptan (74-93-1), was listed on the basis of the same article which identified dimethyl sulfide and methyl disulfide as extremely hazardous. As discussed above this article has been found to contain flawed scientific methods. However, other articles that EPA considers scientifically valid indicate that although methyl mercaptan does not meet the criteria for acute toxicity, it does meet the secondary criteria of toxicity in combination with a large production volume, which was an original basis for inclusion on the list. Therefore, EPA is not proposing to delist methyl mercaptan, but to keep it on the list as one of the "chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ('other chemicals')." 52 FR 13403.

III. Other Chemicals—Request for Comment

Five additional chemicals have been reviewed for possible removal from the list of EHSs. These chemicals are methacryloyl chloride (920-46-7), methyl vinyl ketone (78-94-4), pentadecylamine (2570-26-5), phosphorus pentoxide (1314-56-3), and pyrene (129-00-0). These chemicals are not being proposed for deletion at this time. Four of these chemicals were listed on the basis of inhalation toxicity studies that may contain flawed scientific methods. One is listed on the basis of an abstract. The information currently available to the Agency does not rebut the validity of the original listing of these chemicals. The Agency requests comments and additional information on these five chemicals.

IV. Regulatory Analyses

A. Executive Order 12291

Under Executive Order 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement to prepare a Regulatory Impact Analysis. The proposed rule today is not major because it will not result in an effect on the economy of $100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, and innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis under the Executive Order.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant

economic effect on a substantial number of small entities.

EPA has examined the rule's potential effects on small entities as required by the Regulatory Flexibility Act. It has determined this rule will have no adverse effect on small entities because it reduces any reporting burden on all businesses, including small entities. Therefore, I certify that today's proposed rule will not have a significant economic effect on a substantial number of small entities.

C. Paperwork Reduction Act

This rule relieves facilities from having to report the presence of these six chemicals to the State Emergency Response Commissions and Local Emergency Planning Committees. If these facilities have no other Extremely Hazardous Substances, they will no longer be required to participate in the emergency planning process required by the statute. Therefore, there are no information collection requirements for OMB to review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 355

Chemicals, Hazardous substances, Extremely hazardous substances, Community right-to-know, Chemical accident prevention, Chemical emergency preparedness, Threshold planning quantity, Reportable quantity, Community emergency response plan, Contingency planning, Reporting and recordkeeping requirements.

Dated: July 10, 1989.

William K. Reilly,

Administrator, Environmental Protection Agency.

For the reasons set out in the Preamble, Part 355 of Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 355—EMERGENCY PLANNING AND NOTIFICATION

1. The authority citation for Part 355 continues to read as follows:

Authority: Secs. 302, 303, 304, 325, 326, 328, and 329 Pub. L. 99-499, 100 Stat. 1613, 42 U.S.C. 11002, 11003, 11004, 11025, 11026, 11028, and 11029 (1986).

Appendixes A and B [Amended]

2. Appendix A to Part 355 is proposed to be amended by removing the following entries:

Appendix A—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities

[Alphabetical Order]

CAS No.	Chemical name
75-18-3	Dimethyl sulfide.
625-55-8	Isopropyl formate.
624-92-0	Methyl disulfide.
97-18-7	Phenol, 2,2'-thiobis(4,6-dichloro-
5281-13-0	Piprotal.
131-52-2	Sodium pentachlorophenate.

3. Appendix B to Part 355 is proposed to be amended by removing the following entries:

Appendix B—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities

[CAS Number Order]

CAS No.	Chemical name
75-18-3	Dimethyl sulfide.
97-18-7	Phenol, 2,2'-thiobis(4,6-dichloro-
131-52-2	Sodium pentachlorophenate.
624-92-0	Methyl disulfide.
625-55-8	Isopropyl formate.
5281-13-0	Piprotal.

4. Appendix A and Appendix B to Part 355 are proposed to be amended by removing "a,h" from the Notes column and changing the threshold planning quantity to 500/10,000 pounds for Muscimol, CAS No. 2763-96-4.

5. Appendix A and Appendix B to Part 355 are proposed to be amended by adding "l" to the Notes column for Methyl Mercaptan, CAS No. 74-93-1.

[FR Doc. 89-16539 Filed 7-20-89; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Friday
July 21, 1989

Part VI

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Extension of Partial Stay and Amendment of Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-033]

RIN 1218—AA26

Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay and amendment of final rule.

SUMMARY: OSHA is hereby extending the partial administrative stay of the revised final standards for occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry (§ 1910.1001) and construction (§ 1916.58), insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite. The current partial stay, originally set to expire on April 21, 1987 and extended until July 21, 1988 and July 21, 1989 is being further extended until November 30, 1990 to allow OSHA to conduct supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standard as asbestos, or should be treated in some other way. OSHA also is making minor conforming amendments to notes to the affected standards.

DATES: The partial stay of §§ 1901.1001 and 1926.58 is extended until November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: In June 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry and construction which were to be effective on July 21, 1986. (See 51 FR 22812 et. seq., June 20, 1986).

On October 17, 1986, OSHA published a partial stay of the revised standards insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite, in order to enable the Agency to review new submissions raising questions about the appropriateness of regulating these minerals in the revised asbestos standards, and to allow sufficient time to reopen the rulemaking record and conduct supplemental rulemaking proceedings limited to this issue (51 FR 37002).

OSHA extended the stay until July 21, 1988 in a notice published on April 30, 1987 (52 FR 15722), and again until July 21, 1989, in a notice published on July 20, 1988 (53 FR 27345).

The extensions were issued to allow OSHA sufficient time first to gather data relating to the feasibility of regulating all impacted industries, then to collect and analyze additional health data and to draft a notice of proposed rulemaking. OSHA is now completing the drafting and staff level review of the agency's draft notice of proposed rulemaking. The following rulemaking milestones have now been established: publication of a notice of proposed rulemaking—October 1989; publication of a final standard—November 1990. Thus, an extension of the stay until November 30, 1990 is necessary to conclude the rulemaking on the regulation of non-asbestiform tremolite, anthophylite and actinolite.

As was the case with the initial partial stay, the 1972 standard governing occupational exposure to asbestos (redesignated 29 CFR 1910.1101) will remain in effect to the extent of the stay during the period of the extension.

The full text of the stay with respect to these non-asbestiform minerals was published in the October 17, 1986 **Federal Register** (51 FR 37002).

With respect to the extension of the partial stay, OSHA finds that advance notice and opportunity for comment are impractical and unnecessary within the meaning of 5 U.S.C. 553 in view of the limited duration of the extension and the continued applicability of the 1972 standard (29 CFR 1910.1101) to cover the gaps in coverage created by the partial stay.

The minor amendments to the notes to 29 CFR 1910.1001, 1910.1101, and 1926.58, similarly are made without advance notice and opportunity for comment. OSHA finds such process unnecessary and impracticable in that the changes merely reference the extension of the stay and restate the applicability of the 1972 standard.

No evidentiary issues are involved.

List of Subjects in 29 CFR Parts 1910 and 1926

Asbestos, Occupational safety and health.

Authority and Signature

This document was prepared under the direction of Alan McMillan, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

It is issued pursuant to sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), the Longshore and Harbor Workers Compensation Act (33 U.S.C. 941), 29 CFR Part 1911, Secretary of Labor's Order No. 9-83 (48 FR 35736), and 5 U.S.C. 551 et seq.

Signed at Washington, DC, this 18th day of July, 1989.

Alan McMillan,

Acting Assistant Secretary.

Amended Standards

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1910—[AMENDED]

1. The authority citation for Subpart Z of Part 1910 continues to read as follows:

Authority: Secs. 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736), as applicable; and 29 CFR Part 1911.

All of Subpart Z issued under Sec. 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z-1-A, which have identical limits listed in the Transitional Limits columns of Table Z-1-A, Table Z-2 or Table Z-3. The latter were issued under Section 6(a) (5 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2 and Table Z-3 also issued under 5 U.S.C. 533.

Section 1910.1000, Tables Z-1-A, Z-2 and Z-3 not issued under 29 CFR 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

Section 1910.1001 also issued under Sec. 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 653.

Section 1910.1003 through 1910.1018 also issued under 29 CFR 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 553.

Section 1910.1028 also issued under 29 U.S.C. 653.

Section 1910.1043 also issued under 5 U.S.C. 551 et seq.

Sections 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1048 also issued under 29 U.S.C. 653.

Sections 1910.1200, 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

§ 1910.1001 [Amended]

2. Section 1910.1001 is hereby amended by revising the note after

Appendix H to § 1910.1001 to read as follows:

Note.—Pursuant to an administrative stay effective July 21, 1986, published on October 17, 1986 (51 FR 37002), extended to July 21, 1988 (52 FR 15722), to July 21, 1989 (53 FR 27345) and to November 30, 1990 (54 FR ____), enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

3. Section 1910.1101 is hereby amended by revising the note preceding § 1910.1101(a) to read as follows:

§ 1910.1101 Asbestos.

Note.—This section applies in lieu of the revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite (29 CFR 1910.1001; 29 CFR 1926.58), during the period and to the extent that the revised standards have been partially stayed. (See 51 FR 37002, October 17, 1986, 52 FR 15722, April 30, 1987, 53 FR 27345, July 20, 1988, and 54 FR ____, July 21, 1989, for a description of the stay).

Part 1926 of the Code of Federal Regulations is hereby amended as follows:

PART 1926—[AMENDED]

Subpart D—[Amended]

4. The authority citation for Subpart D of Part 1926 continues to read as follows:

Authority: Secs. 4, 6, and 8, Occupational Safety and Health Act of 1970, 29 U.S.C. 653, 655, 657; sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, and Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable. Sections 1926.55(c) and 1926.58 also issued under 29 CFR Part 1911.

§ 1926.58 [Amended]

5. Section 1926.58 is hereby amended by revising the note after Appendix I to § 1926.58 to read as follows:

Note.—Pursuant to an administrative stay effective July 21, 1986, published October 17, 1986 (51 FR 37002), extended to July 21, 1988 (at 52 FR 15722, April 30, 1987) to July 21, 1989 (53 FR 27345, July 20, 1988) and to November 30, 1990 (54 FR 30705, July 21, 1989), enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

[FR Doc. 89–17128 Filed 7–20–89; 8:45 am]
BILLING CODE 4510–26–M

federal register

Friday
July 21. 1989

Part VII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 19 and 52

Federal Acquisition Regulation (FAR); Liquidated Damages; Interim Rule With Request For Comments

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

[Federal Acquisition Circ. 84-50]

Federal Acquisition Regulation (FAR); Liquidated Damages

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: Federal Acquisition Circular (FAC) 84-50 amends the Federal Acquisition Regulation (FAR) to require a prime contractor to pay liquidated damages upon a finding of lack of good faith effort to meet its small business subcontracting goals.

DATES: *Effective Date:* August 15, 1989. *Comment Date*: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 19, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4041, Washington, DC 20405. Please cite FAC 84-50 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GSA Building, Washington, DC 20405, (202) 523-4755. Please cite FAC 84-50.

SUPPLEMENTARY INFORMATION:

A. Determination to Issue An Interim Regulation

A determination has been made under authorities of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) to issue the regulations in FAC 84-50, as an interim rule. This action is necessary to implement in the FAR section 304 of the Business Opportunity Development Reform Act of 1988, Pub. L. 100-656. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

B. Background

Section 304 of Pub. L. 100-656 provides for the imposition of liquidated damages on a prime contractor that fails to make a good faith effort to achieve its subcontracting goals under 15 U.S.C. 637(d)(4) and the implementing FAR regulations. The legislative history of an earlier bill, H.R. 1807, which contained the liquidated damages provision, stated that "Maximum practicable utilization of small and small disadvantaged business concerns as subcontractors in government contracts is a matter of national interest with both social and economic implications." H. Rept. No. 460, 100th Cong., 1st Sess., 68 (1987). The report went on to state that failure of a contractor to comply with the terms of the subcontracting goals, which are part of the contract, deprives the Government of the full benefit of its bargain.

Section 304 specifically requires that the contractor be afforded an opportunity to demonstrate a good faith effort regarding compliance prior to the contracting officer's final decision regarding the imposition of damages. The contracting officer's final decision is expressly made subject to the Contract Disputes Act. Subsection 19.705-7, Liquidated damages, is added to implement this requirement.

C. Regulatory Flexibility Act

It is not anticipated that this interim rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. This rule addresses large contractors with plans that require them to attempt to place a certain amount of subcontracts with small and small disadvantaged businesses. It does not have a direct impact on the small businesses themselves. Accordingly, no Initial Regulatory Flexibility Analysis has been prepared. Comments are invited from small businesses and other interested parties and will be considered in determining whether or not a Final Regulatory Flexibility Analysis is required. Comments from small entities concerning the affected FAR sections will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 89-610 (FAC 84-50).

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this rule does not impose any reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: July 19, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-50 is effective August 15, 1989.

Eleanor Spector,

Assistant Secretary of Defense for Procurement, DOD.

Richard H. Hopf III

Associate Administrator for Acquisition Policy, GSA.

S.J. Evans,

Associate Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 84-50 amends the Federal Acquisition Regulation (FAR) as specified below:

Item-Liquidated Damages

FAR 19.701, 19.702, 19.705-4, 19.705-6, 19.706, 19.708 are revised and 19.705-7 and the clause at 52.219-16 are added to implement section 304 of the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) which, among other things, requires a prime contractor to pay liquidated damages upon a finding of lack of good faith effort to meet its small business subcontracting goals. The contracting officer's final decision is expressly made subject to the Contract Disputes Act.

Liquidated damages will be assessed at the actual dollar amount by which the contractor failed to achieve each subcontract goal. Such damages may be in addition to any other remedies the Government may have under the contract.

These changes apply to contracts awarded on or after August 15, 1989.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 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 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

2. Section 19.701 is amended by alphabetically adding the definition "Failure to make a good faith effort to

comply with the subcontracting plan," to read as follows:

19.701 Definitions.

"Failure to make a good faith effort to comply with the subcontracting plan," as used in this subpart, means willful or intentional failure to perform in accordance with the requirements of the subcontracting plan, or willful or intentional action to frustrate the plan.

* * * * *

3. Section 19.702 is amended by revising paragraph (c) to read as follows:

19.702 Statutory requirements.

* * * * *

(c) As stated in 15 U.S.C. 637(d)(8), any contractor or subcontractor failing to comply in good faith with the requirements of the subcontracting plan is in material breach of its contract. Further, 15 U.S.C. 637(d)(4)(F) directs that a contractor's failure to make a good faith effort to comply with the requirements of the subcontracting plan shall result in the imposition of liquidated damages.

4. Section 19.705–4 is amended by revising paragraph (c); by redesignating existing paragraphs (d)(2), (3), (4), and (5) as (d)(3), (4), (5), and (6); and by adding a new (d)(2) to read as follows:

19.705–4 Reviewing the subcontracting plan.

* * * * *

(c) In negotiated acquisitions, the contracting officer shall determine whether the plan is acceptable based on the negotiation of each of the six elements of the plan (see 19.704). Subcontracting goals should be set at a level that the parties reasonably expect can result from the offeror expending good faith efforts to use small and small disadvantaged subcontractors to the maximum practicable extent. Particular attention should be paid to the identification of steps that, if taken, would be considered a good faith effort. No goal should be negotiated upward if it is apparent that a higher goal will significantly increase the Government's cost or seriously impede the attainment of acquisition objectives. An incentive subcontracting clause (see 52.219–10, Incentive Subcontracting Program for Small and Small Disadvantaged Business Concerns) may be used when additional and unique contractor effort could significantly increase subcontract awards to small or small disadvantaged businesses.

(d) * * *

(2) In accordance with 15 U.S.C. 637(d)(4)(F)(iii), ensure that the goals offered are attainable in relation to—

(i) The subcontracting opportunities available to the contractor, commensurate with the efficient and economical performance of the contract;

(ii) The pool of eligible subcontractors available to fulfill the subcontracting opportunities; and

(iii) The actual performance of such contractor in fulfilling the subcontracting goals specified in prior plans.

* * * * *

5. Section 19.705–6 is amended by adding paragraph (f) to read as follows:

19.705–6 Postaward responsibilities of the contracting officer.

* * * * *

(f) Initiating action to assess liquidated damages in accordance with 19.705–7 upon a recommendation by the administrative contracting officer or receipt of other reliable evidence to indicate that such action is warranted.

6. Section 19.705–7 is added to read as follows:

19.705–7 Liquidated damages.

(a) Maximum practicable utilization of small and small disadvantaged business concerns as subcontractors in Government contracts is a matter of national interest with both social and economic benefits. When a contractor fails to make a good faith effort to comply with a subcontracting plan, these objectives are not achieved, and 15 U.S.C. 637(d)(4)(F) directs that liquidated damages shall be paid by the contractor.

(b) The amount of damages attributable to the contractor's failure to comply shall be an amount equal to the actual dollar amount by which the contractor failed to achieve each subcontract goal or, in the case of a commercial products plan, shall be that portion of the dollar amount allocable to Government contracts by which the contractor failed to achieve each subcontract goal.

(c) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, a contractor has failed to meet its subcontracting goals and the contracting officer decides in accordance with paragraph (d) of this subsection that the contractor failed to make a good faith effort to comply with its subcontracting plan, the contracting officer shall give the contractor written notice specifying the failure, advising the contractor of the possibility that the contractor may have to pay to the Government liquidated damages, and providing a period of 10 days (or longer period as necessary) within which to respond. The notice shall give the contractor an opportunity to demonstrate what good faith efforts have been made before the contracting officer issues the final decision, and shall further state that failure of the contractor to respond may be taken as an admission that no valid explanation exists. When appropriate, the notice may invite the contractor to discuss the matter.

(d) In determining whether a contractor failed to make a good faith effort to comply with its subcontracting plan, a contracting officer must look to the totality of the contractor's actions, consistent with the information and assurances provided in its plan. The fact that the contractor failed to meet its subcontracting goals does not, in and of itself, constitute a failure to make a good faith effort. For example, notwithstanding a contractor's diligent effort to identify and solicit offers from small business and small disadvantaged business concerns, factors such as unavailability of anticipated sources or unreasonable prices may frustrate achievement of the contractor's goals. However, when considered in the context of the contractor's total effort in accordance with its plan, the following may be considered as indicia of a failure to make a good faith effort: a failure to attempt to identify, contact, solicit, or consider for contract award, small business or small disadvantaged business concerns; a failure to designate a company official to administer the subcontracting program; a failure to maintain records or otherwise demonstrate procedures adopted to comply with the plan; and the adoption of company policies or procedures which have as their objectives the frustration of the objectives of the plan.

(e) If, after consideration of all the pertinent data, the contracting officer finds that the contractor failed to make a good faith effort to comply with its subcontracting plan, the contracting officer shall issue a final decision to the contractor to that effect and require the payment of liquidated damages in an amount stated. The contracting officer's final decision shall state that the contractor has the right to appeal under the clause in the contract entitled Disputes.

(f) With respect to commercial products plans, i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in the contract entitled Small Business and Small Disadvantaged Business Subcontracting Plan, the contracting officer of the agency that originally approved the plan will exercise the functions of the contracting

officer under this subsection on behalf of all agencies that awarded contracts covered by that commercial products plan.

(g) Liquidated damages shall be in addition to any other remedies that the Government may have.

7. Section 19.706 is amended by removing at the end of paragraph (a)(4) the word "and"; by removing at the end of paragraph (a)(5) the period and inserting in its place "; and"; and by adding paragraph (a)(6) to read as follows:

19.706 Responsibilities of the cognizant administrative contracting officer.

* * * * *

(a) * * *

(6) Immediate notice and rationale if, during performance, the contractor is failing to comply in good faith with the subcontracting plan.

* * * * *

8. Section 19.708 is amended by redesignating existing paragraphs (b)(1), (2), and (3) as (b)(1)(i), (ii), and (iii) by redesignating paragraph (b) introductory text as (b)(1); and by adding a new paragraph (b)(2) to read as follows:

19.708 Solicitation provisions and contract clauses.

* * * * *

(b) * * *

(2) The contracting officer shall insert the clause at 52.219-16, Liquidated Damages-Small Business Subcontracting Plan, in all solicitations and contracts containing the clause at 52.219-9, Small Business and Small Disadvantaged Business Subcontracting Plan, or its Alternate I.

* * * * *

PART 52—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

9. Section 52.219-16 is added to read as follows:

52.219-16 Liquidated damages-small business subcontracting plan.

As prescribed in 19.708(b)(2), insert the following clause:

LIQUIDATED DAMAGES-SMALL BUSINESS SUBCONTRACTING PLAN (AUG 1989)

(a) "Failure to make a good faith effort to comply with the subcontracting plan," as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled Small and Small Disadvantaged Business Subcontracting Plans, the Contractor shall pay the Government liquidated damages in an amount stated. The amount of damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal or, in the case of a commercial products plan, that portion of the dollar amount allocable to Government contracts by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial products plans, i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled, Small Business and Small Disadvantaged Business Subcontracting Plan, the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Oficer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may leave.

(End of clause)

[FR Doc. 89-17236 Filed 7-20-89; 8:45 am]
BILLING CODE 6820-JC-M

Reader Aids

Federal Register

Vol. 54, No. 139

Friday, July 21, 1989

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

27855-28016.....3
28017-28408.....5
28409-28664.....6
28665-28794.....7
28795-28998.....10
28999-29316.....11
29317-29528.....12
29529-29700.....13
29701-29874.....14
29875-30006.....17
30007-30204.....18
30205-30364.....19
30365-30534.....20
30535-30710.....21

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

302.....28964
305.....28964
310.....28964

3 CFR

Proclamations:
5995.....28409
5996.....28993
5997.....28999, 30633
5998.....29313

Executive Orders:
May 5, 1855
(Revoked in part by PLO 6737).....30215
1500 (Revoked by PLO 6734).....30215
11958 (Amended by EO 12680).....28995
12163 (Amended by EO 12680).....28995
12171 (Amended by EO 12681).....28997
12680.....28995
12681.....28997
12682.....29315

Administrative Orders:
Presidential Determinations:
No. 89-16 of June 22, 1989.....28017

5 CFR

1201.....28632
1202.....28657
1203.....28658
1204.....28658
1205.....28662
1206.....28664
1209.....28654

Proposed Rules:
900.....28426

7 CFR

2.....28665
29.....27855
33.....29317
400.....28019, 28411
401.....28795
455.....30007
905.....29318
910.....28796, 29701, 30535
916.....27856, 30365
917.....27856, 29321, 30365
921.....29319
922.....29319
923.....29319
924.....29319
928.....29318
929.....29323
946.....27862
948.....29324
955.....29325
958.....29324
989.....29326
1040.....29327
1260.....28019
1446.....30366
1822.....29329
1823.....29329
1910.....29329
1941.....28019, 29329
1942.....29329
1943.....28019, 29329
1944.....29329
1945.....29329
1951.....28019, 28020, 28411, 29329
1955.....29329
1965.....29329
1980.....28021

Proposed Rules:
29.....27883
51.....30632
319.....29566
401.....28019, 28428, 28820
449.....28429
911.....29338
917.....30392
926.....30393
927.....29340
947.....29341
948.....30394
987.....29342
989.....29343
1446.....30395
1762.....27883
1864.....29569
1930.....29901
1944.....29901
1956.....29569
1965.....29569

8 CFR

100.....29438
103.....29438, 29440, 29875
210a.....29875
211.....30368
216.....30368
242.....29438
245.....29440
245A.....29434, 29442
264.....29438
299.....29438, 30369

Proposed Rules:
103.....29344
242.....29050

9 CFR

92.....29003

Proposed Rules:
54.....29576
75.....28070

10 CFR

2 ... 27864, 29008
7 ... 28554
26 ... 29139
51 ... 27864
60 ... 27864

Proposed Rules:

2 ... 28822
30 ... 30049
40 ... 30049
50 ... 30049
60 ... 30049
70 ... 30049
72 ... 30049
150 ... 30049
764 ... 29732

12 CFR

226 ... 28665
528 ... 30535
531 ... 30535

Proposed Rules:

5 ... 28072
32 ... 30054
202 ... 29734
523 ... 30555
545 ... 30555
561 ... 27885
563 ... 27885

14 CFR

39 ... 28022, 28023, 28025, 28026, 28028, 28554, 29008, 29009, 29529, 29530, 29534, 29535, 29537, 29538, 30007, 30009
71 ... 28029, 29539, 29540, 29817, 29888-29891
91 ... 28769, 29698, 29892
97 ... 28029, 30010
107 ... 28765
108 ... 28985

Proposed Rules:

Ch. 1 ... 28074
1 ... 28978
14 ... 29978
39 ... 29050-29056, 29577, 30059-30062 29579, 29580, 29582
71 ... 28074, 29057-29059, 29907, 30633
75 ... 29908, 29909
91 ... 28978
108 ... 28982
121 ... 28978
125 ... 28978
129 ... 28978
135 ... 28978

15 CFR

50 ... 29010
771 ... 29011
774 ... 28665
786 ... 29011
799 ... 30011

Proposed Rules:

25 ... 28430

16 CFR

305 ... 28031

Proposed Rules:

703 ... 29910

17 CFR

34 ... 30684
200 ... 28796
201 ... 28797
211 ... 29333
240 ... 28799, 30013
241 ... 28799

Proposed Rules:

230 ... 30063, 30076
240 ... 30087
250 ... 29739
259 ... 29739

18 CFR

37 ... 30370

19 CFR

10 ... 28412
134 ... 29540
141 ... 28412
178 ... 28412

20 CFR

655 ... 28037

21 CFR

177 ... 29018
310 ... 28772, 28780
520 ... 29543, 30205
522 ... 29543, 30205
524 ... 29543, 30205, 30542
548 ... 30205
556 ... 28051
558 ... 28051, 28154, 29335, 29544
573 ... 29019
862 ... 30206
1308 ... 28414

Proposed Rules:

10 ... 28872
310 ... 28872
314 ... 28872
320 ... 28823, 28872
341 ... 28442
610 ... 30093
640 ... 30093

22 CFR

34 ... 28415
51 ... 30373
514 ... 30033

23 CFR

Proposed Rules:

625 ... 29910, 30095
645 ... 29910
658 ... 29060

24 CFR

203 ... 28053

26 CFR

1 ... 28576
602 ... 28576

Proposed Rules:

1 ... 28075, 28683, 29061

27 CFR

5 ... 29701

Proposed Rules:

9 ... 29739, 30398

29 CFR

70 ... 30503
1910 ... 28054, 28154, 29142, 29545, 29546, 30704
1915 ... 29142
1917 ... 29142
1918 ... 29142
1926 ... 29546, 30704
2550 ... 30520
2610 ... 27872, 28944, 29702
2619 ... 29703
2622 ... 27872
2644 ... 27872
2670 ... 29025
2675 ... 29025
2676 ... 29892

Proposed Rules:

1602 ... 30097
1627 ... 30097
1910 ... 30401, 30557

30 CFR

20 ... 30512
57 ... 30508
75 ... 30513
77 ... 30513, 30515
938 ... 29704

Proposed Rules:

75 ... 30510
715 ... 28443
761 ... 30557
916 ... 29742
920 ... 30098
936 ... 29583

31 CFR

103 ... 28416, 30542
316 ... 30633
342 ... 30633
344 ... 28752
351 ... 30633

Proposed Rules:

800 ... 29744

32 CFR

706 ... 30206, 30375

Proposed Rules:

281 ... 30227

33 CFR

100 ... 28814, 29547, 30034-30037
117 ... 30038
165 ... 28814, 30544
167 ... 28061

Proposed Rules:

100 ... 29348

34 CFR

203 ... 30190
222 ... 30039

35 CFR

103 ... 29335
117 ... 29335
135 ... 29335

Proposed Rules:

103 ... 29584
133 ... 29584

36 CFR

13 ... 30005

37 CFR

1 ... 29548, 30375
2 ... 29548
201 ... 27873

38 CFR

3 ... 28445
17 ... 28667, 28673
19 ... 28445
21 ... 28676
36 ... 30382

Proposed Rules:

1 ... 30099
36 ... 28683, 30207

39 CFR

111 ... 27879
221 ... 29706
222 ... 29706
223 ... 29706
224 ... 29706
225 ... 29706
226 ... 29706
227 ... 29706
228 ... 29706
229 ... 29706

Proposed Rules:

3001 ... 30557

40 CFR

52 ... 27880, 29310, 29554, 30040 29555, 29893-29895
82 ... 28062, 29336
131 ... 28662
141 ... 29998
180 ... 30632
228 ... 29034, 29712
271 ... 28677, 29557
704 ... 30211, 30632
761 ... 28418
763 ... 29460
796 ... 29715
797 ... 29715

Proposed Rules:

22 ... 29516
52 ... 28684, 28689, 29061, 29063, 29349
60 ... 28447, 29352
81 ... 29349
82 ... 29353
123 ... 30405
142 ... 29516
261 ... 30406
264 ... 30228
265 ... 30228
300 ... 29820
302 ... 29306
355 ... 29306, 30700
403 ... 30405
707 ... 29524

41 CFR

302-1 ... 29716

42 CFR

57 ... 28065
405 ... 29717
442 ... 29717
447 ... 29717
483 ... 29717
488 ... 29717
489 ... 29717
498 ... 29717

Proposed Rules:

424 ... 30558

43 CFR

Public Land Orders:

1742 (Revoked in part by PLO 6738) ... 30214
2301 (Revoked in part by PLO 6735) ... 30213

6702 (Corrected by PLO 6732)....30214
6725 (Corrected by PLO 6739)....30214
6729 (Corrected by PLO 6736)....30213
6732....30214
6733....30213
6734....30215
6735....30213
6736....30213
6737....30215
6738....30214
6739....30214
Proposed Rules:
5450....29357
5460....29357

44 CFR

64....30384, 30545, 30547
Proposed Rules:
67....30415
325....30565

45 CFR

302....30216
303....30216
304....30216
305....30216

46 CFR

502....29036
Proposed Rules:
588....30425

47 CFR

1....29037, 30548
2....30041
22....28815, 28816
73....28677, 28678, 29038, 29559-29561, 29719, 29720, 30041, 30042, 30389, 30549
74....29039, 30043
80....29040
90....28678
Proposed Rules:
Ch. I....28789
2....28823
15....28690, 28691, 28693
73....27904, 28077, 28695, 28696, 29067, 29587, 29588, 29755, 29756, 30567, 30568
87....28823

48 CFR

1....29278
4....29278
7....29278
8....29278
14....29278
15....29278
17....29278
19....29278, 30708
22....29278
25....29278
36....29278
37....29278
38....29278
47....29278
51....29278
52....29278, 30708
53....29278
204....28419
503....29720
505....29720
552....29720
705....28068
706....28068
715....28068
752....28068
809....30043
810....30043
814....30043
816....30043
828....30043
852....30043
870....30043
Ch. 18....28186
2919....30389
Proposed Rules:
15....29296
43....29296
47....29984
52....29296, 29984
219....30101
246....30101
914....30569
915....30569
916....30230
917....29757
935....29757
952....30569
970....30230

49 CFR

89....28680
171....28750
172....28750
173....28750
176....28750
178....28750
192....27881
193....27881
195....27881
390....28818
391....28818
393....28818
571....29041-29045, 30223
1011....29337
Proposed Rules:
390....29912
512....28696
571....29067-29071, 29915, 30427, 30571
572....29071

50 CFR

17....29652, 29655, 29658, 29726, 30550
204....30045
285....29896
299....29896
640....30045
642....29561, 30554
661....28818, 29730, 30390
663....30046
672....28422, 28681, 30224
674....28423, 30225
675....30390
Proposed Rules:
17....29915, 30572, 30577
20....29640
285....29359, 29916
672....30102
675....30102

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 13, 1989.